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OAKLAND

2014 SEP -3 PM 2:55

AGENDA REPORT

TO: HENRY L. GARDNER
INTERIM CITY ADMINISTRATOR

FROM: RACHEL FLYNN

SUBJECT: Sale of 3455 and 3461 Champion Street **DATE:** August 27, 2014

City Administrator
Approval

Date

9-2-14

COUNCIL DISTRICT: 4

RECOMMENDATION

Staff recommends that the City Council adopt:

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.**

EXECUTIVE SUMMARY

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 C.M.S., which established the procedures for disposition of City-Owned property for development, staff recommends adopting an ordinance authorizing the City Administrator to enter into a Disposition and Development

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Agreement with Jack Stewart or a legal entity affiliated with Jack Stewart and approved by City Administrator for developing a full service restaurant at surplus parcels located at 3455 and 3461 Champion Street (the "Properties"). In addition, pursuant to this ordinance, staff recommends authorizing the allocation of Two Hundred Thousand Dollars (\$200,000) from net sales proceeds towards funding the Asset Portfolio Management Plan and allocating seventy-five thousand dollars (\$75,000) in Community Development Block Grant funds to Developer exclusively for façade and exterior improvements only. Staff has determined that the CDBG grant allocation complies with CDBG grant guidelines as administered by the U.S. Housing and Urban Development Agency.

As a result of the City's marketing efforts to sell the property through a Notice of Development Opportunity (NODO), Developer was the highest ranking respondent who proposed a restaurant use.

Old Fire House #14, located at 3455 and 3461 Champion Street and illustrated in *Exhibit A*, exceeded its usefulness as a functional fire house and was identified as surplus property by both the Oakland Fire Department and the Oakland Public Works Department, as custodian of the City's public facilities. The City has determined that revenue from selling the Properties would benefit the City and the potential reuse of the building would benefit the surrounding community.

In addition, 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. A portion of the net sales proceeds from these Properties will be allocated to fund the Asset Portfolio Management Plan.

An integrated asset portfolio management plan is a structured process that brings all asset parts together into a whole for the purpose of maintaining and creating value in real property. Asset management is mission driven; systems orientated; has a long-term outlook and is customer focused. The asset management plan includes; strategic goals, asset inventory, asset valuation, performance measures, identification and acquisition of a relational data base and software system. Asset management links the budgeting process, facilities management, property management and environmental management, asset realization by tracking the remaining economic life of the fixed capital investments (i.e. HVAC, elevators, plumbing, roofing, electrical, fire suppression systems, security systems, structural systems and parking facilities) for capital improvement planning and capital improvement budget forecasting.

The outcomes of developing and implementing the asset portfolio management plan are to; ensure that all real estate assets are performing at their optimum level, improve operational capacity, increase occupancy levels, reduce expenses, increase revenues, ensure the highest and best use of the asset, enhance value, evaluate potential multi-use sites, maximize social and community benefit and to increase staff production and efficiency.

The Properties will be sold in an "as is" condition. The minimum acceptable purchase price is three hundred eighty two thousand five hundred dollars (\$382,500) less a credit to buyer for the cost of removing the above ground fuel tank, not to exceed ten thousand dollars (\$10,000). The buyer's estimated date to close escrow is March 31, 2015.

The City reserves the right to reject any and all contract terms presented by the buyer that are not deemed in the best interest of the City. The disposition and development agreement will contain provisions for forfeiture of the deposit, reversionary rights if the Developer fails to open the restaurant within two (2) years after close of escrow, and other remedies for breach of any conditions noted in the disposition and development agreement.

The City has a lease with Comcast on 3461 Champion Street for a fiber optics hub. The City will reserve an easement in the transfer deed in favor of the City for the fiber optics hub, and ingress and egress to the hub. This easement will allow the City to retain the lease with Comcast and the revenue generated by the lease.

OUTCOME

City would enter into a disposition and development agreement with Developer for the sale of Properties to develop a full service restaurant for a minimum bid price of three hundred eighty two thousand five hundred dollars (\$382,500) less a credit to buyer for the cost of removing the above ground fuel tank, not to exceed ten thousand dollars (\$10,000). The buyer's estimated date to close escrow is March 31, 2015.

