



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Welsh

SUBJECT: SEE BELOW

DATE: September 24, 2012

Approved

Date

10/2/12

COUNCIL DISTRICT: 7

SUBJECT: SALE OF CITY-OWNED PROPERTY AT 1795 COURTNEY AVENUE

RECOMMENDATION

Adopt a resolution:

- a. Authorizing an alternative competitive process for the sale of the property at 1795 Courtney Ave, APN: 477-30-011; and
- b. Approving an agreement between the City and Global Business Solutions, LLC, for sale of the property in the amount of \$65,000; 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.

OUTCOME

Adopt a resolution that will approve the sales process, the sale and transfer of the approximate 5,990 square foot (0.14 acre) of City-owned property at 1795 Courtney Avenue, APN: 477-30-011, to Global Business Solutions, LLC for an amount of \$65,000 to be deposited to the General Fund. The transfer of this property will include the reservation of an easement of approximately 2,195 square feet for street right of way for Phelan Avenue Improvement Project.

BACKGROUND

This parcel is approximately 5,990 square feet of vacant land adjacent to Phelan Avenue. The City will reserve an easement of approximately 2,195 square feet for street right of way over the property being sold.

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On June 20, 1985, the City acquired this property from Samuel E. Park and Michele I. Park, as part of the Phelan Avenue. The property was purchased for \$100,000.

On April 15, 2009, in accordance with California Government Code Section 54222(d), staff prepared and distributed a notification to local agencies of the availability of the Courtney Avenue 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 did not receive any offers in response to the notification letters.

On June 16, 2009, the City Council, under Resolution 74994, declared the property 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 process includes requests for competitive proposals, a bid and negotiation process, and offering the property for sale through a broker. This memorandum seeks approval of staff's use of the alternative bid and negotiation sales process for the property.

ANALYSIS

The City-owned property known as 1795 Courtney Avenue has been declared surplus by the 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 use of the bid and negotiation process, the sale of the 1795 Courtney Avenue 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 receiving offers and negotiating the terms of the sale with bidders. In this case, staff determined that the advertising and negotiations involved in 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 benefit.

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 on October 23, 2011. Property information was distributed to 250+ brokers and developers. The property is also listed on Loopnet and CoStar. 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 Global Business Solutions, LLC, in the amount of \$65,000 which will be recognized as revenue to the General Fund.

Staff obtained an appraisal of the property from Carneghi-Blum & Partners, Inc. on February 17, 2010 which estimated the value of the property to be \$81,000. During the marketing efforts, the City received four offers for the property. The first offer was for \$49,000. The second offer was for \$54,000. The third offer was for \$61,000. The fourth and final offer was for \$65,000. The City-owned property is being sold as is with the reservation of an easement of approximately 2,195 square feet for street right of way purposes. As long as the City retains the easement, no structures can be built on that portion of the project. The buyer has had the opportunity 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 the 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 potentially develop the property for future municipal purposes and try to garner more bids for the property.

Cons: By rejecting the sale, the City will continue to incur costs for maintenance of the property and the ongoing liability for 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/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)**

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This action does not meet any of the above listed criteria; however it will be posted on the City's website for the October 16, 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

The sale is in alignment with the Mayor's March 2009 Budget Message, 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 2012-2013 Adopted Budget includes a \$1,400,000 General Fund revenue estimate for the sale of surplus property. The net proceeds (\$65,000) from this Purchase and Sales Agreement will help meet budget goals.

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.

Attachment

ATTACHMENT A
LEGAL DESCRIPTION OF REAL PROPERTY

EXHIBIT ' ____ '

DESCRIPTION OF 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 the Grant Deed recorded on July 30, 1985 in Book J412 at Pages 72-74, Official Records of Santa Clara County, restated as follows:

"The land referred to herein is described as follows:

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

A portion of Lot 12, as said lot is shown upon that certain Map of J.H. Flickinger Subdivision, which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, in Book "A" of Maps, Page 15, and being more particularly described as follows:

Beginning at an iron pipe at the Northernmost corner of Lot 11 on the Southwesterly line of the Courtney Avenue, as said lot and avenue are shown upon that certain Map entitled, "Tract No. 2590 McLaughlin Estates", which Map was filed for record in said Recorder's Office in Book 123 of Maps, page 55; thence along the Northwesterly line of said Lot 11, South 51° 38' 40" West 95.97 feet to an iron pipe at the Westernmost corner thereof; thence along the Northwesterly prolongation of the Southwesterly line of said Lot 11, North 38° 21' 20" West 63.03 feet to an iron pipe on the Southeasterly line of that certain parcel of land described in the Deed from Frederick C. Maegly to Elletta W. Hawber, et al, which Deed was recorded in said Recorder's Office January 5, 1960 in Book 4654 of Official Records, page 686; thence North 51° 39' 40" East along said Southeasterly line 95.97 feet to the intersection thereof with the Southwesterly line of said Courtney Avenue; thence South 38° 21' 20" East along said Southwesterly line 63.00 feet to the Point of Beginning.

EXHIBIT ' _____ '

Being also "Parcel A" as shown upon that certain Record of Survey Map filed in the office of the Recorder of the County of Santa Clara, State of California, on September 16, 1960 in Book 125 of Maps, at Page 22."

