



City of Palo Alto

City Council Staff Report

(ID # 10223)

Report Type: Action Items

Meeting Date: 4/8/2019

Summary Title: Right to Purchase Remaining 33.8% Interest in 335 Webster Street

Title: Direct the City Manager or his Designee to either A) Sell 335 Webster Street or B) Pursue the City's Right to Purchase the Former City Manager's 33.8 Percent Interest in the Property Located at 335 Webster Street (Assessor's Parcel Number 120-02-089)

From: City Manager

Lead Department: Administrative Services

Recommendation

Direct the City Manager or his designee to either:

- a) Authorize the sale of the former City Manager's property located at 335 Webster Street (Assessor's Parcel Number 120-02-089) and authorize City Manager to sign documentation authorizing the sale of the property to the highest and most qualified bidder;

OR

- b) Direct staff to pursue the City's option to purchase the former City Manager's 33.8% interest in the property located at 335 Webster Street (Assessor's Parcel Number 120-02-089).

Background

James R. Keene, Jr. ('Mr. Keene') was employed by the City as City Manager in 2008. Pursuant to Mr. Keene's employment agreement, dated July 21, 2008, he was eligible for City assistance in the purchase of a home for him and his family. On or about March 9, 2010, he and the City purchased the property located in downtown at 335 Webster Street for \$1,875,000. The City contributed \$1,406,250 toward the purchase price of the property and the remaining \$468,750 was paid by Mr. Keene through a loan offered to him by the City. As a result, Mr. Keene's initial equity ownership interest in the property was 25% and the City's equity ownership interest was 75%.

According to the public record, the home is a 2,008 square foot wood framed residence and situated on a 5,625 square foot lot. The house was built in 1993 and comprises two bedrooms and two- and one-half bathrooms. After the purchase, Mr. Keene made \$250,000 in capital

improvements to the property, of which \$125,000 was his own contribution and the remainder was through a City loan. The improvements increased Mr. Keene's equity share in the property to 33.8% and reduced the City's equity share to 66.2%. The property is currently vested in James R. Keene Jr. and Iris Keene, as Trustees of the Keene Family 2006 Trust dated April 14, 2006, as to an undivided 33.8% interest and the City of Palo Alto, a Municipal Corporation, as to an undivided 66.2% interest, all as Tenants in Common.

Discussion

When the City entered into a employment agreement with Mr. Keene, terms for the disposition of this property were outlined and agreed upon. Below are those terms:

The sale of the home will occur on the happening of one of the following:

- a. At the option of the Manager;
- b. The passing of 18 months following the termination of the employment of the Manager;
- c. At the option of the City upon the occurrence of any default;
- d. Should the Manager permanently move out of the Property or cease to use the property as his primary residence; or
- e. Upon mutual agreement

Mr. Keene retired from the City on December 20, 2018 and has informed staff that he is interested in exercising his option to sell the property, putting it up for sale at the beginning of May. The employment agreement stipulates that if the Manager determines to put the home up for sale, the City has the right to purchase the Manager's interest rather than have the home sold. Most recently, the City Council authorized the sale of former City Manager Mr. Frank Benest's house, on December 14, 2015, which resulted in a sale of the property for \$2.7 million. Staff is seeking direction from Council on which of the two options outlined below the Council wishes to pursue.

Option A: Authorize the sale of the former City Manager's property located at 335 Webster Street (Assessor's Parcel Number 120-02-089)

Authorizing the sale of 335 Webster Street will result in the marketing and public solicitation of this property. Currently, public sites such as Zillow.com and Redfin.com estimate the sale of this property between \$3.2 million and \$4.4 million. Upon the sale of the home, the net sales price would be divided between the parties according to its equity ownership interest outlined above (Manager 33.8% and City 66.2%). In addition, the outstanding balance of the City Loan, together with any accrued, but unpaid, interest and all other amounts would be deducted from the Manager's equity share and paid to the City, independent of the City's equity share.

Both the acquisition of the property and loan were executed with General Fund funding and therefore proceeds from this sale would not be restricted to a specific use.

Option B: Direct staff to pursue the City's option to purchase the former City Manager's 33.8% interest in the property located at 335 Webster Street (Assessor's Parcel Number 120-02-089)

Per the contract terms, the City has the right to purchase the Manager's interest rather than sell the property. The contract stipulates that should the City wish to exercise this option, that in order to value the interests of the parties in the home at the time of this decision, the home will be appraised, at the City's expense, by a qualified real estate appraiser acceptable to both parties. If the parties are unable to agree on an appraiser, each party may hire and pay for its own appraiser. The value of the home would then be the average of the two appraisals. After the value of the home is determined, then the City may purchase the Manager's interest. Similar to Option A, the outstanding balance of the loans provided by the city shall be deducted from Mr. Keene's equity share and paid to the City pursuant to the terms of the loans.

Once a firm price is set pursuant to the process set forth in the employment agreement, staff will return for Council approval of a final purchase and sale agreement for the property. It is likely that the City would use either General Fund or General Capital Funds to complete this purchase.

Timeline

Mr. Keene recently expressed to staff his interest in selling the house and mentioned that he is close to selecting an agent and has plans for broker tours at the end of April with an open house at the beginning of May. While Mr. Keene's employment contract does not state a deadline for the City to exercise its right to purchase, staff recommends that the City Council decide as soon as possible as to whether the City wants to exercise its right to purchase Mr. Keene's interest.

Resource Impact

The City's acquisition of Mr. Keene's equity share will be 33.8% of market value to be determined by an appraisal. The outstanding balance of the loans provided by the city shall be deducted from Mr. Keene's equity share and paid to the City pursuant to the terms of the loans. Given the uncertainty of the market value at this time, resource impacts will be better defined at a later date. General Fund proceeds were used for both the acquisition of the property and loans to Mr. Keene and would most likely be the funding source should the City Council choose Option B. As such, there are not restrictions on the use of the sale proceeds should Option A be chosen.

Policy Implications

This recommendation is consistent with Mr. Keene's employment agreement.

Environmental Review

The potential purchase of real property is exempt from environmental review under Section 15061(b)(3) the California Environmental Quality Act (CEQA) Guidelines because it can be seen with certainty that there is no possibility of a significant environmental effect.