

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL



City Attorney

2016 OCT 13 PM 2:55 **ORDINANCE No. 13400 C.M.S.**

AN ORDINANCE: (1) AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO THE CITY COUNCIL, TO NEGOTIATE AND EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS BETWEEN THE CITY OF OAKLAND AND CARLOS SOLOMAN AND DOMINICA RICE-SOLOMAN OR A LEGAL ENTITY AFFILIATED WITH CARLOS SOLOMAN & DOMINICA RICE-SOLOMAN FOR (A) THE SALE OF THE PARCELS LOCATED AT 3455 AND 3461 CHAMPION STREET, RESERVING TO THE CITY AN EASEMENT FOR A FIBER OPTICS HUB AND RELATED USES ("PROPERTY") FOR AN AMOUNT NOT LESS THAN THREE HUNDRED FORTY THOUSAND DOLLARS (\$340,000), AND (B) DEVELOPMENT AND OPERATION ON THE PROPERTY OF A FULL SERVICE RESTAURANT, ALL OF THE FOREGOING DOCUMENTS TO BE IN A FORM AND CONTENT SUBSTANTIALLY IN CONFORMANCE WITH THE TERM SHEET ATTACHED AS EXHIBIT A, AND (2) ADOPTING CEQA EXEMPTION FINDINGS

WHEREAS, Old Fire House #14, located at 3455 and 3461 Champion Street was identified as surplus property by both the Oakland Fire Department and the Oakland Public Works (collectively, and excluding the Fiber Optics Hub Easement described below, the "Property"); and

WHEREAS, the City Council previously determined that revenue from selling the Property would benefit the City and the potential reuse of the building would benefit the surrounding community and therefore authorized the City Administrator to market the Properties for a restaurant use through a Notice of Development Opportunity ("NODO"); and

WHEREAS, a NODO was issued in January 2016 and the City received six responses, and such responses were subsequently reviewed and ranked by a selection committee of four staff from the Economic & Workforce Development Department based on an established set of criteria; and

WHEREAS, the selection committee has recommended that the purchase and sale of the Property be awarded to the highest ranking respondent which was Carlos Soloman & Dominica Rice-Soloman (collectively, "Developer"), owners of another successful restaurant, Cosecha, in Old Oakland; and

WHEREAS, the minimum acceptable purchase price and the appraised value is three hundred forty thousand dollars (\$340,000) based on an independent appraisal; and

WHEREAS, the City desires to sell the Property in "as is" condition and to reserve such easements as are necessary for the City to maintain a lease with Comcast for a fiber optics hub (the "Fiber Optics Hub Easement"); and

WHEREAS, the Developer proposes to develop and operate on the Property a full service restaurant as further described in the Term Sheet attached as Exhibit A (the “Term Sheet”) and incorporated herein by this reference (the “Project”): and

WHEREAS, sale of the Property and development of the Project 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 and reduce future litigation exposure; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 (“CEQA”), the Guidelines as prescribed by the Secretary for Resources (the “CEQA Guidelines”), and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of CEQA (collectively, “CEQA Requirements”) have been satisfied, and in accordance with Sections 15061(b)(3)(general rule exemption), 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), Section 15183 (projects consistent with the General Plan), 15312 (Surplus Government Property Sales), 15303 (New Construction or Conversion of Small Structure), and 15332 (In-fill Development) of the CEQA Guidelines, the adoption of this Ordinance is exempt from the provisions of CEQA; and

WHEREAS, Resolution No. 85324 C.M.S. established a general policy to lease rather than sell City property; and

WHEREAS, the City Administrator is recommending a sale of the Property instead of a ground lease in this case because a sale is necessary for the reasons set forth in the Agenda Report for this item; 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. The City Council hereby finds and determines, pursuant to Resolution No. 85324 C.M.S., that it is in the best interests of the City to sell rather than lease the Property for the reasons described in the Agenda Report for this item, and hereby authorizes the conveyance of the Property to the Developer pursuant to the terms of the documents described in Section 6 hereof for a purchase price of not less than three hundred forty thousand dollars and 00/100 (\$340,000.00).

