

#5401
09/12/2022
(R-2023-86)

RESOLUTION NUMBER R- 314311

DATE OF FINAL PASSAGE SEP 13 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE SAN DIEGO HOUSING COMMISSION, THE HOUSING AUTHORITY OF THE CITY OF SAN DIEGO, THE CITY OF SAN DIEGO, JIM NEIL, KIDDER MATHEWS OF CALIFORNIA, INC., KIDDER MATHEWS, INC., RT SAN DIEGO, LLC AND CHATHAM RIMV, LLC AND RELATED ACTIONS

WHEREAS, on or about June 10, 2020, Kidder Mathews of California, Inc. (Kidder California) entered into a Real Estate Broker Agreement with the San Diego Housing Commission (Housing Commission), which named James N. Neil (Neil) as the real estate broker for Kidder California to perform brokerage services for the Housing Commission (Broker Agreement); and

WHEREAS, Neil and Kidder California identified two properties for potential Housing Commission purchase with public funds: (a) the Kearny Mesa Residence Inn located at 5400 Kearny Mesa Road, San Diego, CA 92111 (Kearny Mesa Property); and (b) the Mission Valley Residence Inn located at 1865 Hotel Circle South, San Diego, CA 92108 (Hotel Circle Property); and

WHEREAS, on or about October 13, 2020, the Housing Authority of the City of San Diego (Housing Authority) approved the purchase of the Kearny Mesa Property from RT San Diego, LLC for \$39,500,000.00 and the Hotel Circle Property from Chatham RIMV, LLC for \$67,000,000.00; and

WHEREAS, Neil and Kidder California were the Housing Commission's real estate broker under the Broker Agreement for both the Housing Commission's purchase of the Kearny Mesa Property and the Hotel Circle Property; and

WHEREAS, Kidder California and Neil were paid a commission by the Housing Commission for the Kearny Mesa Property transaction and a commission by RT San Diego for the Mission Valley Property transaction; and

WHEREAS, after identifying the Hotel Circle Property as a potential purchase option for the Housing Commission, but before the close of the Hotel Circle Property transaction, Neil purchased 40,000 shares of stock in Chatham Lodging Trust. Chatham Lodging Trust is the parent company of the Chatham RIMV, LLC, the seller of the Hotel Circle Property; and

WHEREAS, on August 3, 2021, the City Attorney's Office brought an action on behalf of the Housing Commission, the City of San Diego, and the Housing Authority, alleging 13 causes of action for fraud, breach of fiduciary duty, breach of contract and violation of California Government Code section 1090 against defendants Neil, Kidder Mathews, Inc., and Chatham RIMV, LLC arising from the two transactions (the Action); and

WHEREAS, RT San Diego, LLC and Kidder California were later added as defendants in the Action; and

WHEREAS, the City Attorney's Office recently negotiated a settlement with Neil, Kidder California, Kidder Mathews, Inc., RT San Diego, LLC and Chatham RIMV, LLC which is documented in a settlement agreement (Settlement Agreement); and

WHEREAS, on August 19, 2022, the Housing Commission Board of Commissioners recommended approval of the Settlement Agreement; and

WHEREAS, the Settlement Agreement executed by all defendants is on file in the Office of the City Clerk as Document No. ^{RR}31431 NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his designee is authorized to execute the Settlement Agreement on behalf of the City of San Diego in a final form as approved by counsel for the Housing Authority.

BE IT FURTHER RESOLVED, that the Mayor or his designee, on behalf of the City of San Diego, is authorized to accept \$155,000.00 from Kidder Mathews, Inc. and Jim Neil.

BE IT FURTHER RESOLVED, that the Mayor or his designee, is authorized to execute all necessary documents and instruments that are necessary or appropriate to implement the Settlement Agreement in a final form as approved by counsel for the Housing Authority.

APPROVED: MARA W. ELLIOTT, City Attorney

By s/Meghan Ashley Wharton
Meghan Ashley Wharton
Senior Deputy City Attorney

MAW:slc
September 6, 2022
Doc. No. 3043407

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 12 2022.

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 9/13/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on SEP 1 2 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 SEP 1 3 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:

(Seal)

TODD GLORIA

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California

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