

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Peter Jensen
John Stufflebean

SUBJECT: SEE BELOW

DATE: 06-01-10

Approved

Date

6/8/10

COUNCIL DISTRICT: 3

SNI: N/A

SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR THE PURCHASE OF REAL PROPERTY AT 1590/ 1600 LAS PLUMAS

RECOMMENDATION

Adoption of a resolution authorizing the Director of General Services to: (i) negotiate and execute an agreement with Family Supportive Housing, Inc., a California non-profit corporation ("FSH") for the purchase of land located at 1590/1600 Las Plumas Avenue, San José, CA, (APN N. 254-03-039) for purposes related to the implementation of the Santa Clara County Integrated Waste Management Plan; and (ii) execute all documents necessary to complete the transaction in accordance with the business points as outlined in the attached Exhibit B.

OUTCOME

Acquisition of the subject property located adjacent to the City's planned Household Hazardous Waste Facility and Environmental Innovation Center ("EIC") on Las Plumas Avenue will allow the Environmental Services Department ("ESD") to accommodate and to expand waste diversion operations and programs planned for the EIC campus. The revenue from the sale of this property will also provide FSH with funding necessary to complete the construction of the new homeless shelter facility in San José.

BACKGROUND

The subject property is located at the southeast corner of Las Plumas and Nipper Avenues, in an industrial area of San José. The general neighborhood is defined as the land area bounded by Old Oakland Road and Highway 101 to the west, McKee Road to the south, Berryessa Road to the north and King Road to the east. The property is directly across Nipper Avenue from the EIC Building that is currently under development for ESD. The subject property is more fully described in Exhibit A.

The subject property consists of an approximate 30,881 rentable square feet, average quality, one story plus mezzanine, concrete tilt up structure. The building improvements were originally constructed in 1960 as an industrial facility, remodeled for family housing shelter use in 1986, and are in fair to average condition. The existing improvements are situated on an approximate 1.76 acre or 76,666 square foot site.

ESD is currently completing the construction documents for the City's EIC at 1608 Las Plumas Avenue. The EIC will provide a variety of environmental services and will serve as the City's permanent household hazardous waste drop-off facility. The consolidated storage, maintenance, and distribution services for the City's Public Litter Can program are currently housed at this location, and would otherwise need to be displaced to a remote location. Acquiring the subject property provides space for the Public Litter Can operation within an expanded EIC campus.

ANALYSIS

The property was appraised in March 2009 as if "clean" of environmental contaminants for \$2,750,000. In August 2009, a Phase II Environmental Site Assessment ("ESA") was conducted by the environmental division of AECOM, an international consulting firm. The report concluded that the groundwater underlying the property is impacted with petroleum contaminants due to historical leaking underground storage tanks. In addition, some asbestos-containing materials and lead-containing paint were found or assumed to be present in select walls, floor, ceiling, and roof components. The total cost of recommended environmental remediation of the subject property is estimated by AECOM as \$972,000 (\$540,000 for site groundwater remediation plus \$432,000 for asbestos/lead paint abatement, including twenty percent overhead applied by the City's Appraiser).

The purchase price reflects no deduction from appraised value for the groundwater contamination identified in the ESA. FSH has a letter of commitment from the State Water Resources Control Board (State) in an amount up to \$1,500,000 from the State's Underground Storage Tanks Cleanup Fund for reimbursement of eligible costs associated with the cleanup of the impacted groundwater. Staff has confirmed with the State that this letter of commitment has a remaining balance of approximately \$600,000 as compared to the ESA's estimated cost of \$540,000. These funds are transferable to the City for eligible reimbursement costs upon the

final property transaction, but only if the purchase price is not reduced due to the groundwater contamination.

The purchase price reflects a partial deduction of \$270,000 for possible future remediation of asbestos-containing materials that have been identified in some building components. The full \$432,000 estimated in the ESA is not deducted because: (a) the materials have been determined to be in good condition and do not currently pose any health risk; (b) staff is planning no demolition or major renovation of the FSH warehouse so the asbestos-containing material does not require abatement at this time; and (c) the identified lead-containing paint at the site is also mostly in good condition and only very minor stabilization efforts appear to be necessary.