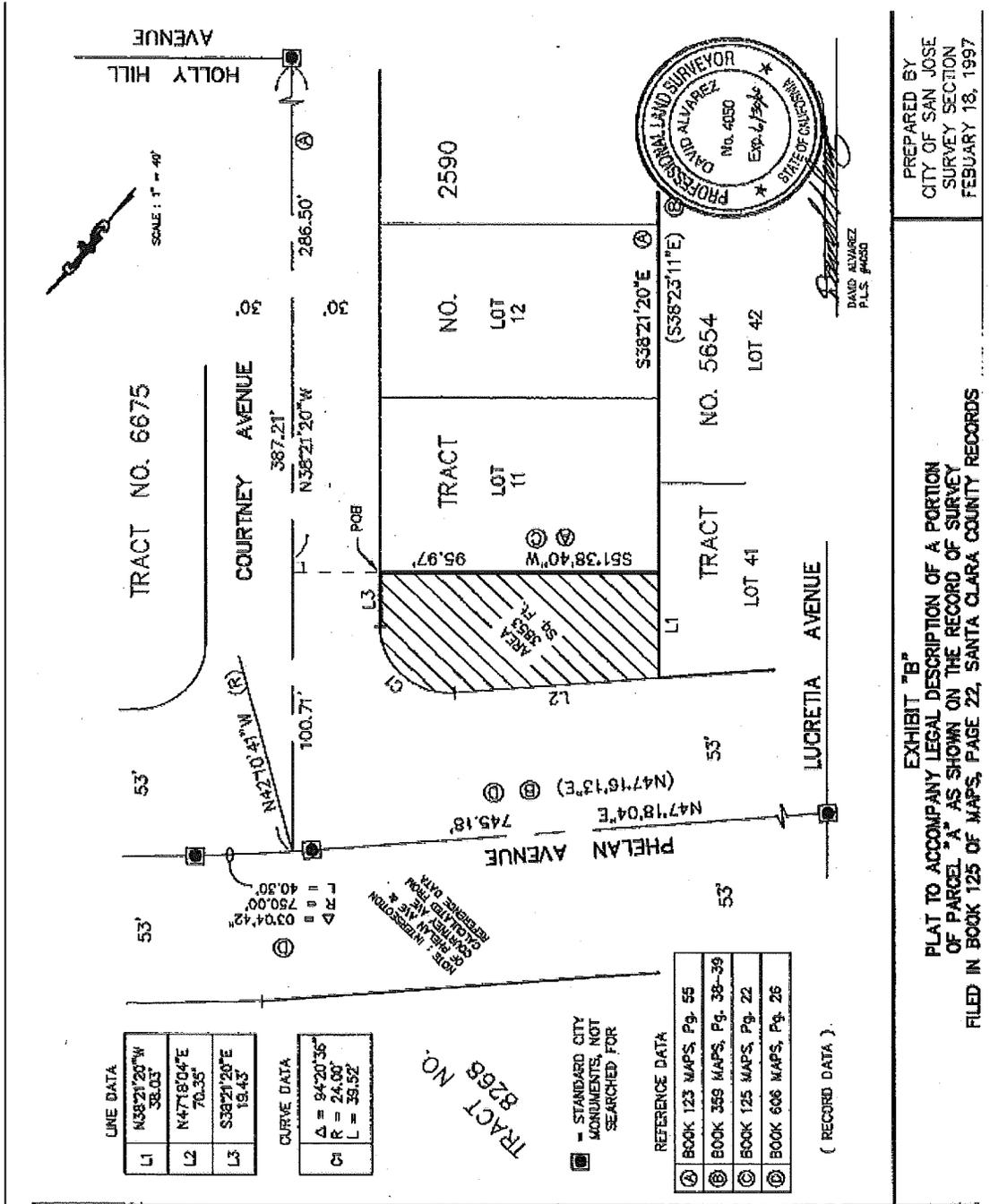
PUBLIC RIGHT OF WAY EASEMENT

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, in, over, under, through and across 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 northerly corner of Parcel A as shown upon that certain Record of Survey Map recorded on September 16, 1960 in Book 125 of Maps, at Page 22, Records of Santa Clara County; thence along the northeasterly line of said Parcel A, also being the southwesterly line of Courtney Avenue as shown on said Map, South 38° 21' 20" East 43.58 feet to the point of cusp of the beginning of a curve to the left, concave southerly, having a radius of 24.00 feet, a radial line to said curve bears North 51° 38' 40" East; thence along said curve through a central angle of 94° 20' 36", for an arc length of 39.52 feet; thence South 47° 18' 04" West 70.35 feet to the southwesterly line of said Parcel A; thence along said southwesterly line of Parcel A, North 38° 21' 20" West 25.00 feet to the westerly corner of said Parcel A; thence along the northwesterly line of said Parcel A, North 51° 39' 40" East 95.97 feet to the Point of Beginning.

The described property contains approximately 6,048 square feet (0.139 acres), including approximately 2,195 square feet (0.050 acres) of Public Right-of-Way Easement.

ATTACHMENT B
PLAT MAP



LINE DATA

L1	N38°21'20"W	38.03'
L2	N47°18'04"E	70.35'
L3	S38°21'20"E	19.43'

CURVE DATA

C1	Δ = 94°20'36"
	R = 24.00'
	L = 39.52'

TRACT NO. 8268

STANDARD CITY MONUMENTS, NOT SEARCHED FOR

REFERENCE DATA

①	BOOK 123 MAPS, Pg. 55
②	BOOK 369 MAPS, Pg. 38-39
③	BOOK 125 MAPS, Pg. 22
④	BOOK 606 MAPS, Pg. 26

(RECORD DATA)

EXHIBIT "B"
PLAT TO ACCOMPANY LEGAL DESCRIPTION OF A PORTION
OF PARCEL "A" AS SHOWN ON THE RECORD OF SURVEY
FILED IN BOOK 125 OF MAPS, PAGE 22, SANTA CLARA COUNTY RECORDS

PREPARED BY
CITY OF SAN JOSE
SURVEY SECTION
FEBRUARY 18, 1997

ATTACHMENT C
AERIAL MAP

