

RESOLUTION NUMBER R- 302656

DATE OF FINAL PASSAGE MAY 29 2007

AUTHORIZING THE MAYOR OR HIS DESIGNEE TO SELL CERTAIN EXCESS CITY PROPERTY LOCATED AT 5353 KEARNY VILLA ROAD EITHER BY NEGOTIATION, PUBLIC AUCTION, SEALED BID, OR BY ANY COMBINATION OF SUCH METHODS, AT THE MAYOR'S DISCRETION IN EACH CASE; AUTHORIZING THE MAYOR TO ENTER INTO AGREEMENTS TO CONSUMMATE SUCH SALES; AUTHORIZING THE PAYMENT OF REAL ESTATE BROKERAGE COMMISSIONS RELATED TO SUCH SALES; AND AUTHORIZING THE AUDITOR AND COMPTROLLER TO ACCEPT AND DEPOSIT THE PROCEEDS OF SUCH SALES.

WHEREAS, this action requires the affirmative vote of five (5) members of the City Council [Council]; and

WHEREAS, the City is the fee owner of that certain real property [Property] located at **5353 Kearny Villa Road**, described as an improved commercial leasehold, and more particularly described in **Exhibit "A": "Excess Property Sales,"** attached hereto; and

WHEREAS, the Council finds that at least one of the following criteria has been met: (1) the sale of the Property will provide revenues necessary for public facilities which are not fundable through other revenue sources; (2) the Property cannot be leased because of its location, access, topography, or other considerations; (3) the sale would enhance the City's position relative to other activities, such as economic development efforts; or (4) the sale would maximize the total economic return to the City; and

WHEREAS, an appraisal of the Property prepared or obtained by the City's Real Estate Assets Department [READ] has determined the fair market value [FMV] of the Property to be Two Million Dollars (\$2,000,000); and

WHEREAS, the Council deems the FMV to be the minimum acceptable price to be obtained for the Property; and

WHEREAS, the Property will be re-appraised at least once every twelve months until sold, which READ will report to Council; and

WHEREAS, if a re-appraised FMV is greater than the minimum acceptable price set on the date of this resolution, that FMV shall become the minimum acceptable price; and

WHEREAS, if a re-appraised FMV is less than the minimum acceptable price set on the date of this resolution, prior to lowering the original minimum price, the Mayor will return to the Council for further direction; and

WHEREAS, if after attempting to sell the Property at the FMV, the Mayor or his designee determines that the Property cannot be sold at or above the FMV, the Mayor shall seek review and additional direction from the Council as to the disposition of the Property; and

WHEREAS, the Council deems it in the best interests of the City to authorize the Mayor or his designee to sell the Property through negotiation, public auction, sealed bids, or any combination of such methods, in his discretion; and

WHEREAS, the Council deems it in the best interests of the City to authorize the Mayor or his designee, in his discretion, to retain the services of a real estate broker to represent the City and facilitate the sale of the Property, and that the City should pay real estate brokerage participation and brokerage fees incurred thereby, in an amount not to exceed six percent (6%) of the sale price; and

WHEREAS, all brokerage participation and brokerage fees shall comply with San Diego Municipal Code section 22.0905, Broker's Fee and Registration; and

WHEREAS, upon the sale of the Property at a price greater than or equal to the FMV, the Council deems it in the best interests of the City to authorize the Mayor or his designee to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor or his designee to be reasonable and in the best interests of the City to consummate the sale; and

WHEREAS, the proceeds of the sale of the Property, net of brokerage commissions and other costs of selling the Property, will be accepted by the Auditor and Comptroller and deposited into the appropriate Fund; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that that certain real property [Property] owned in fee by the City, located at **5353 Kearny Villa Road**, described as an improved commercial leasehold, and more particularly described in **Exhibit "A": "Excess Property Sales,"** attached hereto, is excess City property and may be sold; and

BE IT FURTHER RESOLVED, the Property may only be sold for a price equal to or greater than Two Million Dollars (\$2,000,000); and

BE IT FURTHER RESOLVED, the Mayor or his designee is directed to have the Property re-appraised at least once every twelve months until sold, and the resulting fair market value of the Property shall become the minimum acceptable price, which the Mayor or his designee shall report to Council; provided, however, if a re-appraisal results in a fair market value below the minimum price set on the date of this Resolution, the Mayor shall seek Council approval prior to lowering the original minimum price; and

BE IT FURTHER RESOLVED, the Mayor or his designee is authorized and directed to sell the property through negotiation, public auction, sealed bids, or any combination of such methods, in his discretion; and

