



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen

**SUBJECT: SALE OF A PORTION  
OF NINTH STREET**

**DATE:** 07-28-08

Approved 

Date 7/29/08

**COUNCIL DISTRICT: 3**  
**SNI AREA: 13<sup>th</sup> Street**

## RECOMMENDATION

It is recommended that the City Council adopt a resolution:

- a) Declaring the .119 acre City-owned property, a portion of North Ninth Street, surplus to the needs of the City;
- b) Approving the sale agreement with an adjacent property owner, DAK, a California General Partnership, in the amount of \$311,000;
- c) Delegate authority to the Director of Public Works to execute all documents necessary to complete the transfer of the property; and
- d) Directing the City Manager to return with actions to recognize the revenue and appropriate the funds received from this transaction.

## OUTCOME

Adoption of this resolution will authorize the proposed sale of the City-owned property on Ninth Street between Jackson and Taylor to the adjoining property owner. The \$311,000 in proceeds from this sale would be allocated to the Economic Uncertainty Reserve under current Council policy.

## BACKGROUND

Council conducted a public hearing on August 8, 2006, and adopted a resolution to vacate the easterly portion of Ninth Street between Taylor and Jackson Streets with reservation of a 6-foot strip public service easement. On September 26, 2006, Council approved that vacation of a portion of Ninth Street and authorized the sale of approximately half of the portion of vacated street to Standard Pacific Corporation, an adjoining owner. The remaining portion of the Ninth Street vacation was to be purchased by Standard Pacific Corporation once they had closed

escrow on two parcels on the north and easterly end of Ninth Street at Taylor. DAK has since acquired those two parcels and they are now ready to acquire the property from the City.

### ANALYSIS

Municipal Code Section 4.20.050 permits the Council to declare City-owned property surplus to the needs of the City and to authorize its direct sale to the adjoining property owner when it finds: 1) that a property is neither needed for, nor adaptable to, municipal purposes; 2) the public interest would be served thereby, and 3) conveyance of title to the adjoining property owner is at fair market value. Following outreach efforts, there has been no indication from City Departments that there is an operational or facility need for this property.

The fair market value of \$311,000 was based upon the annual residential land value study prepared for the City by the appraisal firm of Diaz, Diaz & Boyd. Per that study, property of this kind in this Multiple List Service area would sell for about \$70 per square foot. Since this property is located in the downtown area, but not in the downtown core, and half of the property is being encumbered with a public service easement, staff determined fair market value to be \$60 per square foot.

Maps illustrating the subject property's general and specific location are attached as Exhibits A and B.

### EVALUATION AND FOLLOW-UP

The City Manager will return to Council with actions to recognize the revenue and appropriate the funds received from this transaction. No other follow up action with Council is anticipated.

### POLICY ALTERNATIVES

Not applicable.

### PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The proposed sale of the vacated street was posted as part of the previous vacation and partial sale of the vacated property in the previous Council Item 2.12 on the September 26, 2006 Council Agenda. Any additional required posting for the proposed project will occur as part of the planning and permitting process. This memorandum will be posted to the City's website for the August 19, 2008 Council agenda.

### **COORDINATION**

The agreement for sale of the City-owned property has been coordinated with the City Attorney's Office and the City Manager's Budget Office. Coordination with the Planning, Building and Code Enforcement Department was part of the previous Council Item 2.12 on the September 26, 2006 Council agenda. The proposed sale of the property has been coordinated with all City Departments.

### **FISCAL/POLICY ALIGNMENT**

This sale is consistent with budget strategies *1h. Review of underused Lands and 6e. Review of City-owned Assets* as outlined in the adopted Mayor's March 2008 Budget Message.

### **COST SUMMARY/IMPLICATIONS**

The sale of this City-owned property will increase revenue to the City on a one-time basis, in the amount of \$311,000. The City's cost for the sale of the property will consist of staff time to prepare the sales documents and complete the transaction. The buyer will pay all title, tax and recording fees. In accordance with Council policy, funds from the sale of this City-owned property will be allocated to the Economic Uncertainty Reserve.

### **BUDGET REFERENCE**

Not applicable.

### **CEQA**

CEQA: Mitigated Negative Declaration PDC05-059

  
KATY ALLEN  
Director, Public Works Department

For questions please contact PHIL PRINCE, DEPUTY DIRECTOR, at 408-535-8300.

Attachment

**EXHIBIT A**

**LEGAL DESCRIPTION  
PORTION OF NORTH NINTH STREET**

**PARCEL 2**

Being a portion of right of way of North Ninth Street, situated in the City of San Jose, County of Santa Clara, State of California, and more particularly described as follows:

Beginning at the most southerly corner of Parcel 1, as said parcel is shown on that certain Parcel Map recorded June 29, 1983 in Book 514 of Maps at Page 19, Santa Clara County Records, said corner being on the northeasterly line of North Ninth Street (being 80 feet in width); thence along the southwesterly prolongation of the southeasterly line of said Parcel 1 South 59°20'00" West 12.50 feet; thence along a line that is parallel with said northeasterly line of North Ninth Street and 12.50 feet southwesterly, measured at right angles, North 30°40'00" West 406.02 feet to the beginning of a tangent curve; thence along a curve to the right through a central angle of 90°01'02" having a radius of 10.00 feet, an arc distance of 15.71 feet to a point on the southwesterly prolongation of the southeasterly line of East Taylor Street (80 feet wide); thence along said prolongation North 59°21'02" East 2.50 feet to the point of intersection of said southeasterly line with the northeasterly line of North Ninth Street; thence along said northeasterly line South 30°40'00" East 416.02 feet to the point of beginning.

