



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SALE OF CITY-OWNED PROPERTY AT 20399 ALMADEN ROAD **DATE:** April 2, 2012

Approved

Date

4/11/12

COUNCIL DISTRICT: 10

RECOMMENDATION

Adopt a resolution:

- a. Authorizing an alternative competitive process for the sale of the property at 20399 Almaden Road, APN 583-13-013; and
- b. Approving an agreement between the City and Carrie Griffin Portillo, for sale of the property in the amount of \$207,000; and
- c. Authorizing the City Manager to execute the sale agreement, and the deed and all other documents necessary to complete the transaction, and ratifying any disclosures or certifications made by the City Manager regarding the property as required by law.

OUTCOME

Adoption of this resolution will approve the sale, sales process and transfer of approximately 16,553 square foot (0.38 acre) of a City-owned property at 20399 Almaden Road, more commonly known as Assessor's Parcel Number (APN) 583-13-013, as defined in Attachment A, to Carrie Griffin Portillo for an amount of \$207,000, with the net proceeds being directed to the Fire Department's Construction Tax and Property Conveyance (C&C) Tax Fund. These funds will be used to supplement the purchase of fixtures, furnishings and equipment (FF&E) needs on newly constructed fire stations in accordance with prior Council direction.

BACKGROUND

This parcel contains a 1,150 square foot residential structure on a 16,553 square foot corner lot in a residential neighborhood. The City purchased the property from the Central Fire Protection District of Santa Clara County on September 21, 1979. The property was initially used by the

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City as a Fire Station (Fire Station No. 28), and was vacated in 1998 when the new Fire Station 28 was completed. The property has remained vacant since that time.

In January 2004, the County of Santa Clara issued a Notice of Violation for a substandard sewage disposal system on the property. The property was not in use at the time and the septic system issue has not been corrected. Staff has spoken with the County of Santa Clara Environmental Services staff and has determined there are options for replacement of the current septic system with a new underground installation with preliminary costs estimates upward of \$40,000. The County will review those options as part of any site development plan for approval of a replacement septic system. The buyer is requesting a 14 day feasibility period to conduct investigations with the County.

On April 7, 2009, the City Council, under Resolution 74865, declared this property to be surplus to the needs of the City and authorized the sale or exchange of the property.

On August 24, 2010, the City Council adopted an ordinance amending Chapters 4.04 and 4.20 of the Municipal Code. Under the revisions in Chapter 4.20, a competitive sales process can be used as an alternative to conducting a public auction upon the City Council's determination that the alternative process will provide the greatest public benefit. The alternative sales processes include requests for competitive proposals, a bid and negotiation process, and offering the property for sale through a broker. This memo seeks approval of staff's use of the alternative bid and negotiation sales process for the property.

On February 28, 2012 the City Council approved staff recommendations for streamlining the process to sell surplus City owned properties. Staff is currently working with the City Attorney's Office to amend the relevant ordinances to implement the direction provided by the City Council on the streamlining of real estate actions to sell surplus property.

ANALYSIS

The City-owned property known as 20399 Almaden Road has been declared surplus by City Council. At the time the property was declared surplus, staff had the ability to sell the property only through auction or to an adjacent owner. Since that time, Municipal Code changes allow for alternate methods for sale of property. Approval of the recommended actions would allow for the usage of the bid and negotiation process, the sale of 20399 Almaden Road, and authorization for the City Manager to execute all documents necessary to complete the sale of the City owned property.

Typically, the actions performed as part of the bid and negotiation process include posting a "For Sale" sign on the property, contacting other listing agents in the area, advertising in the Mercury News, and accepting offers and negotiating the terms of the sale with each bidder. In this case the property being sold is a single family residence and in staff's opinion the marketing efforts, advertising and lengthy period of negotiations involved in the bid and negotiation sales process attracts the greatest number of able buyers and best chance to achieve fair market value as

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defined in Chapter 4.20.010 (E). Staff recommends Council approve the bid and negotiation method as providing the greatest public good.

Municipal Code Chapter 4.20.010 (F) requires that the public notice of sale begin at least three weeks prior to the date of sale and last for no less than three days. The specific actions taken to market this property included the posting of a "For Sale" sign on the property in October 2011.

