



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: May 21, 2012

Approved

Date

5/25/12

COUNCIL DISTRICT: 10

SUBJECT: SALE OF CITY-OWNED PROPERTY AT 510 PARK AVENUE

RECOMMENDATION

Adopt a resolution:

- a. Authorizing an alternative competitive process for the sale of the property at 510 Park Avenue (also known as 525 Lorraine Avenue), APN 259-47-081; and
- b. Approving an agreement between the City and D'Arpino Revocable Trust Dated August 23, 1988, for the sale of the property in the amount of \$415,000; and
- c. Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction, and ratifying any disclosures or certifications made by the City Manager or her designee regarding the property as required by law.

OUTCOME

Adoption of this resolution will approve the sale, sale process, and transfer of approximately 10,878 square feet (0.25 acre) of a City-owned property at 510 Park Avenue, more commonly known as Assessor's Parcel Number (APN) 259-47-081, as defined in Attachment A, to D'Arpino Revocable Trust Dated August 23, 1988, for an amount of \$415,000, with the net proceeds being deposited to the General Fund. The transfer of this property will include an Irrevocable Offer of Dedication for future dedication of approximately 2,400 square feet for the widening of Park Avenue.

BACKGROUND

This parcel contains a concrete block building of approximately 3,886 square feet and a 400 square foot wooden structure on approximately 10,878 square foot of land currently zoned light industrial. The property was originally two separate lots purchased in 1971 and 1972 for the future widening of Park Avenue. The property has been vacant for more than 12 years.

On June 16, 2009, the City Council, under Resolution 74994, 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 510 Park Avenue 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 510 Park Avenue, and the 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 September 2011. In addition, the property was advertised for sale in the San Jose Mercury News for two consecutive Saturdays and Sundays (September 3, September 4, September 10, and September

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11, 2011). Additional outreach efforts included consultation with multiple brokers in the area to show the property and to elicit interest. The result of these efforts is the proposed sale of the property "as is" to D'Arpino Revocable Trust Dated August 23, 1988, in the amount of \$415,000.

During the marketing efforts, the City received three bids to purchase the property. The starting bids ranged from \$345,000 to \$375,000. The bidders were notified of the highest starting bid and were offered the opportunity to increase their bid in increments of \$5,000. This process continued until a final highest bid of \$425,000 was received and the bidding period expired. The highest bidder is the owner of a large number of parcels between San Carlos Street, Montgomery Street, Park Avenue, and Josefa Street and is considering constructing residential property in this location.

At the conclusion of the bidding process, staff accompanied the highest bidder and their contractor for an inspection of the site. The highest bidder and their contractor visited and inspected the site on three separate occasions with staff and ultimately submitted an estimate that indicated that the cost for asbestos abatement and remediation would be in excess of \$50,000. The bidder had only anticipated \$30,000 of work and ultimately agreed to a reduction in the purchase price to \$415,000. After discussing the future of the property with Planning, Building and Code Enforcement (PBCE) Department, and D'Arpino Trust, it was determined that the best solution is to demolish the building in preparation for a new residential development. The buyer is requesting a 60 day feasibility period to explore the options of obtaining a permit for the demolition of the structures that are located on the site. At the conclusion of the 60 day feasibility period, the buyer will have the option to complete the actions necessary to close escrow or elect to terminate the transaction and receive a refund of their deposit.

The City makes no representation as to condition of the property and the buyer has physically inspected the property on three separate occasions. The buyer has been advised that all water heaters on the property will have been braced, anchored or strapped for earthquakes, as required by California Health & Safety Code Section 19211, prior to the close of escrow. In the addition the buyer has received a separate notice, as required by California Civil Code Section 1057.6, regarding title insurance.

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 90 days of approval by the City 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.

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 June 12, 2012 City 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."

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COST SUMMARY/IMPLICATIONS

The net proceeds from the sale of this property (\$415,000) 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 property sale will help meet the budgeted estimate.

CEQA

CEQA: Exempt File No. PP10-044.