With the \$270,000 deduction described above, the appraised value of the site is \$2,480,000. FSH will use the sale funds toward the construction of the new San José Family Shelter project at N. King and Dobbin Road, which is scheduled to be completed in 18 to 22 months. During construction, FSH will need to continue to use approximately half of the property as a homeless shelter. Staff proposes that a lease credit of \$230,400 be provided for 24 months so that FSH is able to extend its use of the current shelter for that period without monthly lease payments. The credit reflects a lease rate of \$0.60 per square foot (\$9,600 per month), at the lowest end of the range of market value for commercial leases. If there is a need to extend the lease beyond 24 months, the proposed business terms call for FSH to begin to pay the City at the same rate, as a further lease credit would have the effect of increasing the City's outlay to a level higher than the adjusted value of the property.

This use under the lease would not affect ESD's longer term plans for use of the site and accommodates the Department's shorter term operational uses for the subject property while construction occurs at the EIC. A full list of business points for the sale and lease are included as Exhibit B.

Funds for this purchase are derived from AB939 fees in the Integrated Waste Management Fund. Under Public Resources Code Section 41901 such fees must be spent for costs related to the preparation or implementation of a Countywide Integrated Waste Management Plan. This purchase will accommodate and expand waste diversion operations and programs thus implementing portions of the City's Source Reduction and Recycling Element and Household Hazardous Waste Element which are part of the Santa Clara County Integrated Waste Management Plan adopted by the City and the County and approved by the California Integrated Waste Management Board (now CalRecycle).

EVALUATION AND FOLLOW-UP

The transfer of this property is expected to be effective on or about September 1, 2010.

PUBLIC OUTREACH

- 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)**

This memorandum is subject to Criterion 1 and will be posted on the City's website for the June 22, 2010 Council agenda.

A specific proposal to purchase this property was included in the 2010-2011 Proposed Operating Budget. This recommendation was also discussed in the EIC status report to the Transportation and Environment Committee's June 7, 2010 meeting.

COORDINATION

This project has been coordinated with the City Attorney's Office, the City Manager's Budget Office, the Housing Department, and the Council District 3 Office.

COST SUMMARY/IMPLICATIONS

1. AMOUNT RECOMMENDED FOR THE ACQUISITION:
Amount of City's offer to be deposited into escrow: \$2,300,000
(Total cost includes escrow and closing costs estimated at \$50,000. These funds are included in the 2010-2011 Proposed Operating Budget specifically for this purpose.)
2. SOURCE OF FUNDING: Fund 423 – (Integrated Waste Management Fund)
3. OPERATING COST: This memorandum provides funding for the purchase of the land and building improvements. Existing ESD on-site maintenance staff for the EIC will maintain this new facility.

HONERABLE MAYOR AND CITY COUNCIL

06-01-10

Subject: Purchase of real property located at 1590/1600 Las Plumas Avenue

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BUDGET REFERENCE

	Appn #	Appn. Name	Total Appn.	Amt. of Recommendation	Proposed 2010-2011 Operating Budget Page*	Last Budget Action (Date, Ord. No.)
Funding Available						
423	0762	ESD Non-Personal/Equipment	\$2,878,867	\$50,000	XI-47	N/A
423	TBD	Land Purchase-Las Plumas	\$2,250,000	\$2,250,000	XI-48	N/A
Total Funding for Agreement				\$2,300,000		

* The 2010-2011 Proposed Operating Budget is scheduled to be considered for adoption by the City Council on June 22, 2010.

CEQA

CEQA: Mitigated Negative Declaration was adopted on February 24, 2010, for the purchase of the 1.76-acre San José Family Shelter property located at 1590/1600 Las Plumas Avenue (PP09-206).



PETER JENSEN
Director of General Services



JOHN STUFFLEBEAN
Director, Environmental Services

For questions please contact MATT MORLEY, DEPUTY DIRECTOR, GENERAL SERVICES DEPARTMENT, at 975-7200.

Exhibits:

