

File No. 101479

Committee Item No. 2
Board Item No. 15

COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: February 9, 2011

Board of Supervisors Meeting

Date: 2/15/11

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Ethics Form 126 <i>N/A</i> |
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OTHER

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Completed by: Victor Young

Date: February 4, 2011

Completed by: Victor Young

Date: _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Sale of Surplus Property – 909 Tennessee Street - \$1,310,000]
2

3 Resolution approving the sale of an improved surplus property located at 909
4 Tennessee, within Lot 001, Block 4108, City and County of San Francisco, to the
5 highest responsible cash bidder for a purchase price of not less than \$1,310,000;
6 adopting findings pursuant to the California Environmental Quality Act; adopting
7 findings that the conveyance is consistent with the City's General Plan and Eight
8 Priority Policies of City Planning Code Section 101.1; and authorizing the Director of
9 Property to execute documents, make certain modifications and take certain actions in
10 furtherance of this Resolution.
11

12 WHEREAS, The City and County of San Francisco owns an "L" shaped parcel of real
13 property located at the corner of 20th Street and Third Street and extending from Third Street
14 to Tennessee Street, commonly known as Assessor's Block 4108, Lot 001; and,

15 WHEREAS, The 50 foot by 100 foot portion of such parcel that fronts Tennessee
16 Street, commonly known as 909 Tennessee Street (the "Subject Property"), which is not a
17 separate legal parcel, is under the jurisdiction of the San Francisco Fire Department; and,

18 WHEREAS, The Subject Property is improved with an unreinforced masonry building
19 that is used currently only for storage, and would require extensive improvements for further
20 use; and,

21 WHEREAS, The Fire Commission has by Fire Commission Resolution No. 2010-05,
22 approved 5-0 on August 26, 2010, a copy of which is on file with the Clerk of the Board of
23 Supervisors in File No. 101479 declared the Subject Property to be surplus and requested
24 that the Subject Property be sold at a public sale; and,

25 WHEREAS, the Fire Department budget as shown in the adopted AAO for FY 2010-
2011 reflected anticipated revenue of \$725,000 from the sale of the Subject Property; and,

1 WHEREAS, In accordance with the Fire Commission Resolution sealed bids were
2 received at a public bid opening on November 23, 2010, with minimum bid amount of
3 \$340,000.00; and,

4 WHEREAS, The highest bidder, who tendered a bid amount of \$1,310,000.00,
5 subsequently failed to perform and the Director of Property recommends conducting another
6 public auction on or around March 1, 2011 at which the Director of Property will receive and
7 recommend acceptance of the highest bid, with a minimum bid price of \$1,310,000, in
8 accordance with the terms and conditions of the Agreement of Sale of Real Estate (the
9 "Agreement"), a copy of which is on file with the Clerk of the Board of Supervisors in File No.
10 101479; and,

11 WHEREAS, The Director of Planning, by letter dated July 27, 2010, found that the
12 sale of the Subject Property is categorically exempt from environmental review pursuant to
13 CEQA guidelines and is consistent with the City's General Plan and the Eight Priority Policies
14 of City Planning Code Section 101.1, which letter is on file with the Clerk of the Board of
15 Supervisors in File No. 101479, and which letter is incorporated herein by this reference;
16 now, therefore, be it

17 RESOLVED, That the Board of Supervisors hereby adopts the findings set forth in the
18 letter of the Director of Planning, dated July 27, 2010, that the sale of the Subject Property is
19 categorically exempt from environmental review pursuant to CEQA guidelines and is
20 consistent with the City's General Plan and the Eight Priority Policies of City Planning Code
21 Section 101.1 for the same reasons as set forth in the letter of the Director of Planning, and
22 hereby incorporates such findings by reference as though fully set forth in this resolution; and,
23 be it

24 FURTHER RESOLVED, That the Board of Supervisors hereby approves the
25 Agreement and the transaction contemplated thereby and authorizes the Director of Property

1 to insert the amount of the accepted bid as the purchase price in the Agreement and enter
2 into any additions, amendments or other modifications to the Agreement (including, without
3 limitation, the attached exhibits) that the Director of Property, in consultation with the City
4 Attorney, determines are in the best interest of the City, do not decrease the sales price for
5 the Subject Property or otherwise materially increase the obligations or liabilities of the City,
6 and are necessary or advisable to complete the transaction contemplated in the Agreement
7 and effectuate the purpose and intent of this Resolution, such determination to be
8 conclusively evidenced by the execution and delivery by the Director of Property of the
9 Agreement and any amendments thereto; and, be it

10 FURTHER RESOLVED, That the Director of Property is hereby authorized and urged,
11 in the name and on behalf of the City and County, to execute and deliver the deed to the
12 Subject Property to the purchaser upon the closing in accordance with the terms and
13 conditions of the Agreement, and to take any and all steps (including, but not limited to, the
14 execution and delivery of any and all certificates, agreements, notices, consents, escrow
15 instructions, closing documents and other instruments or documents) as the Director of
16 Property deems necessary or appropriate in order to consummate the conveyance of the
17 Subject Property pursuant to the Agreement, or to otherwise effectuate the purpose and intent
18 of this resolution, such determination to be conclusively evidenced by the execution and
19 delivery by the Director of Property of any such documents.

