

RESOLUTION NO. 221652

AUG 14 1978

WHEREAS, the City Council has accepted on June 5, 1978 the high bid presented at a public auction of \$2,275,000.00 by Tokyo Sanyo Electric Company, Limited, to purchase 19 acres of City owned land identified as a portion of Lot 21, City of San Diego Industrial Park Unit No.4, Map 5714, and has rejected a previous bid to purchase said property from Dunn Properties Corporation pursuant to the City's power to reject all bids as contained in San Diego Municipal Code Sections 22.0902 and 22.0902.1; and

WHEREAS, Sanyo has advised the City that it will build its first American manufacturing plant on said 19 acres by the summer of 1979 and will employ approximately 1,000 area residents within two years of plant opening; and

WHEREAS, Dunn Properties Corporation filed a lawsuit against the City of San Diego in San Diego Superior Court, Case Number 417135, Dunn v. City of San Diego, et al., wherein Dunn sought a court order to convey the land to them at their bid price of \$1,340,000.00 rather than to Sanyo, and Dunn filed a "lis pendens" against the title to said 19 acres which placed a "cloud" on the title of the property and thereby prevented the City from conveying "clear title" to Sanyo and thereby made the sale transaction uncertain and non-performable by either Sanyo or the City; and

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WHEREAS, on July 25, 1978 Sanyo advised the City that if the City could not assure delivery of "clear title" to the property without the "lis pendens" to Sanyo by August 11, 1978, it would deem the sale transaction to be non-performable because there could be no complete guarantee as to when the litigation would finally end and whether or not title would ultimately vest in Sanyo; and

WHEREAS, the City Council believes that the location of Sanyo's new plant in San Diego and the creation of at least 1,000 new jobs in the City of San Diego for area residents is of the utmost public importance, and that plant is now in jeopardy because Sanyo has indicated that it cannot wait for the outcome of extended litigation and will have to locate its proposed plant elsewhere if the City cannot promptly guarantee delivery of "clear title" to Sanyo; and

WHEREAS, even though it is believed that the City would prevail in this lawsuit, the delay in delivering "clear title" to Sanyo in this matter would cause Sanyo to withdraw from the sale transaction and locate its new American plant in another City; NOW, THEREFORE,

BE IT RESOLVED, that said City Council hereby resolves and authorizes the following settlement of this litigation:

1. That, the City Council of the City of San Diego does hereby authorize the expenditure and payment of \$100,000.00 from the City's General Fund Unallocated Reserve by the Auditor and Comptroller to Dunn Properties Corporation as full settlement of its alleged claims in this said lawsuit and in return

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Dunn agrees to dismiss with prejudice its lawsuit in San Diego Superior Court Case Number 417135 and agrees to the release and expungement of the "lis pendens" on file as San Diego County Recorder File/Page No. 78-223878; and in return the City agrees and hereby authorizes the dismissal with prejudice of its entire cross-complaint against Dunn; and

2. That Dunn's good faith deposit of \$136,710.00 which it deposited with the City as security for its bid to purchase said 19 acres at a February 9, 1978 public auction of said land, be refunded to Dunn for the reason that its bid to purchase the land was rejected by the City Council; and

3. That the City Attorney is hereby authorized to prepare and execute on behalf of the City of San Diego all necessary documents which are required to accomplish the above settlement agreement.

APPROVED: JOHN W. WITT, City Attorney

By   
Michael B. Poyner, Deputy

MBP:sm  
8/11/78  
Aud.Cert.#79116

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# CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

## CERTIFICATION OF UNALLOTTED BALANCE

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount \$ 100,000.00 Fund 100 Fd General Unallocated Reserve

Purpose Settlement of Claim

W. B. Sagef  
Auditor and Comptroller of  
The City of San Diego, Calif.

Date August 11, 1978

By Steve Hogan

## CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said moneys now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to exceed \$ 100,000.00

Dated August 11, 1978

W. B. Sagef  
Auditor and Comptroller of  
The City of San Diego, Calif.

BY Steve Hogan

Job Order  
Resolution No.  
Project No.

Fund 100 Prog./Elem. 5320 Object 3296

Purpose Settlement of Claim

Vendor DUNN PROPERTIES CORPORATION

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CERTIFICATE NO. 79116

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AUG 14 1978

Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_,  
by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Bill Mitchell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jess D. Haro	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Jayne Brunner, Deputy.

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Office of the City Clerk, San Diego, California

Resolution Number 221652 Adopted AUG 14 1978