/s/

KIM WALESH
Director of Economic Development
Chief Strategist

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

Attachments

ATTACHMENT A

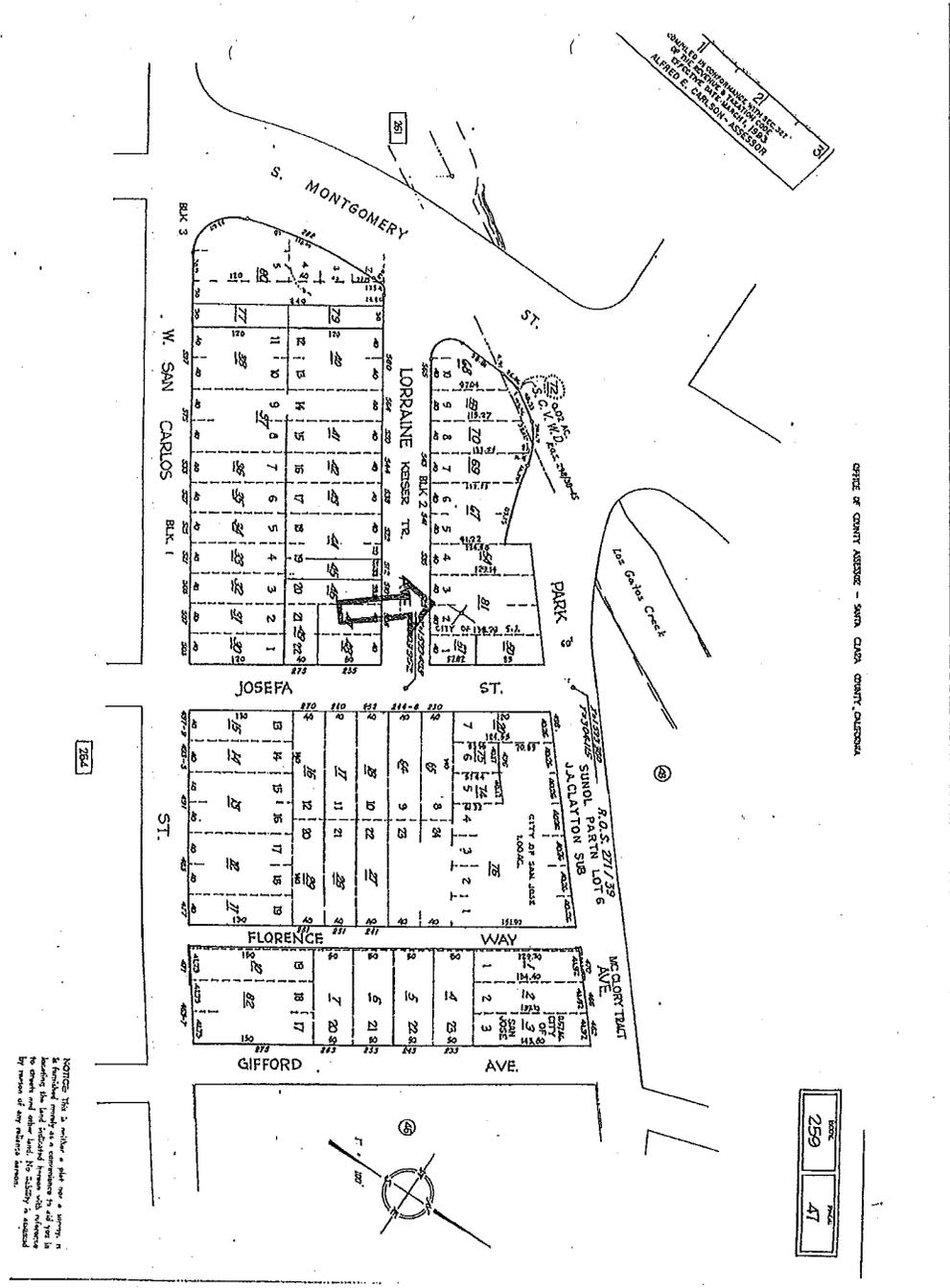
DESCRIPTION OF REAL PROPERTY

Situated in the County of Santa Clara, City of San Jose, State of California, described as follows:

LOTS 2 and 3, BLOCK 2, as delineated upon that certain Map entitled "Map of the Keiser Tract, being a subdivision of Lots 7 and 12 of Sunol Partition, San Jose, California", filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on May 7th, 1914 in Book 0 of Maps, at page 49.

ATTACHMENT A

ASSESSOR'S PARCEL MAP



ATTACHMENT A

AERIAL MAP