BACKGROUND/LEGISLATIVE HISTORY

The Properties consists of two flat parcels containing a +/- 3,275 square feet building and +/- 8,244 square feet land. The parcel is located in the Dimond District near the Fruitvale exit off of Highway 580 in the City of Oakland. The zoning is CN-1, Commercial Neighborhood One. The General Plan land use classification is Neighborhood Center Mixed Use.

The Properties, built in 1945, is adjacent to Farmer Joes and within walking distance to CVS Pharmacy, Bank of America, Wells Fargo Bank, Pete's Coffee, McDonald's, Subway and the U.S. Postal Service. The Properties are situated at the neighborhood's transition point between residential and light commercial. The site is within one block of MacArthur Boulevard.

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

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restaurant use through a Notice of Development Opportunity (NODO). As a result of the NODO process, the Developer was the highest ranking respondent that proposed a restaurant use.

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 Property through a Notice of Development Opportunity was in the best interests of the City because of the proposed use and neighborhood benefits. 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.

At 3461 Champion Street the City entered into a Telecommunications License Agreement with Comcast which commenced on February 1, 2000. Including the final two options to extend the agreement, it expires in 2025. The City receives thirty thousand dollars (\$30,000) annually from Comcast. Comcast constructed an above ground Fiber Optics Hub which is approximately fifteen feet (15) by fifteen feet (15). The elevation of the Hub is approximately ten (10) feet. Retaining the income stream from the Comcast agreement through an easement favoring the City will continue to benefit the City.

ANALYSIS

Selling the Properties will maximize the City's economic and non-economic return, generating additional property and sales tax revenue to the City, eliminating ongoing maintenance and fire control costs, generate sales tax and reduce future litigation exposure. In addition, a portion of the net sale proceeds from this transaction would help fund the City's Asset Portfolio Management Plan.

Staff recommends that the City Council approve an Ordinance authorizing the City Administrator or her designee to execute all documents with Developer that are needed for the disposition and future development of a full service restaurant at the Properties. Staff also recommends that the City Council approve the Ordinance allocating Two Hundred Thousand Dollars (\$200,000) from the net sales proceeds to fund the City's Asset Portfolio Management Plan, and approve a resolution authorizing Seventy-Five Thousand Dollars (\$75,000) in CDBG funds for façade and exterior improvements. Staff will seek approval from City Council prior to spending the Two Hundred Thousand Dollars (\$200,000) allocation for the City's Asset Portfolio Management Plan.

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 staff 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.

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The Developer will be required to execute a Façade and Exterior Maintenance Agreement that will require the Developer to use the funds exclusively for exterior improvements and maintain the improvements for a minimum of five years at the Properties. The agreement will also contain a default provision requiring the Developer to repay all or a prorated portion of the grant funds back to the City if there is any breach under the Façade and Exterior Maintenance Agreement.

The City will record the necessary restrictions against the title of these Properties to enable the City to control future development, ongoing business operations at the subject Property and provide the City with reversion rights in the event of default.

PUBLIC OUTREACH/INTEREST

There was one community meeting held in Council District Four. The residents of the Dimond District have expressed a need for more family-style restaurants in the neighborhood.

COORDINATION

There has been internal and external coordination with regards to marketing the property for sale. In addition, this report and legislation were reviewed by the Office of the City Attorney and the Budget Office.

COST SUMMARY/IMPLICATIONS

The City will receive the minimum bid price of three hundred eighty two thousand five hundred dollars (\$382,500) less a credit to buyer for the cost of removing the above ground fuel tank, not to exceed ten thousand dollars (\$10,000) . The Buyer will pay all escrow fees, title insurance, transfer tax and other closing cost.

The net sale proceeds will be placed in General Purpose Fund (1010), Real Estate Services Organization (88639), Surplus Property Account (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32). Two Hundred Thousand Dollars (\$200,000) will be placed in a project number to be determined for the purpose of funding the Asset Portfolio Management Plan.

In addition, the City will receive its share of the future property and sales taxes once the Properties are returned to the property tax rolls and will save on the ongoing maintenance costs associated with the upkeep of the property and liability exposure.

