

203

11/7

RESOLUTION NUMBER R- 304360

DATE OF FINAL PASSAGE NOV 24 2008

AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO SELL CERTAIN EXCESS CITY PROPERTY LOCATED AT **8110 BALBOA AVENUE, SAN DIEGO, CA [APN 356-231-03]**.

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

WHEREAS, The City of San Diego [City] is the fee owner of that certain real property [Property] located at **8110 BALBOA AVENUE, SAN DIEGO, CA [APN 356-231-03]**, and further described in the "Property Information Summary" 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 **Three Million One Hundred Eighty-Six Thousand Dollars (\$3,186,000)**; and

WHEREAS, the Property will be re-appraised at least once every twelve months until sold to revise the FMV upwards, 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 1.00% of the final sale price to CBRE (CB Richard Ellis); 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 City 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 **8110 BALBOA AVENUE, SAN DIEGO, CA [APN 356-231-03]**, and further described in the "Property Information Summary" 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 **Three Million One Hundred Eighty-Six Thousand Dollars (\$3,186,000)**; and

BE IT FURTHER RESOLVED, the Mayor, or his designee, shall 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 1.00% of the final sale price to CBRE (CB Richard Ellis); 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

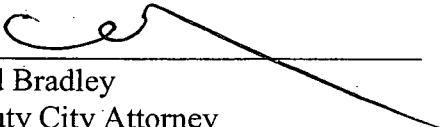
BE IT FURTHER RESOLVED, the Mayor, or his designee, is authorized to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor or his designee to be reasonable and in the best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

BE IT FURTHER RESOLVED, the City 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 Capital Outlay 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



Todd Bradley
Deputy City Attorney

TB:bas

10/21/08

Or.Dept: READ

R-2009-517

MMS #6934

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 17 2008.

ELIZABETH S. MALAND
City Clerk

By *Jana Richardson*
Deputy City Clerk

Approved: 11-24-08
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

PROPERTY INFORMATION SUMMARY

8110 Balboa Avenue

1. **Location of Property:** 8110 Balboa Avenue at Mercury Street
2. **Legal Description:** City Highlands, portion of Lot 1
3. **Council District:** 6
4. **Assessors Parcel Number:** 356-231-03
5. **Thomas Bros Map:** 1249 B2
6. **Size of Parcel:** 1.33 AC
7. **Improvements:** Gas Station/Car Wash Owned/Maintained By Ground Lessee
8. **Community Plan / Designation:** Kearny Mesa – general commercial
9. **Zoning/Allowed uses:** IL-3-1 – mix of light industrial, office, and commercial
10. **Date of acquisition:** 6-6-1952
11. **Acquisition Purpose:** Montgomery Field (approach light lane)
12. **Price at acquisition:** \$5,079 for a 10+ acre site
13. **Origin of funds at acquisition:** Capital Outlay – General (Fund 302453)
14. **Appraised and Date of Value:** Jones, Roach & Caringella M.A.I.; 9-01-08 \$ 3,186,000
15. **Distribution of Proceeds:** General City Capital Outlay Fund 302453
16. **Reason for Sale:** In excess of City needs
17. **Comments:** The 55-year flat rate ground lease expires 11-11-2014. Current annual rent is \$128,000 per year, subject to “re-determination” every ten years based upon reappraisal. The last and final rent adjustment was in 2004.
18. **Property file:** N407-1

DUE DILIGENCE

The property will be sold “as is” with no warranties, usage or conditions (physical or otherwise), written, implied or expressed by the City of San Diego and its agents or employees. You are basing your purchase on the offered property solely on your findings and research, and that you have satisfied yourself as to the zoning, usage, physical condition inside and out, size and other information that might affect your decision to purchase this property. The information contained in the marketing materials is believed to be correct, however, the City of San Diego assumes no responsibility or liability for its completeness or accuracy.