

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Kiran Jain
City Attorney

ORDINANCE No. 85205 C.M.S.
2014 SEP -3 PM 2:55

An Ordinance Authorizing the City Administrator To:

1. **Negotiate And Execute A Disposition and Development Agreement For The Sale of 3455 and 3461 Champion Street ("Properties") To Jack Stewart Or A Legal Entity Affiliated with Jack Stewart and Approved by City Administrator For Development Of A Restaurant On The Following Terms: (1) Purchase Price Not Less Than Three Hundred Eighty Two Thousand Five Hundred Dollars (\$382,500); (2) Credit To Buyer for Fuel Tank Removal Not To Exceed Ten Thousand Dollars (\$10,000); (3) Reservation Of An Easement To The City For A Fiber Optics Hub And Related Uses; And**
2. **Direct Two Hundred Thousand Dollars (\$200,000) Of The Net Sales Proceeds Towards Funding The City's Asset Portfolio Management Plan; and**
3. **Allocate Seventy Five Thousand Dollars (\$75,000) In Community Development Block Grant (CDBG) Funds To Developer Exclusively For Façade And Exterior Improvements Of The Properties.**

WHEREAS, the City of Oakland has identified surplus Properties located at 3455 and 3461 Champion Street, within the City of Oakland as identified in *Exhibit A* of the Ordinance ("the Properties"); and

WHEREAS, the Properties formally known as Old Fire Station Number Fourteen (14) consists of two flat parcels containing +/- 3,275 square feet building and +/- 8,244 square feet land; and

WHEREAS, the Properties have been declared surplus property and information on the City-owned parcels have been circulated to all City agencies and other public agencies as required by Government Code and there was no interest expressed or offers received from other public agencies; and

WHEREAS, in January 2012, Real Estate staff offered Old Fire House #14 and the adjacent parcel to the general public in a surplus property solicitation; and

WHEREAS, in June 2013, Council adopted Resolution No. 84485 C.M.S rejecting all bids obtained as a result of the January 2012 solicitation and, based in part on community input, authorized the City Administrator to market the Properties for a restaurant use through a Notice of Development Opportunity (NODO); and

WHEREAS, as a result of the NODO process, Jack Stewart ("Developer") was the highest ranking respondent that proposed a restaurant use; and

WHEREAS, per the requirements of Ordinance No. 13185 C.M.S, the Council made a finding and determination under Resolution No. 84485 that waiving the competitive bidding process and selling the Properties through a Notice of Development Opportunity was in the best interests of the City because selling the Properties to a restaurant operator will yield the City greater benefit over time because in addition to the purchase price and annual property tax, the City will also receive sales tax, create local jobs, and increase commercial activity; and

WHEREAS, Pursuant to Ordinance No. 11602 C.M.S., which established procedures for the sale of City owned surplus real property and pursuant to Ordinance No. 13185 which establishes the procedures for disposition of City-owned property for development, staff recommends adopting this Ordinance authorizing the City Administrator to enter into a Disposition and Development Agreement with Jack Stewart or an affiliated entity approved by the City Administrator for the development of a full service restaurant at the Properties; and

WHEREAS, the City Administrator recommends reserving an easement in favor of the City for the Comcast Fiber Optics Hub in order to retain income from the City's agreement with Comcast; and

WHEREAS, the Properties will be sold in an "as is" condition; and

WHEREAS, the minimum acceptable purchase price is three hundred eighty two thousand five hundred dollars (\$382,500) with a credit to the Developer for the cost of removing the above ground fuel tank, not to exceed ten thousand dollars (\$10,000); and

WHEREAS, the Developer's estimated date to close escrow is March 31, 2015; and

WHEREAS, the City reserves the right to reject any and all contract terms presented by the Developer that are not deemed in the best interest of the City; and

WHEREAS, the Disposition and Development Agreement will contain provisions for forfeiture of the deposit for breach of any conditions noted in the Disposition and Development Agreement including reversionary rights; and

WHEREAS, The City will record a Development Disposition Agreement against title to enable the City to control future development, ongoing business operations at the subject Properties; and

WHEREAS, the Real Estate Services Division, under the direction of Office of Finance, Public Works and City Administrator, has investigated the need for a City Asset Portfolio Management Plan to ensure that City's real estate assets are performing at their optimum level; and

WHEREAS, Two Hundred Thousand Dollars (\$200,000) from the net sales proceeds of this transaction will be allocated to the funding of the Asset Portfolio Management Plan; and

WHEREAS, staff will seek approval from City Council prior to spending the Two Hundred Thousand Dollars (\$200,000) allocation; and

WHEREAS, as part of the Developer's proposal, the Developer requested a seventy five thousand dollar (\$75,000) grant to assist with the façade and exterior improvements needed to convert the old fire house into a restaurant, and

WHEREAS, the City Administrator has determined that CDBG funds can be used for this purpose to rehabilitate and revitalize an old building, eliminate blight, retain neighborhood-serving businesses and promote retail activity; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

SECTION 2. In compliance with Ordinance No. 11602 C.M.S., Resolution No. 84485 and Ordinance No. 13185 C.M.S the City Administrator and / or his designee is authorized execute all documents and take other actions with necessary to sale the Properties to Jack Stewart or an entity affiliated with Jack Stewart as approved by the City Administrator to facilitate the development of a full service restaurant.