A - Real Property Description

B - Business Points of Property Acquisition Agreement

EXHIBIT A Real Property Description

OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA

Site: 1534 LAS PLUMAS AVE. SAN JOSE CA 95133-183

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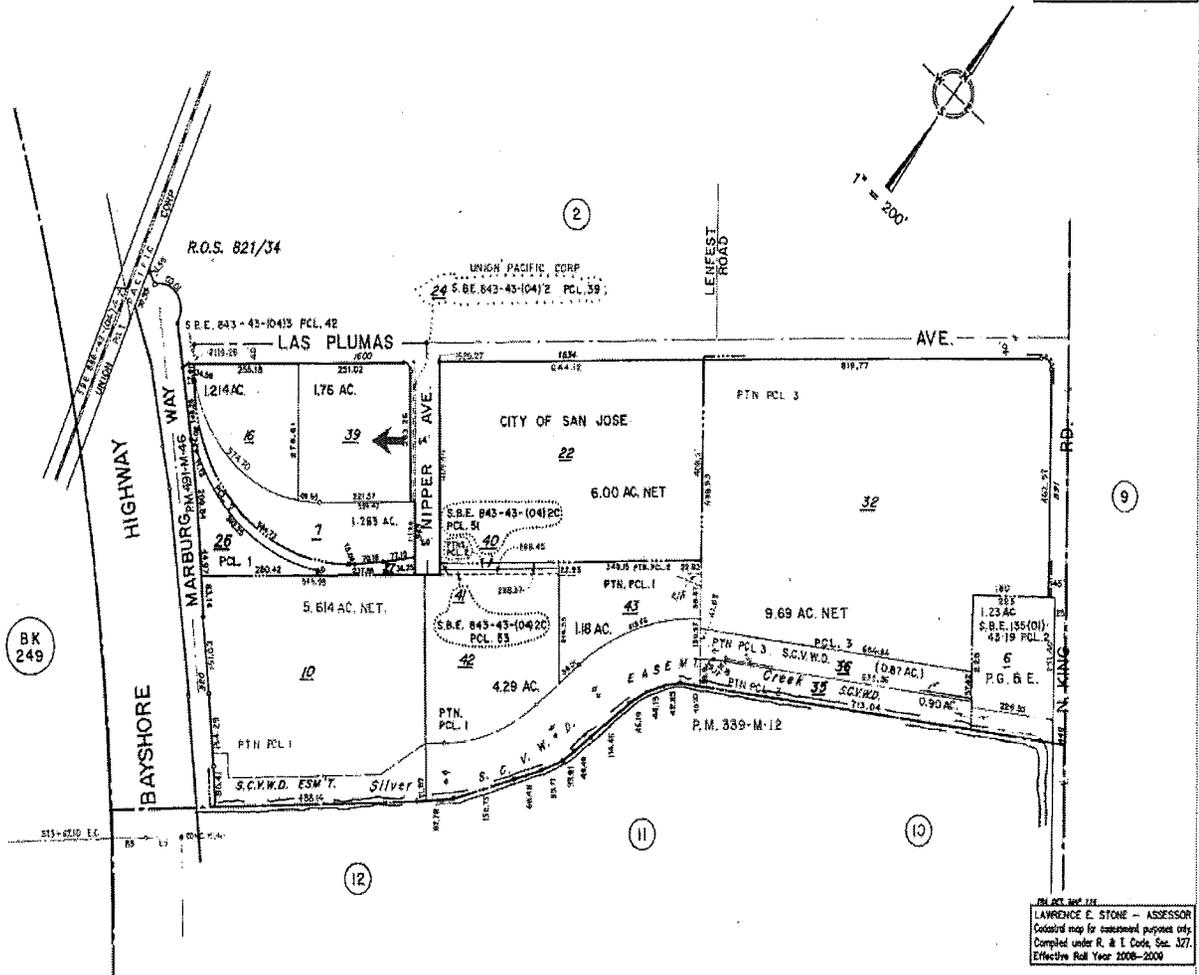


EXHIBIT B

1. Effective Date of Sale is on or about September 1, 2010
2. Purchase Price is \$2,250,000 cash and a \$230,400 two-year leaseback credit. Total value provided is \$2,480,400.
3. Property will be purchased "As is"
4. Terms of Lease between FSH and City:
 - a. Two-year term ending August 30, 2012- extensions beyond the first 24 months will be paid by FSH at \$9,600 per month.
 - b. FSH responsible for all maintenance and repairs for their occupied space including the parking lot.
 - c. City/ESD pays utility expenses and shall bill FSH for reimbursement of such amounts.
 - d. Indemnification for all uses of the site and the condition of the site to protect the City of San José against any and all losses as a result of FSH's tenancy.
 - e. City/ESD will occupy approximately 16,000 square feet previously used by the Center for Training and Careers and the American Indian Education Center immediately upon close of escrow, while FSH continues to occupy the remaining 16,000 square feet.
 - f. City/ESD retains the right to use the Northeast parking lot.
 - g. FSH must provide adequate insurance as determined by City's Risk Manager.