In addition, the property was advertised for sale in the San Jose Mercury News for two consecutive Saturdays and Sundays (April 23, April 24, April 30 and May 1, 2011). Additional outreach efforts included consultation with multiple brokers in the area to show the property and to elicit interest. Finally, staff held an 'open house' to show the property on Saturday, December 17, 2011. The result of these efforts is the proposed sale of the property "as is" to Carrie Griffin Portillo, in the amount of \$207,000.

During the marketing efforts, the City received two offers for the property. The highest offer was for \$210,000, which was rescinded after discussions with the bidder relating to the property being sold "as is." Since the highest bidder has rescinded their offer, staff has accepted a back up bid of \$207,000 from Carrie Griffin Portillo. Council Policy 7-6 allows for the payment of a real estate broker's commission, up to 5% of the purchase price, if the buyer was represented by a licensed real estate broker. In this case, the potential buyer did use a licensed real estate broker and is requesting payment of the 3% broker's fee. After paying a \$6,210 broker commission (equal to 3% of the sales price) to Brenda Avilla-Kintz with Altera Real Estate, the net selling price will be \$200,790.

The City makes no representation as to condition of the property; provided that certain disclosures required by law have been provided (e.g. knowledge regarding presence of lead paint, installation of smoke detectors, etc.).

Staff reviewed market activity in the area prior to offering the property for sale including recent sales and properties currently for sale and has determined that the proposed sale price represents fair market value for the property.

EVALUATION AND FOLLOW-UP

The transfer of the subject property is anticipated to be completed within 45 days of approval by Council.

POLICY ALTERNATIVES

Alternative # 1: Reject the sale of the property and continue City ownership.

Pros: By retaining the property, City retains the ability to develop the property for future municipal purposes.

Cons: By rejecting the sales, the City will continue to incur costs for maintenance of the property and the ongoing liability for repairs and safety.

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Reason for not recommending: Continuing ownership of the property will result in continuing maintenance expenses and potential liability. No future municipal uses have been identified.

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 action does not meet any of the above listed criteria; however it will be posted on the City's website for the April 24, 2012 Council agenda.

COORDINATION

This memorandum has been coordinated with the City Manager's Budget Office, the Fire Department and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This sale is in alignment with the Mayor's March 2009 Budget Message in the Section Investment Strategies, Item 1h which stated: "The city is currently undergoing a rigorous asset Management review to include the sale of nonessential and underperforming city-owned properties, restructuring of existing leases with for-profit and non-profit operators of city facilities, and leasing of city infrastructure to private or other governmental operators."

COST SUMMARY/IMPLICATIONS

As previously approved by the City Council, the net proceeds from the sale of this property (\$200,790) will be deposited into the Fire Department's construction and conveyance (C&C) Tax Fund for the fixtures, furnishings and equipment (FF&E) needs for newly constructed fire stations.

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CEQA

Exempt File No. PP 00-02-023.

/s/

KIM WALESH

Director of Economic Development

Chief Strategist

For questions please contact Nanci Klein, Deputy Director, at (408) 535-8184.

Attachment

ATTACHMENT A

DESCRIPTION OF REAL PROPERTY

COMMONWEALTH LAND TITLE INSURANCE COMPANY

SCHEDULE C

The land referred to herein is described as follows:

All that certain property situate in the County of Santa Clara, State of California, described as follows:

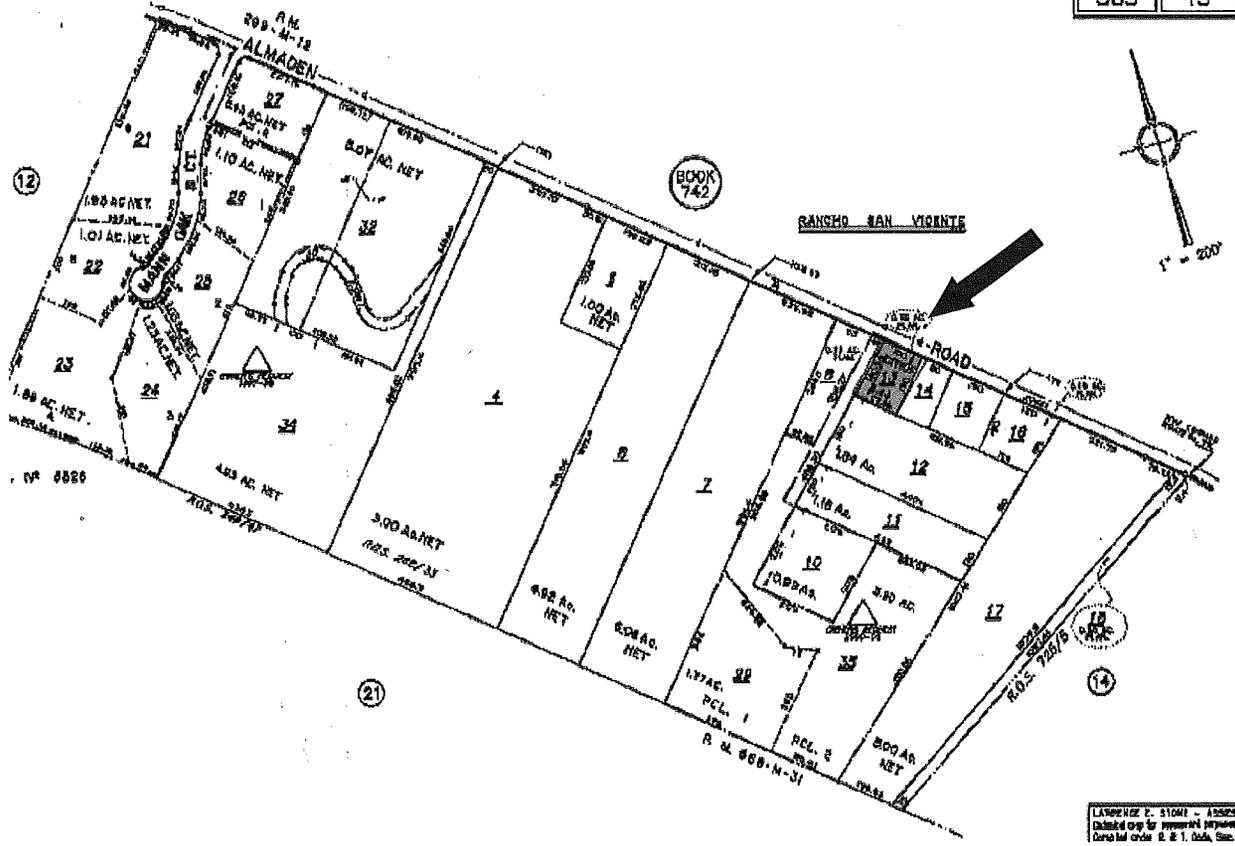
Beginning on the southwesterly line of Almaden Road distant thereon S. $48^{\circ} 35'$ E. 125 feet from the most northerly corner of the 17.38 acre tract of land described in the deed to Armand David, et ux, recorded February 26, 1932, Book 603 Official Records, page 210, said point of beginning also being the most easterly corner of the tract of land conveyed to Jacques A. Estrem, et ux, by deed recorded October 3, 1951, Book 2294 Official Records, page 454; thence S. $48^{\circ} 35'$ E. along said line of Almaden Road, 100 feet to the most northerly corner of the parcel of land conveyed to E. R. Garrison, et ux, by deed recorded May 7, 1952, Book 2415 Official Records, page 424; thence S. $41^{\circ} 25'$ W. along the northwesterly line of said parcel of land so conveyed to Garrison, 150 feet to the most westerly corner thereof on the northeasterly line of the tract of land conveyed to W. A. Henderson, et ux, by deed recorded February 8, 1954, Book 2809 Official Records, page 65; thence N. $48^{\circ} 35'$ W. along said northeasterly line 112.36 feet, more or less, to the southeasterly line of said tract of land so conveyed to Estrem; thence N. $45^{\circ} 31' 52''$ E. along said southeasterly line, 150.39 feet to the point of beginning.

ATTACHMENT A

ASSESSOR'S PARCEL MAP

OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA

EDIC	PAGE
583	13



LANGEZ T. STONE - 1552334
Detailed map by permit of the
County of Santa Clara, Sec. 13

ATTACHMENT A

AERIAL MAP