SECTION 3. In compliance with this Ordinance, Two Hundred Thousand Dollars (\$200,000) from the net sales proceeds of this transaction will be allocated to the funding of the Asset Portfolio Management Plan.

SECTION 4. In compliance with this Ordinance, the City Administrator and / or his designee is authorized to execute all documents necessary to allocate and grant seventy five thousand dollars (\$75,000) in Community Development Block Grant (CDBG) funds to the Developer exclusively for façade and exterior improvement of the Properties, but only upon execution of the Disposition and Development Agreement and at close of escrow.

SECTION 5. The City Attorney shall review and approve the Disposition and Development Agreement and the CDBG contract as to form and legality and a copy shall be placed on file with the City Clerk.

SECTION 6. This Ordinance has been approved by the Office of the City Attorney as to form and legality.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 8. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 21 2014

PASSED BY THE FOLLOWING VOTE:

BROOKS, GALLO, GIBSON-McELHANEY, KALB, KERNIGHAN, REID, SCHAAF, KAPLAN - 7

AYES - 7

NOES - 0

ABSENT - 1 - SchAAF

ABSTENTION - 0

ATTEST: 

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

Exhibit A
3461 Champion St.

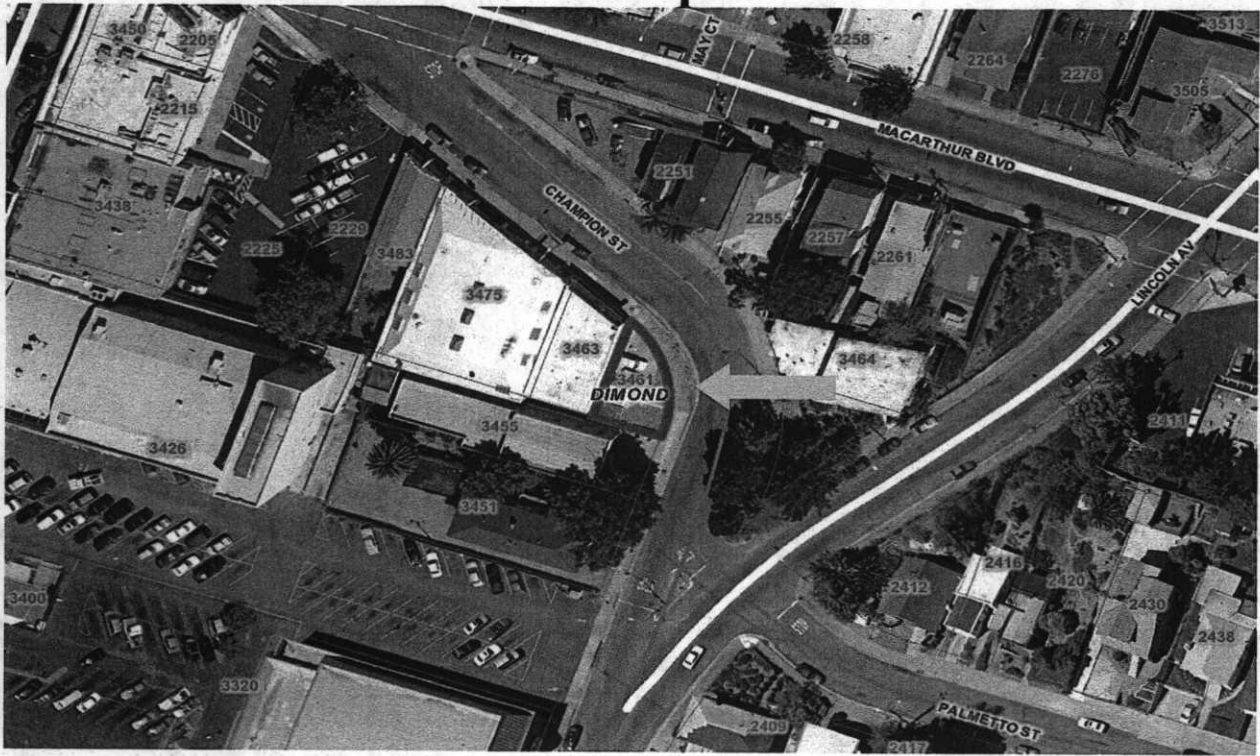


Exhibit A-1
3455 Champion St.



NOTICE AND DIGEST

Authorizing The City Administrator To Negotiate And Execute A Disposition And Development Agreement For The Sale Of 3455 And 3461 Champion Street ("Properties") To Jack Stewart Or A Legal Entity Affiliated With Jack Stewart And Approved By City Administrator For Development Of A Restaurant On The Following Terms: (1) Purchase Price Not Less Than Three Hundred Eighty Two Thousand Five Hundred Dollars (\$382,500); (2) Credit To Buyer For Fuel Tank Removal Not To Exceed Ten Thousand Dollars (\$10,000); (3) Reservation Of An Easement To The City For A Fiber Optics Hub And Related Uses; And

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