

103C
7/19/2022

(R-2023-7)

RESOLUTION NUMBER R- 314229

DATE OF FINAL PASSAGE JUL 21 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A PURCHASE AND SALE AGREEMENT FOR THE CITY'S SALE OF 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 TO IWASHITA REAL ESTATE DEVELOPMENT, LLC, O'CONNOR REAL ESTATE DEVELOPMENT, LLC, AND HDP OPPORTUNITY PARTNERS, LLC, FOR \$282,000, AND AUTHORIZING THE CHIEF FINANCIAL OFFICER TO ACCEPT AND DEPOSIT THE INDEPENDENT CONSIDERATION AND THE SALE PROCEEDS.

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, 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 of the City of San Diego (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, substantially concurrent with the adoption of this Resolution, the Council adopted a separate resolution declaring the Property to be exempt surplus land under the Surplus Land Act (California Government Code sections 54220 through 54234) and the City will submit that separate resolution to the California Department of Housing and Community Development (HCD) for its review; and

WHEREAS, the City proposes to sell the Property at its appraised value under Paragraph G(3) on page 6 of Council Policy 700-10 providing that an exclusively negotiated sale to a contiguous owner may be approved when the fee interest in a right-of-way is no longer required; and

WHEREAS, the City's principal appraiser determined the current fair market value of the Property is \$282,000; and

WHEREAS, the City and Buyer negotiated a Real Property Purchase and Sale Agreement (Purchase Agreement), a copy of which is included in the docket materials accompanying this Resolution; and

WHEREAS, under the Purchase Agreement, the City agrees to sell, and Buyer agrees to purchase the Property for its appraised value of \$282,000, subject to various terms and conditions, including HCD's concurrence that the Property is exempt surplus land under the Surplus Land Act and Buyer's satisfaction of all the other conditions precedent to the Vacation; and

WHEREAS, the City will not owe any brokerage commission in connection with the sale of the Property to Buyer; and

WHEREAS, San Diego Charter section 77 requires the City to use all proceeds from the sale of City-owned real property exclusively for the acquisition, construction, replacement, and financing of permanent public improvements; NOW, THEREFORE,

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

1. The Purchase Agreement is approved and the City's sale of the Property to Buyer under the terms and conditions of the Purchase Agreement is authorized.

2. The Mayor or designee is authorized, on the City's behalf, to sign and deliver the Purchase Agreement and all other documents necessary or appropriate to complete the City's sale of the Property to Buyer under the Purchase Agreement, and to take all other actions necessary or appropriate to complete all transactions contemplated by the Purchase Agreement. A copy of the Purchase Agreement, when signed by both parties, shall be placed on file in the Office of the City Clerk as Document No. RR- 314229 .

3. The Chief Financial Officer is authorized and directed to accept Buyer's payment of the Independent Consideration of \$100 under Section 1 of the Purchase Agreement and deposit this amount into Fund Number 100000, General Fund.

4. The Chief Financial Officer is authorized and directed to accept the City's proceeds from the sale of the Property, net of all costs of the sale transaction payable by the City, and deposit those net proceeds into Fund Number 400002, Capital Outlay Miscellaneous Revenue Fund.

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. 3014683

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- 314229