

157 (D)  
(R-2008-772) 4/11/08

RESOLUTION NUMBER R- 303558

DATE OF FINAL PASSAGE APR 23 2008

AUTHORIZING THE MAYOR OR HIS DESIGNEE TO SELL CERTAIN EXCESS CITY PROPERTY LOCATED AT **3970-90 SHERMAN STREET, SAN DIEGO, CALIFORNIA [APN 441-540-18]** 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 **3970-90 Sherman Street, San Diego, California, described as "Sherman Street," a Portion of Pueblo Lots 278 & 279, APN 441-540-18**, and further described in Attachment "A," 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 **Twelve Million Five Hundred Thousand Dollars (\$12,500,000)**; and

WHEREAS, the Property will be re-appraised at least once every twelve months until sold to revise the FMV, which READ will 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

WHEREAS, the Council deems the FMV to be the minimum acceptable price to be obtained for the Property; 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 determined by the Mayor or his designee to be reasonable and in the best interests of the City, but not to exceed 1.24% of the final 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 **3970-90 Sherman Street, San Diego, California, described as "Sherman Street," a Portion of Pueblo Lots 278 & 279, APN 441-540-18**, and further described in Attachment "A," 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 **Twelve Million Five Hundred Thousand Dollars (\$12,500,000)**; 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, but real estate brokerage participation and brokerage fees shall not exceed 1.24% of the final sale price; and

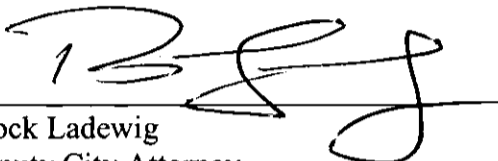
BE IT FURTHER RESOLVED, the payment of real estate brokerage commissions related to the sale of the Property in compliance with San Diego Municipal Code section 22.0905, Broker's Fee and Registration, is authorized; and

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  
Deputy City Attorney

BL:bas  
03/07/08  
Or.Dept:READ  
R-2008-772  
MMS #5998

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 14 2008

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 4-23-08  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

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

**ATTACHMENT "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>APPRAISED VALUE</u>	<u>BROKER</u>	<u>COMMISSION</u>
4	Genoa House	P617-1	5690 Genoa Dr. 92120	Residential	13,068 sf	7	462-121-02	\$545,000	Hill&Hill	6%
5	Laurel & State	R-406-1	Corner of Laurel & State Sts.	Commercial	6,186 sf	2	533-061-10	\$300,000**	CBRE	2.25%
2A	Plaza Del Lago	B603-1	3440 Del Lago Blvd.	Ground lease	189,050 sf	N/A	271-011-06-09	\$5,000,000*	Grub&Ellis	1.24%
122	Sherman Street	Q321-1	3970-90 Sherman Street	Ground lease	281,397 sf	2	441-540-18	\$12,500,000	Grub&Ellis	1.24%
*Enterprise Fund Property - proceeds of sale to be deposited into Water Fund 41500										
** Original purchase price of \$18,935 to be reimbursed to Gas Tax Fund 220										

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