

RESOLUTION NUMBER R- 294308

ADOPTED ON ~~NOV 27 2000~~

WHEREAS, in Closed Session on May 30, 2000, the City Council by the following vote:
Yeas, Districts 1, 2, 3, 4, 5, 6, 7, 8, the Honorable Mayor; Nays, none; approved a proposed
settlement of the case The ARC of San Diego (formerly the Association of Retarded Citizens) v.
City of San Diego, Superior Court Case No. GIC 741026; and

WHEREAS, the essential terms and conditions of the proposed settlement were set forth
in a June 1, 2000, Letter Agreement; and

WHEREAS, the terms and conditions of the June 1, 2000, Letter Agreement was
approved by The ARC of San Diego on June 2, 2000; and

WHEREAS, the terms and conditions of the June 1, 2000, Letter Agreement was signed
by Will Griffith, Director of Real Estate Assets Department on August 1, 2000; and

WHEREAS, a true and correct copy of the Letter Agreement is attached hereto as Exhibit
"A" and incorporated herein; and

WHEREAS, the City Council's approval of the proposed settlement is contingent upon
the Federal Aviation Administration's approval of the proposed settlement agreement between
The ARC of San Diego and the City of San Diego;

NOW THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager be
and hereby is authorized to execute a settlement agreement with The ARC of San Diego,
according to the essential terms and conditions set forth in the June 1, 2000, Letter Agreement.

BE IT FURTHER RESOLVED, that, in order to make the settlement agreement effective, the City Manager be and hereby is authorized to execute an agreement with the Federal Aviation Administration under the terms and conditions set forth in the Letter Agreement.

BE IT FURTHER RESOLVED, that the City Manager be and hereby is authorized to execute all documents (including, without limitation, escrow documents, acceptance of monies and grant deeds conveying an undivided 49% interest in Lot 5 of City Aero Drive Industrial Park, Map 12632 to The ARC of San Diego) and take any actions necessary to implement the terms and conditions of the settlement with The ARC of San Diego.

BE IT FURTHER RESOLVED, that the City Manager be and hereby authorized to void the proposed settlement agreement with The ARC of San Diego if the Federal Aviation Administration does not approve the proposed settlement agreement between The ARC of San Diego and the City of San Diego.

APPROVED: CASEY GWINN, City Attorney

By 

Paul G. Edmonson
Deputy City Attorney

PGE:rd:Civ
November 27, 2000
Or.Dept: Real Estate Assets Dept.
R-2001-893
Form=r-t.frm

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June 1, 2000

Via Facsimile and U.S. Mail

Laura E. Mascheroni, Esq.
Klinedinst, Flieman & McKillop
The Koll Center
501 West Broadway, Suite 600
San Diego, CA 92101-3584

Dear Ms. Mascheroni:

The ARC of San Diego v. City of San Diego
San Diego Superior Court Case No. GIC 741026

On May 30, 2000, the San Diego City Council ("City") agreed to sell Lot 5 to The ARC of San Diego (formerly the Association of Retarded Citizens) ["ARC"] [collectively "Parties"]. This letter serves to memorialize the intent of the Parties regarding the major points of the sale and to resolve the above-captioned litigation.

It is agreed by and between the Parties that:

1. The City will sell ARC an undivided 49% interest in Lot 5 (consisting of approximately 4.5 acres) in Aero Drive Industrial Park, commonly referred to as, 9575 Aero Drive, San Diego, CA ["Property"] for Eight Hundred and Fifty Thousand Dollars (\$850,000) all cash. ARC shall pay City its remaining unencumbered 51% interest in the subject Property at the earlier of either: (1) upon sale or transfer of an interest in the Property by ARC, or (2) upon a change in use (see Lease section 1.02 Uses) of the Property. The sales price of the City's 51% interest shall be determined by an appraisal of the unrestricted fair market value of the subject Property at the time of the above triggering event. The Parties shall hold title to the Property as "Tenants in Common".
2. ARC shall immediately pay an additional \$20,000.00 for back rent, thereby resolving the issue of past rent. This additional payment of \$20,000.00 will constitute payment in full satisfaction of all rents owed to the City up to the date

EXHIBIT A

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of purchase of the Property. Upon receipt of this additional \$20,000.00, ARC's duty to pay future rent to the City for Lot 5 shall be terminated.

3. ARC shall not encumber or subordinate City's 51% ownership in the Property. However, City will not unreasonably withhold consent to sell the Property.
4. Both Parties shall use their best efforts to acquire all necessary approvals from its respective governing bodies for the sell and purchase of said Property. City shall seek City Council ratification and Federal Aviation Administration (FAA) approval for the sale of the Property to ARC.
5. It is the intent of both Parties that the sell and purchase shall be completed within 60 days from the date the last party to this agreement has signed it.
6. Both Parties agree to prepare and execute all necessary documents to accomplish the intent of this agreement.
7. Upon completion of the sell and purchase of Lot 5 by the City to ARC, ARC shall dismiss with prejudice the pending litigation entitled, *The ARC of San Diego v. City of San Diego*, San Diego Superior Court Case No. GIC 741026. Parties agree to bear their own costs and attorney fees.
8. The current lease between the City and ARC, for the lease of Lot 5, shall terminate upon the completion of the sell and purchase of the Property.

Should you have any questions or comments, please feel free to contact me at once.

Sincerely yours,

CASEY GWINN, City Attorney

By 

Paul G. Edmonson
Deputy City Attorney

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I, David W. Schneider, Director and authorized to act on behalf of ARC of San Diego, agree to the terms set forth above.

Dated: June 2, 2000


DAVID W. SCHNEIDER, Director
ARC of San Diego

I, Will Griffith, Director of City of San Diego, Real Estate Assets Department, agree to the terms set forth above.


Dated: ^{AUG 1ST} June 1, 2000


WILL GRIFFITH, Director
Real Estate Assets Department

Approved:

KLINEDINST, FLIEHMAN & McKILLOP

Dated: June 6, 2000


Laura E. Mascheroni, Esq.

Attorneys for Plaintiff
THE ARC OF SAN DIEGO

CASEY GWINN, City Attorney

Dated: ^{AUGUST} June 1, 2000


Paul G. Edmonson, Deputy

Attorneys for Defendant
CITY OF SAN DIEGO

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