

1036
7/19/2022

(R-2023-6)

RESOLUTION NUMBER R- 314228

DATE OF FINAL PASSAGE JUL 21 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DECLARING THAT 3,645 SQUARE FEET OF REAL PROPERTY IN VACATED PUBLIC RIGHT-OF-WAY OF 40TH STREET IN THE NORMAL HEIGHTS AREA OF THE CITY OF SAN DIEGO IS EXEMPT SURPLUS LAND UNDER THE SURPLUS LAND ACT.

WHEREAS, the City of San Diego (City) owns certain real property consisting of 3,645 square feet of vacated public right-of-way of 40th Street in the Normal Heights area of the City specifically identified in the staff report included in the docket materials accompanying this Resolution (Property); and

WHEREAS, pertinent City departments reviewed the Property and none of these City departments requested retention of the Property for a City municipal use; and

WHEREAS, the Surplus Land Act (California Government Code sections 54220 through 54234) is generally intended to make a local agency's surplus land (i.e., land not needed for the local agency's use) available for potential acquisition by affordable housing sponsors or other local public entities; and

WHEREAS, California Government Code section 54221(b)(1) requires the Council of the City of San Diego (Council) to take formal action at a regular public meeting to declare the Property surplus land or exempt surplus land, as supported by written findings, before the City may take any action to dispose of the Property; and

WHEREAS, the written findings supporting an exempt surplus land declaration must be provided to the California Department of Housing and Community Development (HCD) for review at least thirty (30) days before the City's disposition of the land under Section 400(e) of HCD's Surplus Land Act Guidelines; and

WHEREAS, Iwashita Real Estate Development, LLC, O'Connor Real Estate Development, LLC, and HDP Opportunity Partners, LLC (collectively, Buyer), the owners of real property contiguous to the Property, seek to acquire the Property; and

WHEREAS, the Council approved the City's vacation of the public right-of-way on the Property by Resolution No. 313819, effective December 13, 2021 (Vacation); and

WHEREAS, if the City sells the Property to Buyer, the Property will be exempt surplus land under California Government Code section 54221(f)(1)(B) because the Property is less than 5,000 square feet in size and the City will be disposing of the Property to owners of contiguous land; and

WHEREAS, if the City sells the Property to Buyer after satisfaction of all the other conditions precedent to the Vacation, the Property will also be exempt surplus land under California Government Code section 54221(f)(1)(E) because the City will be conveying surplus land that is a former street or right-of-way to the owners of adjacent property; and

WHEREAS, the City Council's declaration that the Property is exempt surplus land, contingent upon the City's sale of the Property to Buyer after Buyer's satisfaction of all the other conditions precedent to the Vacation does not require that the City sell the Property to Buyer, nor does it require that such a sale contain any specific term or condition; and

WHEREAS, the City Council's declaration that the Property is exempt surplus land is contingent upon the City's sale of the Property to Buyer after Buyer's satisfaction of all the other conditions precedent to the Vacation and if for any reason the City does not sell the Property to Buyer, the City Council does not intend for this declaration to have any force or effect; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Property is exempt surplus land under paragraphs (f)(1)(B) and (f)(1)(E) of California Government Code section 54221, based on the facts and reasons set forth in this Resolution and contingent upon the City Council's discretionary approval of the sale of the Property to Buyer and completion of that sale transaction after Buyer's satisfaction of all the other conditions precedent to the Vacation.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Delmar Williams
Delmar Williams
Deputy City Attorney

DGW:cc
06/28/22
Or. Dept: DREAM
Doc. No. 3014684

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego at this meeting of JUL 19 2022.

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 7/21/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUL 19 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<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"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 21 2022.

(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: TODD GLORIA
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

Office of the City Clerk, San Diego, California
Resolution Number R- 314228