20
21 RECOMMENDED:

22 
23 _____
24 John Updike
25 Acting Director of Property

Supervisor Chu
BOARD OF SUPERVISORS

Page 3
1/31/2011

Item 2
File 10-1479

(continued from February 2, 2011)

Department:

San Francisco Fire Department; Real Estate Division

EXECUTIVE SUMMARY

Legislative Objective

- The proposed resolution, which reflects the Amendment of the Whole, would (1) authorize the Real Estate Division to sell the Fire Department building located at 909 Tennessee Street at a public auction, (2) require a minimum sale price of \$1,310,000, (3) adopt the Planning Department's findings pursuant to the California Environmental Quality Act (CEQA), the City's General Plan and the Eight Priority Policies of City Planning Code Section 101.1, and (4) authorize the Director of Property to take any and all steps to complete the sale of the building.

Key Points

- The Fire Department, as part of its FY 2010-2011 budget previously approved by the Board of Supervisors, decided to sell the building at 909 Tennessee Street and \$725,000 of anticipated sale proceeds was included in the Fire Department's FY 2010-2011 budget.
- The City's Planning Department has determined that the sale of the subject building is (a) categorically exempt from CEQA, and (b) consistent with the City's General Plan and the Eight Priority Policies of City Planning Code Section 101.1.
- On November 23, 2010, the Real Estate Division conducted a sealed bid public auction, setting minimum bid at \$340,000, the appraised value of the subject building. Nine bids, ranging from \$377,000 to \$1,310,000, were received. The highest bid by Wayneco Heavy Industries, LLC, at \$1,310,000 was selected as the winning bidder.
- In early January 2011, Wayneco Heavy Industries withdrew from the agreement to purchase the building at 909 Tennessee Street. As such, under the proposed resolution, the Real Estate Division would sell the building at 909 Tennessee Street at a public auction on or around March 1, 2011, with a minimum sale price of \$1,310,000.

Fiscal Impacts

- Based on a minimum sale price of \$1,310,000, approval of the proposed resolution would generate at least \$1,236,037 (\$1,310,000 minimum sale price less \$73,963 in related administrative costs) in FY 2010-2011, of which (a) \$725,000 would accrue to the Fire Department's FY 2010-2011 budget as previously approved by the Board of Supervisors and (b) the remaining minimum balance of \$511,037 (\$1,236,037 less \$725,000) would accrue to the City's General Fund Reserve.
- Based on the minimum sale price of \$1,310,000, the buyer would pay \$15,248 in annual Property Taxes, at the current combined Property Tax rate of \$1.164.

Policy Considerations

- The Surplus City Property Ordinance, in Chapter 23A of the City's Administrative Code, states that the City shall use surplus City property to provide housing for the homeless. If the surplus City property is unsuitable for housing, the surplus City property will be sold to generate income to provide such housing.
- The proceeds from the sale of the subject 909 Tennessee Street property would accrue to the City's General Fund and would not be expended for housing under the proposed ordinance. However, the FY 2010-11 Annual Appropriation Ordinance, as previously approved by the Board of Supervisors, authorizes the Fire Department to sell the 909 Tennessee Street property. Therefore, the \$725,000 of net proceeds should be credited to the Fire Department's FY 2010-2011 budget.

Recommendations

- Approval of the proposed resolution is a policy decision for the Board of Supervisors.
- If the Board of Supervisors approves the proposed resolution, the Board of Supervisors should first amend the resolution to specify the intended use of the remaining balance of at least \$511,037 (\$1,236,037 in minimum net sale proceeds less \$725,000 accruing to the Fire Department) for either (a) permanent housing for people who are homeless, as provided in the Surplus City Property Ordinance, or (b) an allocation to the City's General Fund Reserve.

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

In accordance with Section 9.118(c) of the City's Charter, any sale of real property owned by the City and County of San Francisco must first be approved by resolution of the Board of Supervisors.

