



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: October 10, 2018

Approved

D. D. S. Y. L.

Date

10/12/18

COUNCIL DISTRICT: 3

SUBJECT: SALE OF SURPLUS PROPERTY LOCATED AT 435 NORTH SECOND STREET, UNIT 213 IN SAN JOSE

RECOMMENDATION

Adopt a resolution:

- (a) Declaring the residential condominium unit located at 435 North Second Street, Unit 213 in San José (APN 249-73-047) surplus to the needs of the City;
- (b) Approving the sale of the unit to Christine Hanchett for the amount of \$513,000;
- (c) Approving the payment of a broker fee in the amount of 5% of the property sales price of \$513,000, which equates to \$25,650, to Realty World – Santa Clara in accordance with Council Policy 7-6; and
- (d) Authorizing the City Manager or his designee to negotiate and execute a purchase and sale agreement, the Quit Claim deed, and all other documents necessary to complete the transaction.

OUTCOME

City Council adoption of this resolution will allow for the sale of the City-owned residential condominium unit located at 435 North Second Street, Unit 213 to Christine Hanchett for the amount of \$513,000. The sale proceeds, after paying the 5% broker fee, will be approximately \$487,350 and will be deposited into to the City's General Fund.

BACKGROUND

On April 4, 2000, the City Council adopted the Executive Home Loan Program, which allowed the City to offer loans in amounts up to \$250,000 to Executive Senior Staff and Council appointees to assist in relocating to San Jose.

On December 14, 2004, the City Council adopted Resolution No. 72450, approving the appointment of Barbara Attard as the City's Independent Police Auditor. For this appointment, Ms. Attard relocated to San Jose and purchased the residential condominium located at 435 North Second Street, Unit 213 for \$350,000. To finance the home purchase, Ms. Attard obtained a \$250,000 loan through the City's Executive Home Loan Program, along with a \$100,000 first mortgage loan from Suntrust Mortgage Company.

At the end of the four-year appointment, the City Council did not renew Ms. Attard's contract as the Independent Police Auditor. Under the terms of the City's program and loan documents, Ms. Attard's loan repayment was due within six months of termination, or by July 1, 2009. On May 8, 2009, Ms. Attard notified the Department of Finance that she had attempted to sell the property in order to repay the outstanding loans, but due to the declining economic conditions, the value of the property had dropped below the total outstanding debt.

The City loan was a "purchase money loan" and under state law the City is prohibited from any deficiency judgment if the property does not yield sufficient proceeds to pay-off the first and second loans on the property. On August 4, 2009, the City Council adopted Resolution No. 75010 accepting the deed to the property in lieu of foreclosure, repaying the first loan to Suntrust Mortgage Company, and settling the City Executive Home Loan. The total settlement amount was \$348,939.

On August 6, 2009, the deed transferred from Ms. Attard to the City, and the City became the owner of the residential condominium. Staff retained Realty World, a local real estate brokerage and property management firm, to manage the property and rent the condominium to an individual tenant. Rental payments, net of expenses including the homeowner's association fee and property management fee, were deposited into the City's General Fund.

ANALYSIS

With rising prices in the local real estate market over the last several years, the value of the City-owned condominium has surpassed the prior settlement amount of \$348,939. Therefore, current market conditions provide an opportunity for the City to recoup the settled debt and realize positive net proceeds through a sale of the property.

Municipal Code Chapter 4.20 permits the sale of City-owned surplus property upon the Council finding and determining that the property is not needed for, nor adaptable to, municipal purposes. In this case, owning a residential condominium unit is not consistent with the City's mission and

core services. Additionally, the City's General Fund Structural Deficit Elimination Plan calls for the sale of nonessential City-owned properties.

Offering 435 North Second Street, Unit 213 for Sale

Prior to offering the property for sale, staff reviewed market activity in the area, including recently sold comparable properties. Staff also engaged with Realty World, the City's property management firm, to determine the listing price and prepare the condominium for sale.

Realty World listed the property for sale, on behalf of the City, through the Multiple Listing Service on November 22, 2016 at an asking price of \$450,000. The condominium is a one-bedroom, one-bathroom unit comprising 789 square feet and built in 1994. It is part of the Ryland Mews condominium complex, located near the intersection of North Second Street and Hensley Street north of Downtown.

Around February 15, 2017, after approximately 85 days on the market, Realty World procured an offer to purchase the property for \$448,000 from Christine Hanchett, a proposed "owner-occupant." Staff determined that this offer amount reflected the fair market value of the property and began negotiating a purchase and sale agreement with the proposed purchaser at that price.

Simultaneously Real Estate staff was undertaking a wide array of assignments including several complex, time sensitive projects. Work on the sale of the condo was delayed. Staff once again proceeded with the sale in 2018. While the proposed purchaser, Christine Hanchett, was still willing to purchase the condominium, staff reviewed recent real estate market activity and determined that the property had appreciated in value since obtaining Ms. Hanchett's offer in early 2017.

The initial offer of \$448,000 for the 789 square foot unit equates to approximately \$568 per square foot. Other one-bedroom condominium units in the same Multiple Listing Service area ("Central San Jose") that sold during the first quarter of 2017 garnered a range of \$456 to \$781 per square foot. One year later, during the first quarter of 2018, one-bedroom units in the same area sold at a range of \$489 to \$916 per square foot. The price per square foot range for one-bedroom units increased by approximately 7% to 17% year over year.

Ms. Hanchett increased her offer from \$448,000 to \$513,000 (which equates to approximately \$650 per square foot) to reflect the increase in the market since making her initial offer in February 2017. The increased offer of \$513,000 is approximately 14.5% higher than the initial offer of \$448,000. Staff have determined, through a comparable sales analysis, that the increased offer price of \$513,000 reflects fair market value of the property.

Staff's Recommendation to Sell the Property

Staff recommends that the City Council approve this proposed sale of 435 North Second Street, Unit 213 to Christine Hanchett for \$513,000. After subtracting the 2009 settlement amount of

\$348,939, and the 5% broker fee paid to Realty World (\$25,650), the City would realize a net profit of approximately \$138,411.

Below are major terms of the sale:

1. **Property:** 435 North Second Street, Unit 213, San Jose
2. **Seller:** City of San José
3. **Buyer:** Christine Hanchett
4. **Price:** \$513,000
5. **Broker Fees:** 5% of the Purchase Price to Realty World, paid by Seller
6. **Title/Escrow Fees:** Paid by Buyer
7. **As-Is Sale:** Buyer accepts the property in its "As-Is" condition, with any and all faults
8. **Due Diligence Period:** 15 days from mutual execution
9. **Close of Escrow:** 45 days or less from mutual execution

EVALUATION AND FOLLOW-UP

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

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the October 23, 2018 Council agenda.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This proposed sale is aligned with the City's General Fund Structural Deficit Elimination Plan and strategy that calls for the sale of nonessential City-owned properties.

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COST SUMMARY/IMPLICATIONS

This proposed sale would result in revenue of approximately \$487,350, which will be deposited into the City's General Fund.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/

KIM WALESH
Deputy City Manager
Director of Economic Development

For questions please contact Nanci Klein, Assistant Director of Economic Development, at (408) 535-8184.