

RESOLUTION NUMBER R- 312170

DATE OF FINAL PASSAGE JAN 11 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO TO AUTHORIZE THE MAYOR TO EXECUTE THREE RELATED AGREEMENTS, SPECIFICALLY, THE FIRE STATION PURCHASE AGREEMENT TRANSFERRING REAL PROPERTY LOCATED ON THE EAST SIDE OF NORTH TORREY PINES ROAD JUST SOUTH OF GENESEE AVENUE TO THE CITY TO BUILD A FIRE STATION; THE OPTION TO PURCHASE AGREEMENT GRANTING REGENTS OF THE UNIVERSITY OF CALIFORNIA (REGENTS) AN OPTION RIGHT TO PURCHASE THE CITY-OWNED REAL PROPERTY KNOWN AS TORREY PINES CENTER SOUTH; AND THE THIRD AMENDMENT TO GROUND LEASE BETWEEN THE CITY AND THE REGENTS FOR THE PROPERTY COMMONLY KNOWN AS TORREY PINES CENTER SOUTH AND ALL NECESSARY RELATED FINANCIAL ACTIONS.

WHEREAS, the City of San Diego (City) has identified a need for a fire station in the University Community Planning Area in and around the University of California San Diego (UCSD) campus to assist with an increased number of incidents due to the rapid growth of UCSD; and

WHEREAS, the City and the Regents of the University of California on behalf of UCSD (Regents) have worked together to identify a parcel of real property which is currently owned by the Regents located on the east side of North Torrey Pines Road, just south of Genesee Avenue, adjacent to UCSD and in the University Community Planning Area (Fire Station Property), which the City and Regents believe to be suitable for a fire station; and

WHEREAS, the Regents have expressed a desire to purchase the City-owned property commonly known as Torrey Pines Center South (TPCS), located at 10280 Torrey Pines Road, San Diego, California, which the Regents currently lease from the City subject to the Agreement for Ground Lease, Development and Use of Real Property, originally entered into by the City

and Scripps Clinic and Research Foundation with an effective date of February 23, 1985, which was assigned to Regents with the City's consent on October 5, 1987; and

WHEREAS, the parties have worked together to reach agreement on three separate transactions, which are all dependent upon the other, such that if Council chooses not to authorize the Mayor to execute one of the agreements, the City will not exercise any of the agreements referenced herein; and

WHEREAS, the first agreement is the Fire Station Purchase Agreement (Fire Station Agreement) which requires that Regents transfer the Fire Station Property to the City through a Grant Deed, and that Regents contribute up to \$20,556,000 (Regents Contribution) to the City for the design and construction of a fire station on the Fire Station Property and any necessary off-site improvements (Project); and

WHEREAS, the Regents Contribution can be used to reimburse the City's costs incurred during due diligence, which is estimated to be up to \$50,000.00, if the City determines that the property is suitable, but the City would not be reimbursed if after conducting its due diligence the City determined that the Fire Station Property is not suitable for building a fire station; and

WHEREAS, the Regents Contribution may be used for the design costs, permitting fees, processing fees, inspection fees, environmental review costs, construction costs, and other items more specifically set forth in the Fire Station Agreement, including City staff time incurred as a result of those activities, provided that the charges for the City staff time do not exceed twenty percent (20%) of the Project costs, and that the City will be responsible for any charges related to City staff time that exceed 20% of the Project costs; and

WHEREAS, the Fire Station Agreement requires that the City design and build the fire station and off-site improvements, take the role of the lead agency under the California

Environmental Quality Act (CEQA), and pay all costs related to equipping, operating and maintaining the fire station including all terms as more specifically set forth in the Fire Station Agreement, and pay any costs in excess of \$20,556,000 that the City incurs in completing the design and construction of the Project; and

WHEREAS, Regents has retained the right to have the fee ownership of the property revert to Regents if the City does not start construction within five years of the effective date of the Fire Station Agreement, does not substantially complete construction within seven years of the effective date of the Fire Station Agreement, or if the City ceases to operate the fire station for a period of more than twelve months for any reason other than repair or reconstruction and does not obtain the appropriate Regents approval for the alternative use; and

WHEREAS, the Fire Station Agreement if executed would prohibit the City from requiring any additional contributions from Regents for any impacts relating to fire services and other services typically provided by first stations and personnel arising from anticipated future growth of the UCSD campus under the Regents' 2018 Long Range Development Plan (2018 LRDP) until the later of December 31, 2035 or substantial completion of the build-out contemplated by the 2018 LRDP, unless specific circumstances were met as more particularly defined in the Fire Station Agreement; and

WHEREAS, as consideration for the transfer of the Fire Station Property and the Regent Contribution, Regents has requested that the City grant Regents an option to purchase TPCS, which Regents currently leases from the City; and

