



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Welsh

SUBJECT: SEE BELOW

DATE: April 30, 2012

Approved

Date

5/9/12

COUNCIL DISTRICT: 8

SUBJECT: SALE OF CITY-OWNED PROPERTY AT 2123 QUIMBY ROAD

RECOMMENDATION

Adopt a resolution:

- a. Authorizing an alternative competitive process for the sale of the property at 2123 Quimby Avenue, APN: 491-04-022;
- b. Approving an agreement between the City and Yolanda A. Munoz, for sale of the property in the amount of \$140,000; and
- c. Authorizing the City Manager or her designee to execute all sales documents and the deed necessary to complete the transaction

OUTCOME

Adoption of this resolution will approve the sale, sales process and transfer of the approximate 25,395 square foot (0.58 acre) of City-owned property at 2123 Quimby Road, APN: 491-04-022, to Yolanda A. Munoz for an amount of \$140,000 that will be deposited to the General Fund. The transfer of this property will include the reservation of easements of approximately 14,937 square feet for street right of way for Quimby Road and a public service easement of 48 square feet.

BACKGROUND

This parcel is approximately 25,395 square feet of vacant land adjacent to the Eastridge Mall. The City purchased the property from three different property owners in 1970 for the development of Quimby Road which provides access to the Mall property from the south. The

City will reserve approximately 14,937 square feet for street right of way over the property being sold.

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

On April 15, 2009, in accordance with California Government Code Section 54222(d), staff prepared and distributed the notification to local agencies of the availability of the Quimby Road property for the development of housing for persons and families of low or moderate income; park, recreation open space; public school and/or enterprise zone purposes. Staff has not received any responses to the 54222 notification letters.

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.

ANALYSIS

The City-owned property known as 2123 Quimby 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 the 2123 Quimby Road property, 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 bid and negotiation sales process attracted the greatest number of able buyers and allowed the best chance to achieve fair market value as 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 (October 22, October 23, October 29 and October 30, 2011). The result of these efforts is the proposed sale of the property "as is" to Yolanda A. Munoz in the amount of \$140,000 which will be recognized as revenue to the General Fund.

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During the marketing efforts, the City received two offers for the property. The first offer was for \$137,475 and would have produced a net total of \$133,351 to the City after paying a \$4,124 brokerage fee (equal to 3% of the sales price) to Grubb & Ellis. The first offer bid was received and negotiations completed with the bidder prior to receiving the second offer. The bidder of the first offer backed out of the deal on March 12, 2012, and negotiations were concluded.

At the conclusion of the negotiations with the first bidder, purchasing discussions began with the bidder of the second offer and concluded with an agreement to purchase for \$140,000, full net value to the City, with a 45 day close of escrow. Even though the site is small it represents an opportunity to enhance the area with good development and design. The Planning Department will work with the owner of the property to ensure development that compliments Eastridge Mall and City efforts to make a positive contribution to the area.

Staff obtained an appraisal of the property from Carneghi-Blum & Partners, Inc. on February 17, 2010 which valued the property at \$137,500. The City owned property is being sold as is. The buyer has had the right to inspect the property for any deficiencies. The City makes no representation as to condition of the property.

EVALUATION AND FOLLOW-UP

The transfer of the subject property is anticipated to be completed within 60 days of execution by City.

POLICY ALTERNATIVES

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

Pros: By retaining the property, the 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 concerns.

Reason for not recommending: Continuing ownership of the property will result in ongoing 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

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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 May 22, 2012 Council agenda.

COORDINATION

This memorandum has been coordinated with the City Manager's Budget Office 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

The net proceeds from the execution of this Purchase and Sales Agreement (\$140,000) will be recognized in the General Fund. Currently, the 2011-2012 modified budget for the General Fund includes a \$1.5 million revenue estimate for the sale of surplus property. The proceeds from this Purchase and Sales Agreement will help meet the budgeted estimate.

CEQA

CEQA: Exempt File No. PP10-016.

/s/

KIM WALESH
Director of Economic Development
Chief Strategist

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

Attachments

ATTACHMENT A LEGAL DESCRIPTION

DESCRIPTION OF REAL PROPERTY

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, being all of the property described in the following documents:

- FINAL ORDER OF CONDEMNATION Parcel 13 (Ferraro), recorded on October 22, 1971 in Book 9865 at Pages 523-525, Official Records of Santa Clara County
- FINAL ORDER OF CONDEMNATION Parcel 14 (Tucker), recorded on August 25, 1971 in Book 9480 at Pages 450-452, Official Records of Santa Clara County
- Grant Deed recorded on December 9, 1970 in Book 9149 at Page 201, Official Records of Santa Clara County.