BE IT FURTHER RESOLVED, the Mayor or his designee is authorized, in his discretion, to retain, on terms deemed by him to be reasonable and in the best interests of the City, the services of a real estate broker to represent the City and facilitate the sale of the Property; and

BE IT FURTHER RESOLVED, the payment of real estate brokerage commissions related to the sale of the Property in an amount not to exceed six percent (6%) of the sale price, and otherwise in compliance with San Diego Municipal Code section 22.0905, Broker's Fee and Registration, is authorized; and

BE IT FURTHER RESOLVED, the Mayor or his designee is authorized to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor or his designee to be reasonable and in the best interests of the City to consummate the sale; and

BE IT FURTHER RESOLVED, the Auditor and Comptroller is authorized and directed to accept the proceeds of the sale of the Property, net of brokerage commissions and other costs of selling the Property, and deposit them into the appropriate Fund; and

BE IT FURTHER RESOLVED, if after attempting to sell the Property at the minimum price specified herein, the Mayor or his designee determines that the Property cannot be sold at

or above the minimum acceptable price, the Mayor is directed to seek review and additional direction from the Council as to the disposition of the Property.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Brock Ladewig  
Chief Deputy City Attorney

BL:bas  
5/11/07  
Or.Dept: READ  
R-2007-1125  
REV.  
MMS #4820

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 21 2007.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 5-29-07  
(Date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

EXHIBIT "A"

<u>SITE #</u>	<u>NAME</u>	<u>FILE#</u>	<u>ADDRESS</u>	<u>USE</u>	<u>SIZE</u>	<u>DIST</u>	<u>APN</u>	<u>VALUE</u>
1	World Trade Center	S427-1	1250 6th Ave 92101	Highrise Office	127,990 sf	2	534-055-01	\$17,700,000
2	Crabtree Bldg	S431-1	303 A St. 92101	Office Building	30,000sf	2	533-433-27	\$2,250,000
3	Nautilus House	M102-1	801 Nautilus St. 92037	SFR - Residential	4,791sf	1	351-370-15	\$850,000
4	Genoa House	P617-1	5690 Genoa Dr. 92120	SFR - Residential	13,068sf	7	462-121-02	\$625,000
5	Fay Ave Duplex	M113-1	7021 Fay Ave. 92037	Duplex - Residential	26,571sf	1	R/W	\$3,000,000
6	Beaumont House	N105-2	6216 Beaumont 92037	SFR - Residential	9,150sf	1	357-062-02	\$1,670,000
7	33rd Street House	S511-1	904 33rd St. 92102	SFR - Residential	6,969sf	4	545-062-18	\$295,000
8	Maple St. 4-Plex	R411-3	505 W. Maple St. 92134	4-plex - Residential	12,632sf	3	533-072-20	\$700,000
9	Uptown Residential	Q427-1	Otsego Dr@Brookes 92103	Vacant Residential	11,325sf	2	452-254-01	\$175,000
10	Grant Hill Parcel	S596-1	327 Langley St 92102	Vacant Residential	6,098sf	4	535-532-15	\$160,000
11	Mission Valley Commercial	P611	Fairmount/Camino Del Rio S	Vacant -Commercial	13,939 sf	7	R/W	\$460,000
12	UC Eastgate Site	K302-8	9514 Towne Ctr.Dr.	Vacant -Commercial	85,377sf	1	343-122-35	\$1,960,000
13	Morena Commercial - East	P318-1	E Side W. Morena Blvd.	Vacant-Commercial	13,939sf	6	R/W	\$1,050,000
14	Border Patrol Site	Z718-1	West of I-5 at US Border	Improv -Commercial	58,370sf	8	R/W	\$3,200,000
15	SE Cor Jamacha	S799-17	SE Cor Jamacha & Cardiff	Vacant-Commercial	24,475sf	4	R/W	\$725,000
16	Kearny Mesa Rd	St R/W	At Magnatron	Vacant-Commercial	32,324sf	6	R/W	\$300,000
17	Morena Commercial - West	P325-1	W Side W Morena Blvd	Vacant-Commercial	30,056sf	6	760-216-69	\$900,000
18	Terminix Lease Site	P313-3	4850 Pacific Hwy	Improv - Commercial	42,890sf	6	790-216-41	\$3,150,000
19	Filippi Lease Site	M509-1	5353 Kearny Villa Rd.	Improv - Commercial	30,753sf	6	369-110-01	\$2,000,000
								\$41,170,000

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