

RESOLUTION NUMBER R- **314761**

DATE OF FINAL PASSAGE **MAY 01 2023**

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO DECLARING THAT 333 G STREET IN  
SAN DIEGO, CALIFORNIA IS EXEMPT SURPLUS LAND  
AND APPROVING A RELATED WAIVER OF COUNCIL  
POLICY 700-10.

WHEREAS, the City of San Diego (City) owns certain land located at 333 G Street in  
downtown San Diego and commonly identified as Horton House (Assessor's Parcel Number  
535-096-16), consisting of a 153 unit, 14 story high rise residential apartment project, with 150  
rent and income restricted affordable units (Property); and

WHEREAS, acting as the designated redevelopment housing successor under California  
Health and Safety Code section 34176, the City acquired the Property in accordance with a list of  
housing assets approved by the California Department of Finance (State DOF) in January 2013;  
and

WHEREAS, the Council of the City of San Diego (City Council) intends to approve a  
Real Property Purchase and Sale Agreement and Joint Escrow Instructions (Agreement) with  
Horton Housing Interfaith Housing Corporation, a California nonprofit corporation (Developer),  
regarding the City's sale of the Property to Developer for an affordable housing project (Project);  
and

WHEREAS, the City will continue to hold all right and title in the Property until the City  
and Developer close escrow on the Property under the terms of the Agreement; and

WHEREAS, the Property is no longer needed for City use, and the City will not retain the  
Property for the use of any individual City departments because the State DOF approved the

City's acquisition and use of the Property as a housing asset under the redevelopment dissolution laws; and

WHEREAS, the Agreement will assure that the Property continues to be used for affordable housing purposes in accordance with the redevelopment dissolution laws; and

WHEREAS, the Surplus Land Act, set forth at California Government Code (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, Government Code section 54221(b)(1) requires the City 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 days before the City's disposition of the land under section 400(e) of HCD's Surplus Land Act Guidelines; and

WHEREAS, under Government Code section 54221(f)(1)(A), the City Council may declare property to be exempt surplus land when its disposition will satisfy the requirements of Government Code section 37364 (related to the production of affordable housing); and

WHEREAS, according to HCD's interpretation, Government Code section 54221(f)(2) identifies several narrow circumstances in which, land (with the exception of certain land granted by the State of California to a local agency in trust) cannot qualify as exempt surplus land, and a

local agency must issue a notice of availability of the land solely for open-space purposes, if the land is any of the following: (a) within a coastal zone; (b) adjacent to a historical unit of the State Parks System; (c) listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places; or (d) within the Lake Tahoe region as defined in Government Code section 66905.5; and

WHEREAS, the City's disposition of the Property to Developer under the Agreement does not involve any of the circumstances identified in Government Code section 54221(f)(2), and therefore, the City is not required to issue a notice of availability of the Property for open-space purposes if the Property is declared exempt surplus land; and

WHEREAS, the City's disposition of the Property to Developer under the Agreement meets or exceeds the requirements of Government Code section 37364, which requires that: at least 80 percent of the area of a parcel be used for an affordable housing development (here, the Property disposition will result in 100 percent of the Property being so used); at least 40 percent of the total number of housing units on a parcel be reserved, at an affordable housing cost, for households whose incomes are not more than 75 percent of the maximum income of lower income households (the Property disposition will result in 61 of the 153 residential units on the Property being so reserved); at least 20 percent of the total number of housing units on a parcel be reserved for very low income households at an affordable housing price (the Agreement will result in 31 of the 153 residential units on the Property being so reserved); the affordability covenants bind a parcel for at least 30 years (the Property disposition will cause the affordability covenants to bind the Property for 55 years); and the affordability covenants be appropriately recorded so the covenants bind the housing sponsor and its successors in interest (the Agreement

requires a Regulatory Agreement to be recorded in the official land records of the County of San Diego, with provisions that will bind Developer and its successors in interest); and

WHEREAS, the City Council's declaration that the Property is exempt surplus land is contingent upon the City's disposition of the Property to Developer under the Agreement, and if for any reason the closing for the City's disposition of the Property to Developer does not occur, the City Council does not intend for this declaration to have any force or effect; and

WHEREAS, the City Council intends to waive the requirement in Council Policy 700-10 that the Property be circulated to City departments for review to determine if there is a municipal use for the Property before the City disposes of the Property because the Property has been owned by the former Redevelopment Agency of the City of San Diego and will be subject to disposition consistent with the Agreement as approved by the City Council; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

1. The Property is exempt surplus land under Government Code section 54221(f)(1)(A), based on the facts and reasons set forth in this Resolution and contingent upon completed disposition of the Property under the Agreement.
2. The requirement in Council Policy 700-10 that the Property be circulated to City departments for review to determine if there is a municipal use for the Property before the City

disposes of the Property is waived for disposition of the Property in accordance with this Resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By Marguerite E. Middaugh  
Marguerite E. Middaugh  
Deputy City Attorney

MEM:jdf  
04/11/2023  
Or.Dept: Economic Dev.  
Doc. No. 3275008

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego at this meeting of APR 24 2023.

DIANA J.S. FUENTES  
City Clerk

By Kristell Medina  
(Deputy City Clerk)

Approved: 5-1-23  
(date)

Todd Gloria  
TODD GLORIA, Mayor

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

\_\_\_\_\_  
TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on APR 24 2023, 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"/>
Kent Lee	<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 MAY 01 2023.

**(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)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By *Kristell Medina*, Deputy

Office of the City Clerk, San Diego, California

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