PUBLIC RIGHT OF WAY EASEMENT

Reserving therefrom an easement for the installation and maintenance of public right of way, including but not limited to the facilities, appurtenances and improvements related thereto, such as: pavement, storm drainage and sanitary sewer systems, street lights and traffic signals systems and electrical appurtenances, street trees, curb, gutter, sidewalk, and public utilities such as potable and non-potable water, electrical power, gas, telephone, and cable television, and all appurtenances thereto and for any and all public uses, on, under, over, and through the real property situated in the City of San Jose, County of Santa Clara, State of California, being more particularly described as follows:

Beginning at the intersection of the northeasterly line of said Grant Deed, with the northerly right-of-way of Quimby Road as shown on Sheet 25 of the Record of Survey recorded on May 23, 2006 in Book 801 of Maps, at Pages 1-37, Records of Santa Clara County, said point being at the southeasterly terminus of the line labeled "N 32°22'26" W 42.560m [139.63']" as shown on said Record of Survey, said point also being the beginning of a non-tangent curve to the right, concave northeasterly, having a radius of 449.00 feet, a radial line to said curve bears S 01°29'32" W; thence along said northerly right-of-way, along said curve through a central angle of 24°21'10", for an arc

length of 190.84 feet to a point on the northwesterly line of said Parcel 13 (Ferraro); thence along said northwesterly line of said Parcel 13 (Ferraro), S 56°11'27" W 49.00 feet to the most westerly corner of said Parcel 13 (Ferraro); thence along the southwesterly line of said Parcel 13 (Ferraro) and along the southwesterly line of said Parcel 14 (Tucker), S 53°27'23" E 161.11 feet to the most southerly corner of said Parcel 14 (Tucker); thence along the southerly line of said Parcel 14 (Tucker) and the southerly line of said Grant Deed, N 74°05'13" E 127.73 feet to the most easterly corner of said Grant Deed; thence along said northeasterly line of said Grant Deed, N 32° 22'26" W 51.40 feet to the Point of Beginning.

PUBLIC SERVICE EASEMENT

Also reserving therefrom an easement for the installation and maintenance of any and all public service facilities including, but not limited to, poles, wires, conduits, gas, water, heat mains and all appurtenances thereto on, under, over, and through the real property situated in the City of San Jose, County of Santa Clara, State of California, being more particularly described below. The public service easement is to be kept open and free from buildings and structures of any kind except public service structures, irrigation systems and appurtenances thereto, lawful fences and all lawful unsupported roof overhangs.

Commencing at the intersection of the northeasterly line of said Grant Deed, with the northerly right-of-way of Quimby Road as shown on Sheet 25 of the Record of Survey recorded on May 23, 2006 in Book 801 of Maps, at Pages 1-37, Records of Santa Clara County, said point being at the southeasterly terminus of the line labeled "N 32°22'26" W 42.560m [139.63']" as shown on said Record of Survey, said point also being the beginning of a non-tangent curve to the right, concave northeasterly, having a radius of 449.00 feet, a radial line to said curve bears S 01°29'32" W; thence along said northerly right-of-way, along said curve through a central angle of 13°20'42", for an arc length of 104.58 feet the Point of Beginning; thence leaving said northerly right-of-way, N 14°50'14" E 3.00 feet to an angle point; thence N 74°09'14" W 15.71 feet to an angle

point; thence S 16°51'18" W 3.00 feet to a point on said northerly right-of-way, said point being the beginning of a non-tangent curve to the left, concave northeasterly, having a radius of 449.00 feet, a radial line to said point bears S 16°51'18" W; thence along said curve through a central angle of 02°01'04", for an arc length of 15.81 feet to the Point of Beginning.

The described property contains approximately 25,395 square feet (0.58 acres), including approximately 14,937 square feet (0.34 acres) of Public Right-of-Way Easement and approximately 48 square feet of Public Service Easement.

This description was prepared from record information and a limited field survey.

The Basis of Bearings for this description is the Bearing N 74°01'45" E 1,545.68 feet calculated between found monuments number 7205 on the centerline of Quimby Road as shown on Sheet 25 of the Record of Survey recorded on May 23, 2006 in Book 801 of Maps, at Pages 1-37, Records of Santa Clara County and number 6907 at the intersection of said Quimby Road with the centerline of Capitol Expressway as shown on Sheet 26 of said Record of Survey.

Attached hereto and by reference a part hereof is a plat labeled "PLAT TO ACCOMPANY DESCRIPTION OF REAL PROPERTY" depicting the subject property.

The above description of real property was prepared by me in conformance with the requirements of Section 8726(g,k,l,m) of the Business and Professions Code of the State of California.



Patricia A. Cannon 12/5/2011
Patricia A. Cannon, PLS 8186

ATTACHMENT A
AERIAL MAP