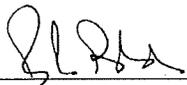
Containing 0.119 acres, more or less.

**PARCEL 2A (Public Service Easement)**

The southwesterly 6.00 feet of the above-described Parcel 2.

This description was prepared by me or under my direction in conformance with the Land Surveyor's Act.

Charles W. Davidson Co.

  
Ray R. Bold, R.C.E. 14218      8-11-06  
License Exp. 3-31-07      Date



# EXHIBIT B

## Plat of Property

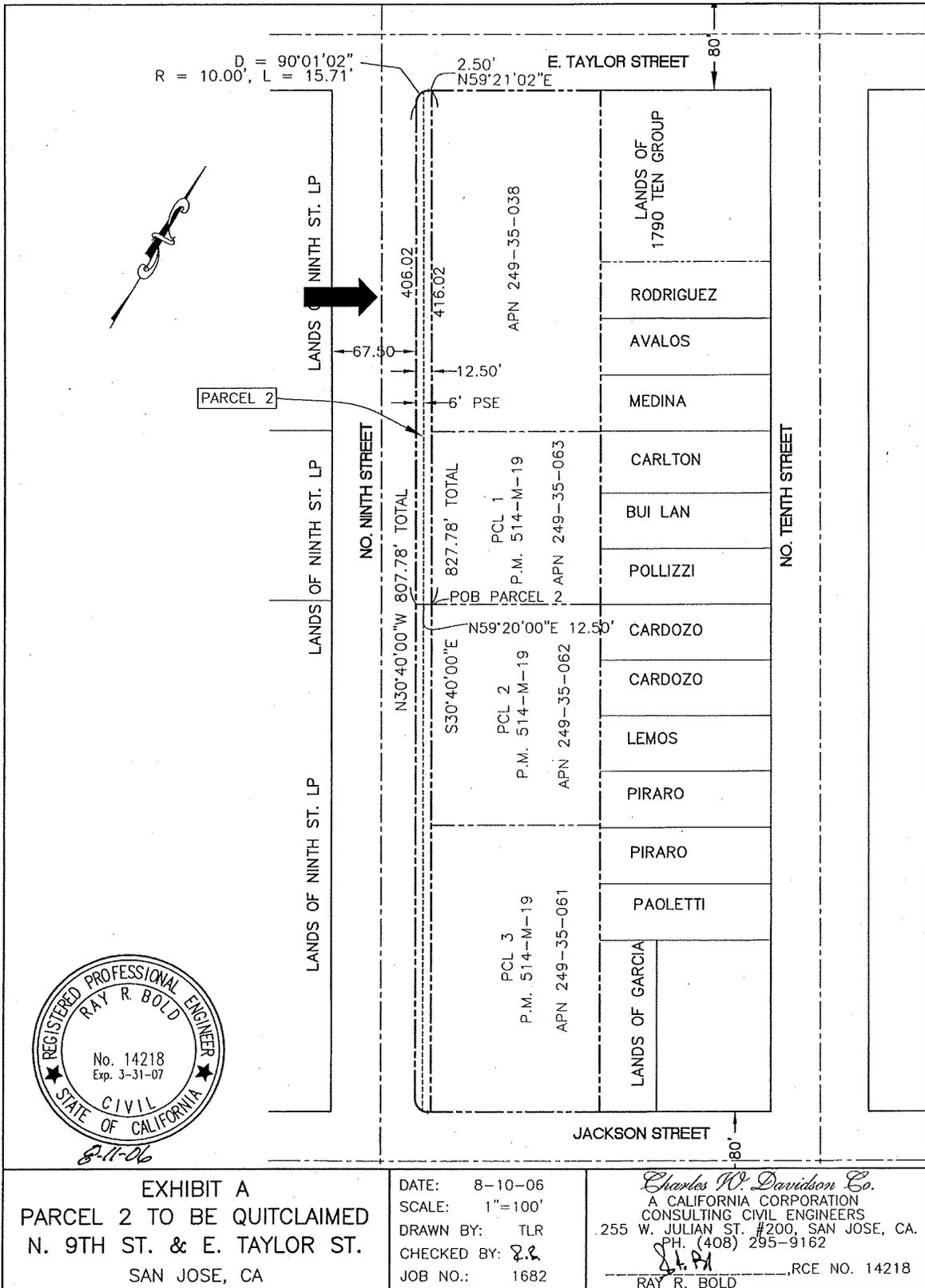


EXHIBIT A  
 PARCEL 2 TO BE QUITCLAIMED  
 N. 9TH ST. & E. TAYLOR ST.  
 SAN JOSE, CA

DATE: 8-10-06  
 SCALE: 1"=100'  
 DRAWN BY: TLR  
 CHECKED BY: R.R.  
 JOB NO.: 1682

*Charles W. Davidson Co.*  
 A CALIFORNIA CORPORATION  
 CONSULTING CIVIL ENGINEERS  
 255 W. JULIAN ST. #200, SAN JOSE, CA.  
 PH. (408) 295-9162  
 R.R. BOLD, RCE NO. 14218