Background

Between 1925, when it was originally constructed, and 1970, the San Francisco Fire Department actively operated a fire station, Fire Station No. 16, at 909 Tennessee Street near 20th Street in Potrero Hill. On July 1, 1970, Fire Station No. 16 was deactivated as an operating Fire Station due to City budget reductions. Since 1970, the Fire Department has only used this 6,113 square foot, two-story building to store old or infrequently used fire equipment, such as vintage fire trucks.

According to Mr. Mark Corso, Chief Financial Officer of the Fire Department, the Fire Department originally proposed the sale of the 909 Tennessee Street property as part of the FY 2009-2010 mid-year reductions in General Fund monies, as requested by the Mayor's Office in December 2009. However, due to the lengthy sale process, the Fire Department determined that the sale of the 909 Tennessee Street property could not be completed in FY 2009-2010. As a result, the sale of the 909 Tennessee Street property was included in the Fire Department's FY 2010-2011 budget, as previously approved by the Board of Supervisors, which reflects anticipated one-time revenues of \$725,000 from the sale of the Fire Department's building at 909 Tennessee Street.

In preparation for sale, the Real Estate Division (RED) requested that the City's Planning Department make a determination, in accordance with the California Environmental Quality Act (CEQA). According to a letter from the Planning Department, dated July 27, 2010, the sale of the subject building is "categorically exempt from CEQA per guidelines Section 15312, Surplus Government Property Sales". The Planning Department has also determined that the sale of the building at 909 Tennessee Street is consistent with the City's General Plan and the Eight Priority Policies of City Planning Code Section 101.1¹.

According to Mr. John Updike, Acting Director of the Real Estate Division, in June 2010, Clifford Associates prepared a fair market value appraisal of \$340,000 for the subject building at 909 Tennessee Street. Mr. Updike advises that this fair market appraisal is relatively low because the building requires significant repairs in order for any type of use. Mr. Updike states

¹ Proposition M, passed by San Francisco voters on November 4, 1986, requires the City's Master Plan to comply with the Eight Priority Principles laid out in City Planning Code Section 101.1, which mandate: (1) preserving landmarks and historic buildings, (2) protecting parks and open space from development, (3) preparing the City for earthquakes, (4) encouraging a diverse economic base, (5) maintaining and increasing the City's supply of affordable housing, (6) preserving existing housing and neighborhood character, (7) preserving and enhancing neighborhood-serving retail uses, and (8) ensuring that commuter traffic will not impede Muni transit service or overburden City streets or neighborhood parking.

that in 2005, the City's Department of Public Works estimated the cost to repair the building for the Fire Department's use as a fire station, including seismic strengthening, at \$2,151,370.

On August 26, 2010, the San Francisco Fire Commission unanimously voted to declare the subject building as surplus to City needs and requested that the building be sold at a public auction. The findings in the Fire Commission's Resolution 2010-05, (1) the building is an unreinforced masonry building that is currently used only for storage and would require extensive seismic and other code improvements for further use, (2) the Fire Department does not require the building to fulfill the Fire Department's mission, and (3) the Fire Department has no plans to use or further occupy the building.

Mr. Updike states that the Real Estate Division conducted a sealed bid public auction on November 23, 2010. The minimum bid price was \$340,000, which was the fair market value appraisal. Mr. Updike states that RED received nine bids, ranging from \$377,000 to \$1,310,000. Mr. Updike states that RED selected the highest bid of \$1,310,000, with no contingencies or conditions of purchase, submitted by Wayneco Heavy Industries, LLC.

However, in early January 2011, Wayneco Heavy Industries, after depositing \$131,000 or ten percent of the purchase price of \$1,310,000 in escrow, withdrew from the agreement to purchase the building at 909 Tennessee Street. As such, Mr. Updike states that 909 Tennessee Street currently remains for sale. Mr. Updike advises that due to potential disclosure issues that Wayneco Heavy Industries has raised regarding the sale of 909 Tennessee Street, the City Attorney's Office and Wayneco Heavy Industries are in discussions over how much, if any, of the \$131,000 in escrow would be returned to Wayneco Heavy Industries. Mr. Updike states that any amount that the RED retains from escrow would be deposited into the City's General Fund.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution, which reflects the Amendment of the Whole, would (1) authorize the Real Estate Division to sell the Fire Department building located at 909 Tennessee Street at a public auction, (2) require a minimum sale price of \$1,310,000, (3) adopt the Planning Department's findings pursuant to the California Environmental Quality Act, the City's General Plan and the Eight Priority Policies, and (4) authorize the Director of Property to take any and all steps to consummate the sale of the building.