WHEREAS, if executed by the City, the Option to Purchase Agreement in Favor of Regent of City-owned Property (Option Agreement) would, upon completion of Regents

obligations under the Fire Station Agreement grant the Regents an irrevocable option to purchase the TPCS property, exercisable as of October 15, 2042, through April 15, 2044; and

WHEREAS, the City has entered into leases with the Public Facilities Financing Authority (PFFA), relating to lease revenue bonds issued by the PFFA, which is currently an encumbrance on the City's interest in the property which the City desires to maintain, however, the City has agreed to allow Regents to purchase the property subject only to encumbrances that Regents has approved on October 15, 2042; but if the City, in its sole discretion determines that TPCS is no longer needed for lease revenue bond purposes, the City will provide notice to Regents and allow Regents to exercise the option right earlier; and

WHEREAS, the parties negotiated to have TPCS property appraised, which included providing a current market value for the real property and improvements of \$35,300,000 as of April 13, 2018, and providing a reasonable projected annual increase that could be applied as an escalator to the current market value to determine the purchase price that Regents will pay to the City for TPCS depending on the year in which they exercise the option, as more particularly set forth in Exhibit 5 to the Option Agreement; and

WHEREAS, the City in compliance with Council Policy 700-10 has obtained an appraisal of the current land value only of TPCS from a certified appraiser, which determined that the land value as of November 1, 2018, was \$6,180,000; and

WHEREAS, the Regents will have the right when the option to purchase is exercised, to request a reduction in the purchase price if the assumptions in the April 13, 2018, appraisal are no longer valid, however, City Council will have the right to approve such a reduction in its sole discretion; and

WHEREAS, the Regents as part of the overall negotiations have requested modifications to the Ground Lease, specifically relating to the holdover periods, the process for approving signage, and the process for approving requests to make improvements as set forth in the Third Amendment to the Ground Lease attached to the Option Agreement as Exhibit 1; and

WHEREAS, if the City executes the Third Amendment to the Ground Lease, the City will not be permitted to increase the rent that Regents pays during any holdover period that is concurrent with the option period, and will follow the processes set forth therein to approve any requests for changes in signage or improvements; and

WHEREAS, the Regents have required that the PFFA consent to the Option Agreement, and the City's execution of these agreements is contingent upon the PFFA executing the consent which is attached to the Option Agreement as Exhibit 6; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:


1. The Mayor is authorized to execute and deliver the Fire Station Purchase Agreement (Fire Station Agreement), the Option to Purchase Agreement in Favor of Regents of City-owned Property (Option Agreement), and the Third Amendment to the Ground Lease; and all other necessary documents required to complete the transfers of real property contemplated in the Fire Station Agreement and Option Agreement, or the City's performance under any of the agreements, on terms and conditions deemed reasonable and in the City best interest.
2. The Chief Financial Officer (CFO) is authorized to accept up to \$20,556,000 into fund No. 400871, UCSD Fire Station CONTRIB, for the design and construction costs of the UCSD Fire Station and any off-site improvements as outlined in the Fire Station Agreement.
3. The CFO is authorized to add CIP S-19003, UCSD Fire Station and ROW Improvements to the Capital Improvement Program.

4. The CFO is authorized to increase the CIP budget in CIP No. S-19003, UCSD Fire Station and ROW Improvements, and to appropriate and expend up to \$20,568,000 on the Project in accordance with the terms of the Fire Station Agreement, contingent upon the CFP first certifying that the funds necessary for expenditure are, or will be on deposit with the City Treasurer.

5. The CFO is authorized to transfer appropriations of \$65,000 from CIP S-00788 Fire Station No. 5 – Hillcrest, to CIP S-19003, UCSD Fire Station and ROW Improvements within Fund 100012, INFRASTRUCTURE FUND.

6. The CFO is authorized to expend an amount not to exceed \$12,000 from CIP No. S-190003, UCSD Fire Station and ROW Improvements for escrow, title, and miscellaneous expenses related to the property acquisition for the UCSD Fire Station location, contingent upon the CFO furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

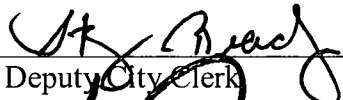
APPROVED: MARA W. ELLIOTT, City Attorney

By   
Melissa D. Ables  
Deputy City Attorney

MDA:nja  
12/14/18  
Or. Dept: READ  
Doc. No.: 1893514

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 08 2019.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 1/11/19  
(date)

  
KEVIN L. FAULCONER, Mayor

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

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on JAN 08 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 11 2019.

**(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)**

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Sty Brady*, Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- **312170**