The report also requests that Council authorize the City Administrator to allocate seventy five thousand dollars (\$75,000) Community Development Block Grant funds to Developer

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exclusively for façade and exterior improvements needed to facilitate the conversion of the old fire house into a restaurant. Thirty seven thousand five hundred (\$37,500) will be allocated from Entity 1, HUD-CDBG Fund 2108, Broadway/MacArthur/San Pablo, Redevelopment Org 85243, NCR Project Dev. Project G83200, Broadway/MacArthur/San Pablo Program SC05 and Thirty seven thousand five hundred (\$37,500) will be allocated from Entity 1, HUD-CDBG Fund 2108, Central City East Org 85246, NCR Project Dev. Project G83200, Central City East SC18.

SUSTAINABLE OPPORTUNITIES

Economic: The sale of these Properties will take an underutilized site and produce increased tax revenue for the City. After the sale, the new owner will improve the old fire house station for business and commercial activities, which will contribute to job creation in the City and new sales tax.

Environmental: This proposed action does not provide any environmental benefits.

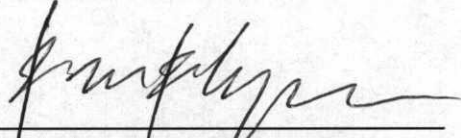
Social Equity: This proposed action does not provide any social equity benefits.

CEQA

The transfer of the subject surplus governmental Property does not have a significant value for wildlife habitat or other environmental purposes as it has been previously developed and is located within a completely urbanized area, and the Property to be sold would qualify for an exemption under other classes of categorical exemptions in the State CEQA guidelines, thus is exempt from California Environmental Quality Act (CEQA) per Section 15312 of the State Guidelines.

For questions regarding this report, please contact Gregory Hunter, Manager, Project Implementation at 510-238-2992.

Respectfully submitted,



Rachel Flynn, Acting Director
Economic and Workforce Development
Department

Reviewed by:

Gregory Hunter, Manager, Project Implementation
James Golde, Manager, Real Estate Services

Prepared by:

Anthony J. Reese, Real Estate Agent
Real Estate Services Division

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Exhibit A

3461 Champion St.



Exhibit A-1

3455 Champion St.



FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Kiran Jain
City Attorney

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

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, _____

PASSED BY THE FOLLOWING VOTE:

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

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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

DATE OF ATTESTATION: _____

Exhibit A
3461 Champion St.

