



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Welsh

**SUBJECT: SALE OF CITY-OWNED
PROPERTY AT 502 CALERO**

DATE: August 22, 2011

Approved

Date

8/23/11

COUNCIL DISTRICT: 2
SNI: NA

RECOMMENDATION

Adopt a resolution:

- a. Authorizing an alternative competitive process for the sale of the property at 502 Calero Avenue, APN: 687-31-042; and
- b. Approving an agreement between the City and Richard G. Swan and Nancy C. Swan, for sale of the property in the amount of \$390,000; and
- c. Authorizing the City Manager or designee to execute all sales documents and the deed necessary to complete the transaction, and ratifying any disclosures or certifications made by the City Manager or designee regarding the property as required by law.

OUTCOME

Adoption of this resolution will approve the sale, sales process and transfer of the approximate 6,534 square foot (0.15 acre) City-owned property at 502 Calero Avenue, APN: 687-31-042, as defined in the Attachment, to Richard G. Swan and Nancy C. Swan for the amount of \$390,000, of which net proceeds will be directed to the Fire Department's Construction Tax and Property Conveyance (C&C) Tax Fund for the fixtures, furnishings and equipment (FF&E) needs on newly constructed fire stations, consistent with prior Council direction.

BACKGROUND

This property is an approximate 1,700 square foot single family home on a 6,534 square foot corner lot in a residential neighborhood. The City purchased the property from Sonya Corporation on December 30, 1966 for \$21,934.00. The property was initially used by the City as Fire Station No. 12, and was vacated over two years ago when the new Fire Station 12 was completed. The property has remained vacant since that time. On April 7, 2009, the Council, under Resolution 74865, declared this property to be surplus to the needs of the City and authorized the sale or exchange of the property.

Per Resolution 75539 dated August 24, 2010, Council adopted an ordinance amending Chapters 4.04 and 4.20 of the Municipal Code. Under the revisions in Chapter 4.20 of the Municipal Code, competitive sales processes alternative to auctions are permitted upon approval of Council based on a determination that the alternative process will provide the greatest public benefit. Those alternative sales processes include requests for competitive proposals, bid and negotiation and offering the property 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 502 Calero Avenue was declared surplus by Council by Resolution 74865 on April 7, 2009. 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 recommendation would approve the method used for the sale of this property.

For the proposed sale of this property, staff used the bid and negotiation method as the competitive process, which generally involves posting a "For Sale" sign on the property, contacting other listing agents in the area, reviewing sales comparables, advertising in the Mercury News and taking offers and negotiating terms with each proposing entity. This sale process meets the requirements of Chapter 4.20.010 (E), and as such staff recommends Council approval of the bid and negotiation method as providing the greatest public good.

Specific to this property, City staff posted a "For Sale" sign on the property and advertised the property in the San Jose Mercury News for two consecutive Saturdays and Sundays on April 23, 24, 30 and May 1, 2011. The requirement for public notice of sale under Municipal Code 4.20.010 (F) is to begin at least three weeks prior to the date of sale, for no less than three days. This requirement has been satisfied. Outreach 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 Richard G. Swan and Nancy C. Swan, in the amount of \$390,000.

During the marketing efforts, the City received nine inquiries which resulted in two offers for the property. The highest offer was for \$375,000, which was revised to \$390,000 after negotiation. Other calls were received either from brokers offering assistance in selling the property or from individuals asking the selling price. As a result, the City accepted the highest bid of \$390,000 from Richard G. Swan and Nancy C. Swan, which nets a total of \$378,300 to the City after paying a \$11,700 brokerage fee (equal to 3% of the sales price) to Angelo DeManti of DeManti Realty. Payment of the broker fee is allowed under Council Policy 7-6, wherein the Council is authorized to approve the payment of a brokerage fee for the sale of City property.

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; provided

that certain disclosures required by law have been provided (e.g. knowledge regarding presence of lead paint, installation of smoke detectors, etc.).

Staff obtained an appraisal of the property from Carneghi-Blum & Partners, Inc. on February 17, 2010 which valued the property at \$400,000. More recently, staff reviewed market activity in the area prior to offering the property for sale including recent sales in the range of \$365,000 - \$435,000 for comparable properties in the area. Based on the market review and specific condition of the property, staff 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 30 days of approval by 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 September 13, 2011, Council agenda.

