

RESOLUTION NUMBER R- 312914

DATE OF FINAL PASSAGE APR 09 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE SALE OF A 17,717 SQUARE FOOT CITY OWNED PROPERTY (APN 272-110-43) WITH A RESERVATION OF EASEMENTS TO CASA DE LAS CAMPANAS, INC., ACQUISITION OF TWO EASEMENTS ON AN ADJACENT CASA-OWNED PROPERTY (APN 272-110-44), AND APPROVING SETTLEMENT OF A PRE-LITIGATION INVERSE CONDEMNATION CLAIM, RISK MANAGEMENT FILE NO. 18091.

WHEREAS, in 1996, the City of San Diego (City) sold a parcel of land located at 18655 West Bernardo Drive, San Diego, California, Assessor's Parcel Number 272-110-44, (the Casa Parcel) to Casa de las Campanas, Inc. (Casa). The City owned four water and sewer utility lines underground and crossing the Casa Parcel, however, at the time of the 1996 transaction, the City did not notify Casa of the existence of the utility lines and did not record an easement for the existing lines; and

WHEREAS, on May 23, 2017, Casa was building an expansion to its campus. The City approved the expansion plans. While installing a sewer line per the expansion plans, the site utility contractor encountered one of the four City utility lines. City inspectors instructed the contractor to determine the scope of the utility lines and Casa had to re-design their planned expansion to account for the discovered utility lines; and

WHEREAS, the Public Utilities Department recommends securing easements on the Casa Parcel for the previously undisclosed utility lines because access is necessary for pipeline maintenance and operation, and to preserve water supply development options; and

WHEREAS, Casa filed a claim with the City on November 21, 2017, seeking compensation for damages it incurred in relation to the undisclosed utility lines on the Casa Parcel, Risk Claim Number 18091 (the Claim); and

WHEREAS, the City and Casa desire to settle and dispose of the Claim; and

WHEREAS, in Closed Session on November 19, 2019, the City Council by the following votes: Yeas, District(s) 1, 2, 3, 4, 5, 6, 7, 8, and 9; Nays none, approved the settlement; and

WHEREAS, the City Council in Closed Session on November 19, 2019, authorized settlement of the Claim pursuant to the terms set forth in the Settlement and Release Agreement; and

WHEREAS, the terms of the Settlement and Release Agreement include the transfer to Casa of a 17,717-square foot City-owned parcel of land located between the western side of Interstate 15 and the eastern side of West Bernardo Drive and south of Lake Hodges, Assessor's Parcel Number 272-110-43. This parcel is adjacent to the Casa Parcel. The City will reserve easements for a public street and its existing sewer and water lines; and

WHEREAS, the City-owned parcel that will be transferred to Casa is exempt surplus land under California Government Code section 54421(f)(1)(C) because it is land the City is exchanging for easements on the Casa Parcel that are necessary for the City's use; and

WHEREAS, an appraisal was conducted by a Member Appraisal Institute (MAI) appraiser to establish the value of the requested easements on the Casa parcel and the City-owned parcel to be transferred to Casa. The appraisal concluded that the parcel to be transferred to Casa has a fair market value of \$190,000.00 and the fair market value of the easements on the Casa Parcel the City will receive is \$70,500.00; and

WHEREAS, another term of the Settlement and Release Agreement is the payment of \$33,610.00 by the City to Casa; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, the Mayor or his designee is authorized and directed to enter into a Real Estate Conveyance Agreement with Casa de las Campanas, Inc. (Casa) to convey to Casa ownership of the 17,717-square foot City of San Diego-owned parcel, Assessor's Parcel Number 272-110-43, with a reservation of easements for sewer and water lines and a public street.

BE IT FURTHER RESOLVED, that the Mayor or his designee is authorized to acquire easements for underground utility lines from Casa on the Casa Parcel, Assessor's Parcel Number 272-110-44.

BE IT FURTHER RESOLVED, that the Council of the City of San Diego, using its independent judgment, has considered the written record and public comment for the requested authorization and determines that the 17,717-square foot City of San Diego-owned parcel, Assessor's Parcel Number 272-110-43, to be transferred to Casa in exchange for the easements for underground utility lines on the Casa Parcel, is exempt surplus property, as defined in California Government Code section 54421(f)(1)(C).

BE IT FURTHER RESOLVED, that the Mayor or his designee is authorized to enter into a Settlement and Release Agreement with Casa de las Campanas, Inc. in settlement of each and every claim for damages, interest, costs, and fees of any type, including attorney fees, against City of San Diego, its agents and employees, arising from Risk Management Claim Number 18091 filed by Casa de las Campanas, Inc.

BE IT FURTHER RESOLVED, that the Mayor or his designee is authorized to pay the sum of \$20,166.00 from Fund 700011 (Water Utility Operating Fund) and \$13,444.00 from Fund

700000 (Muni Sewer Revenue Fund) for a total expenditure of \$33,610.00 to Casa de las Campanas, Inc. in accordance with the terms of the Settlement and Release Agreement.

BE IT FURTHER RESOLVED, that the Mayor or his designee is authorized to execute and deliver all such agreements and all other instruments necessary to effect and complete the transaction contemplated by this Resolution.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to appropriate and expend the sum of \$20,166.00 from Fund 700011 (Water Utility Operating Fund) and \$13,444.00 from Fund 700000 (Muni Sewer Revenue Fund) for a total expenditure of \$33,610.00, contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

BE IT FURTHER RESOLVED, that the Department of Finance is authorized to issue a check in the amount of \$33,610.00, made payable to Casa de las Campanas, Inc.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Kathy J. Steinman
Kathy J. Steinman
Deputy City Attorney

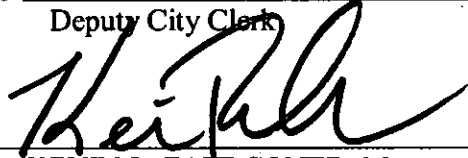
KJS:nja
02/27/20
Or. Dept: READ
Doc. No.: 2328559

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 04/07/2020.

ELIZABETH S. MALAND
City Clerk

By /s/ Gil Sanchez
Deputy City Clerk

Approved: 4/9/2020
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on APR 07 2020, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 APR 09 2020

(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 Connie Patterson, Deputy
for Stacy Ready

Office of the City Clerk, San Diego, California

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