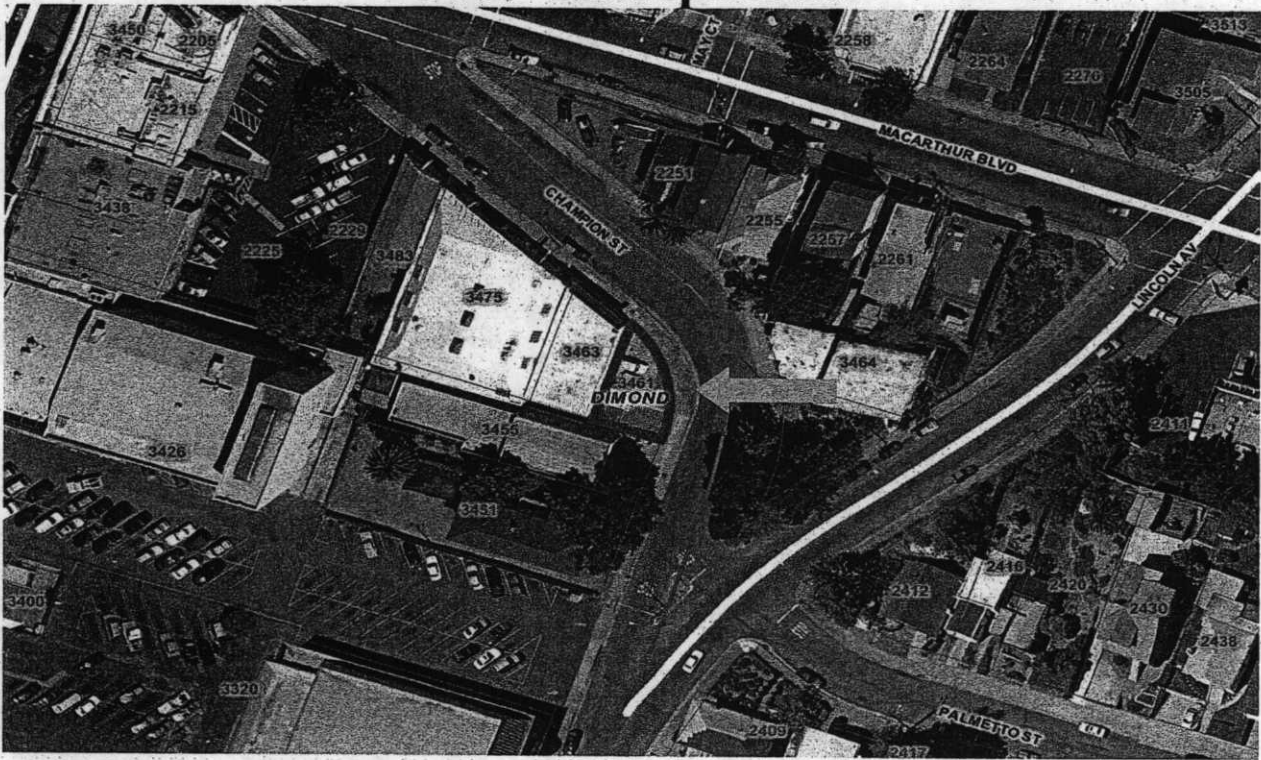
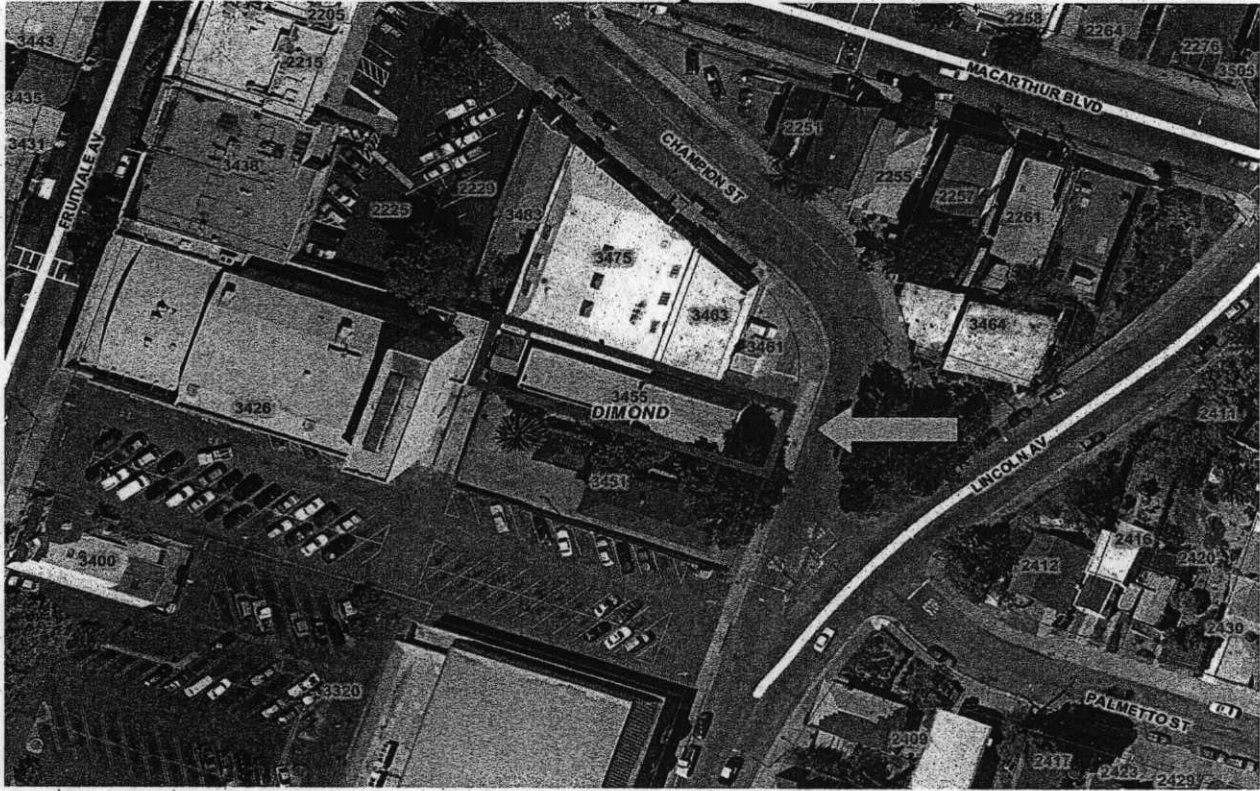


Exhibit A-1
3455 Champion St.



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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