Section 3. The City Council hereby finds and determines that the process by which the City has solicited and considered the development proposals and negotiated with interested entities has met the requirements of Oakland Municipal Code Section 2.42.170.

Section 4. The City Council hereby finds and determines, based on the appraisal conducted by CBRE dated December 22, 2015, the Property is being conveyed to Developer at its fair market value, and the City is not granting any economic development subsidy to the Project.

Section 5. The City Council authorizes the City Administrator to deposit the sales proceeds in General Purpose Fund (1010), Real Estate Sale of Land (85231), Surplus Property Account (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32).

Section 6. The City Council hereby authorizes the City Administrator or his/her designee, without returning to the City Council, to negotiate and execute: (1) a Disposition and Development Agreement and related documents with the Developer, for the sale and development of the Property, all of the foregoing documents to be in a form and content substantially in conformance with the Term Sheet; (2) grant deeds and any other agreements or documents as necessary to convey the Property to the Developer as well as the grant of any easement(s), covenants, or similar interests to City regarding the Fiber Optics Hub as negotiated by the City Administrator pursuant to the general provisions of Term Sheet Item number 43; (3) such other additions, amendments or other modifications to any of the foregoing documents that the City Administrator, in consultation with the City Attorney's Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions contemplated by this Ordinance, to be conclusively evidenced by the execution and delivery by the City Administrator of any such amendments; and (4) such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to facilitate the sale and development of the Property in order to consummate the transaction in accordance with this Ordinance, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purposes.

Section 7. The City Administrator, without returning to the City Council, shall determine satisfaction of conditions precedent to the conveyance of the Property to the Developer.

Section 8. All agreements associated with the Property and the Project shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution by the City, and shall be placed on file with the City Clerk.

Section 9. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines, based on the information in the Agenda Report accompanying this Ordinance, that in accordance with Sections 15061(b)(3)(general rule exemption), 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), Section 15183 (projects consistent with the General Plan), 15312 (Surplus Government Property Sales), 15303 (New Construction or Conversion of Small Structure), and 15332 (In-fill Development) of the CEQA Guidelines, the adoption of this Ordinance is exempt from the provisions of CEQA.

Section 10. The City Administrator or his/her designee is hereby authorized to file a notice of exemption with the Office of the Alameda County Recorder and the State Office of Planning and Research, and to take any other action necessary in furtherance of the Project, consistent with this Ordinance and its basic purposes.

Section 11. The record before this Council relating to this Ordinance includes, without limitation, the following:

- A. All staff reports, decision letters and other documentation and information produced by or on behalf of the City, including all notices relating to this Ordinance and the DDA;
- B. All oral and written evidence received by City staff and the City Council before and during the consideration of this Ordinance; and
- C. All matters of common knowledge and all official enactments and acts of the City, such as (1) the General Plan; (2) the Oakland Municipal Code, without limitation, the Oakland real estate regulations; (3) the Oakland Planning Code; (4) other applicable City policies and regulations; and (5) all applicable state and federal laws, rules and regulations.

Section 12. The custodians and locations of the documents or other materials which constitute the record of proceedings upon with the City Council's decision is based are respectively (a) the Real Estate Services Division, 250 Frank Ogawa Plaza, 4th Floor, Oakland, CA and (b) Planning and Building Department, 250 Frank Ogawa Plaza, 3rd, Floor, Oakland, CA; and (c) the Office of the City Clerk, 1 Frank Ogawa Plaza, 1st Floor, Oakland, CA.

Section 13. The Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

NOV 29 2016

IN COUNCIL, OAKLAND, CALIFORNIA, _____

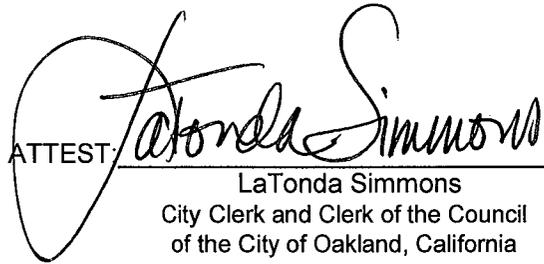
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN , KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY -8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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

DATE OF ATTESTATION: 12-14-16

Introduction Date
NOV 01 2016