COORDINATION

This memorandum has been coordinated with the City Manager's Budget Office, the Fire Department and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This sale is in alignment with *1h-Asset Management, Investment Strategies, Mayor's Budget Message, March 13, 2009.*

COST SUMMARY/IMPLICATIONS

As previously approved by the Council, net proceeds from the sales of this property will be deposited into the Fire Department's construction and conveyance (C&C) Tax Fund for fixtures, furnishings and equipment (FF&E) needs for newly constructed fire stations.

BUDGET REFERENCE

Not Applicable

CEQA

Exempt File No. PP10-040.

/s/
KIM WALES
Director of Economic Development
Chief Strategist

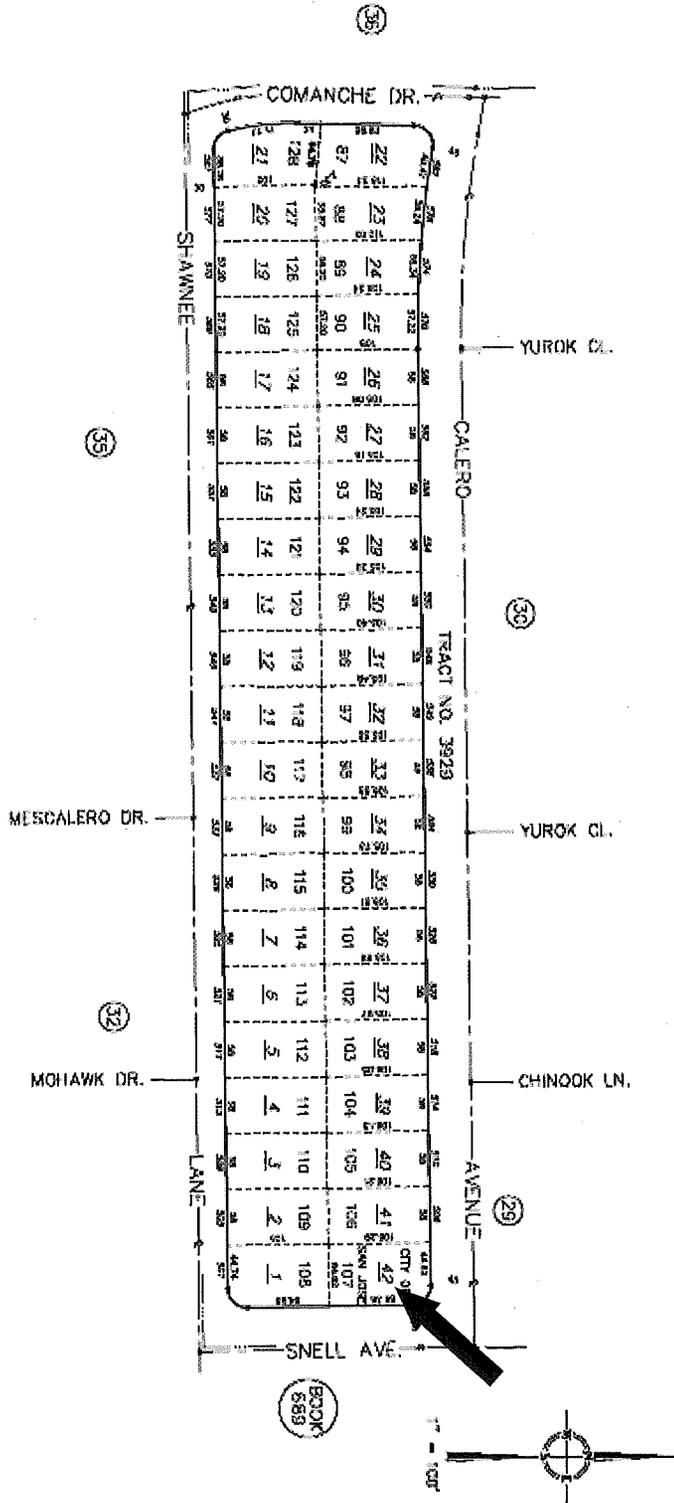
For questions please contact Nanci Klein, Deputy Director, at (408) 535-8181.

Attachment

ATTACHMENT

OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA

BOOK 687
PAGE 31



BOOK 689

ATTACHMENT

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

Lot 107, as shown upon that certain Map entitled, "Tract No. 3929", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California on August 27, 1965 in Book 199 of Maps, at pages 12 and 13.

EXCEPTING THEREFROM the underground water rights with no right of surface entry granted by Valley Title Company, a corporation, to San Jose Water Works, a California corporation, by instrument dated September 3, 1965 recorded September 7, 1965 in Book 7095 of Official Records, page 347.