Under the proposed resolution, RED would conduct a second public auction on or around March 1, 2011. According to Mr. Updike, RED initially intended to offer the building at 909 Tennessee Street to the second-highest bidder at the November 23, 2010 public auction. However, Mr. Updike states that because (1) the second-highest bid was \$906,000, a decrease of \$404,000 or 30.8 percent from the highest bid of \$1,310,000, and (2) an improved real estate market in 2011 in which RED believed the building could be sold at or above \$1,310,000, RED instead decided to conduct a second public auction to sell the building. Mr. Updike anticipates conducting the second public auction on or around March 1, 2011.

As stated above, the Real Estate Division requested that the City's Planning Department make a determination under the California Environmental Quality Act (CEQA) relative to the sale of the subject property. According to a letter from the Planning Department, dated July 27, 2010,

the sale of the subject building is “categorically exempt from CEQA per guidelines Section 15312, Surplus Government Property Sales” because the sale itself does not have an environmental impact. However, according to Mr. Updike, any alterations that the buyer performs to the building, since the building is eligible for listing but not currently on the National Register of Historic Places, may require a subsequent CEQA review. The Planning Department also determined that the sale of the building at 909 Tennessee Street is consistent with the City’s General Plan and the Eight Priority Policies.

FISCAL IMPACT

As discussed above, the Fire Department’s FY 2010-2011 budget as previously approved by the Board of Supervisors, reflects anticipated revenue, from the sale of the Fire Department’s building at 909 Tennessee Street, at \$725,000. Because the proposed resolution requires a minimum sale price of \$1,310,000 and the public auction will not occur until after March 1, 2011, the remainder of this report uses \$1,310,000 as the sale price to determine net proceeds and the amount deposited to the City’s General Fund Reserve.

As shown in Table 1 below, if the building at 909 Tennessee Street is sold at the minimum sale price of \$1,310,000 required under the proposed resolution, the sale will generate net proceeds of at least \$1,236,037 (\$1,310,000 minimum sale price less \$73,963 in administrative costs). Mr. Updike states that the costs of the sale include (a) \$47,000 for staff² costs of the Real Estate Division, which includes additional RED staff expenditures for conducting the second public auction, and (b) \$26,963 preparation³ costs by the Fire Department. Mr. Updike states that the buyer will pay all closing costs related to the sale.

Item	Expenditures	Revenue
Sale Price of 909 Tennessee Street		\$1,310,000
Total Revenue		\$1,310,000
Staff Costs – Real Estate Division	\$47,000	
Closing Costs ⁴	0	
Preparation Costs – Fire Department	26,963	
Total Expenditures	\$73,963	
Net Proceeds		\$1,236,037

² Staff costs for appraisal review, development of offering documents, preparation of property for showings, publicity for sale, tours of property, handling inquiries, executing bid process, processing Board of Supervisors approval and coordinating close of escrow.

³ The Fire Department has paid directly, through work orders to the Real Estate Division, a total of \$26,963 for services including (a) \$4,200 for the appraisal performed by Clifford Associates, (b) \$3,163 for the Planning Department to evaluate the sale in regards to the General Plan and the Eight Priority Policies, (c) \$14,600 for a lot line adjustment, and (d) \$5,000 for clean-up costs.

⁴ Mr. Updike states that the buyer will pay for all closing costs including title, insurance, and escrow fees. Since the subject property is currently owned by the City, there is no Property Tax proration upon close of escrow.

Based on the data shown in Table 1 above, the Budget and Legislative Analyst notes that the proposed sale of 909 Tennessee Street will generate a minimum of \$511,037 over the anticipated budgeted revenues of \$725,000 included in the Fire Department's FY 2010-11 budget (\$1,236,037 minimum net proceeds less \$725,000 assumed revenue in the Fire Department's FY 2010-11 budget).

Mr. Updike, in consultation with the City Attorney's Office and the Controller's Office, states that from a minimum of \$1,236,037 in net proceeds from the sale of the building at 909 Tennessee Street, (a) \$725,000 would accrue to the Fire Department as previously approved by the Board of Supervisors and (b) the remaining minimum amount of \$511,037 would be deposited to the City's General Fund Reserve.

Based on the minimum sale price of the subject property at \$1,310,000, and the combined Property Tax rate of \$1.164, the buyer would pay \$15,248 in annual Property Taxes to the City, of which approximately 91 percent, or \$13,855 would accrue to the City's General Fund⁵.

As noted above, the Fire Department has stored old or infrequently used equipment, such as vintage fire trucks, at 909 Tennessee Street. According to Assistant Deputy Chief Thomas Doudiet at the Fire Department, all equipment previously stored at 909 Tennessee Street has already been moved at no additional cost to a warehouse on Treasure Island, leaving the building at 909 Tennessee Street vacant. Assistant Deputy Chief Doudiet states that the Fire Department does not have a formal agreement with the Treasure Island Development Authority to use the warehouse. However, the Treasure Island Development Authority has provided the Fire Department with the use of the warehouse at Treasure Island at no charge for an indefinite period of time.

POLICY CONSIDERATIONS

On November 18, 2002, the Board of Supervisors amended the City's Administrative Code by adding Chapter 23A, the Surplus City Property Ordinance (Ordinance 227-02), which established Board of Supervisors policy regarding the disposition and usage of surplus City property. Under that ordinance, surplus City property should be first sold⁶, according to the State Surplus Property Statute, Government Code Section 54220 et seq., to local organizations for affordable housing, recreation, open space, or school purposes. Under the Surplus City Property Ordinance, the policy of the Board of Supervisors is to utilize surplus City property to provide housing to homeless men, women, and children. If the surplus City property is unsuitable for housing, Section 23A.2(e) states that such property could be sold to generate revenues for permanent housing for people who are homeless.

⁵ The combined Property Tax rate of \$1.164 includes Property Tax revenues allocated to the City and County of San Francisco, San Francisco Community College District, San Francisco Unified School District, and the Bay Area Rapid Transit District.

⁶ Section 23A.2(l) states that the Surplus City Property Ordinance would only act as a recommendation of policy to City commissions and departments that have jurisdiction and control of their property under the City Charter, including the San Francisco International Airport, the Public Utilities Commission, the Municipal Transportation Agency, and the Recreation and Parks Commission. The Fire Department does not have jurisdiction and control of its property under the City Charter.

The Budget and Legislative Analyst notes that the subject 909 Tennessee Street property was not sold according to the provisions in the Surplus City Property Ordinance. No determination was made as to the suitability of 909 Tennessee Street for housing homeless persons, nor was any effort made to sell 909 Tennessee to a local agency for affordable housing, recreation, open space, or school purposes. Furthermore, even if a determination was made that 909 Tennessee Street was unsuitable for housing, the Surplus City Property Ordinance states that surplus City property could be sold to generate income for such housing.

As discussed above, \$725,000 of the net proceeds has already been assumed in the Fire Department's FY 2010-2011 budget and based on the minimum sale price of \$1,310,000, the remaining \$511,037 (\$1,236,037 minimum net proceeds less \$725,000) would accrue to the City's General Fund Reserve.

Mr. Updike, in consultation with the City Attorney's Office and the Mayor's Office, states that the FY 2010-2011 Annual Appropriation Ordinance, which was previously approved by the Board of Supervisors, supersedes the provisions contained in the Surplus City Property Ordinance. Therefore, according to Mr. Updike, the \$725,000 of net proceeds should be credited to the Fire Department's FY 2010-2011 budget.

Mr. Updike also acknowledges that normally, an ordinance would be approved by the Board of Supervisors specifically exempting any surplus City property from the Surplus City Property Ordinance, before the property is sold and then the proceeds from such sale would be allocated to the City's General Fund Reserve or with a City agency. However, Mr. Updike advises that, to date, the Board of Supervisors has not specifically exempted the subject surplus City property sale from the Surplus City Property Ordinance. Therefore, the Budget and Legislative Analyst considers approval of the proposed resolution to be a policy decision for the Board of Supervisors.

If the Board of Supervisors approves the sale of the subject Fire Department property located at 909 Tennessee Street as specified in the proposed resolution, the Board of Supervisors should then also determine whether the intended use of the remaining balance of at least \$511,037 (\$1,236,037 in minimum net proceeds less \$725,000 which accrues to the Fire Department) be (a) used for permanent housing for people who are homeless, as provided in the Surplus City Property Ordinance, or (b) deposited into the City's General Fund Reserve, as currently proposed. A separate appropriation ordinance would need to be approved by the Board of Supervisors to appropriate the remaining funds for a specific purpose.

RECOMMENDATIONS

1. Approval of the proposed resolution is a policy decision for the Board of Supervisors.
2. If the Board of Supervisors approves the proposed resolution, the Board of Supervisors should first amend the resolution to specify the intended use of the remaining balance of at least \$511,037 (\$1,236,037 in minimum net sales proceeds less \$725,000 accruing to the Fire Department) for either (a) permanent housing for people who are homeless, as provided in the Surplus City Property Ordinance, or (b) an allocation to the City's General Fund Reserve.

