

RESOLUTION NUMBER R- **315238**DATE OF FINAL PASSAGE **DEC 11, 2023**

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO DECLARING THAT 904 STATE STREET,  
SAN DIEGO, CALIFORNIA, IS EXEMPT SURPLUS LAND.

WHEREAS, the City of San Diego (City) owns certain land at 904 State Street, San Diego, CA 92101 (APN: 533-538-04) consisting of approximately 0.34 acre (Land), which the City acquired as the designated redevelopment housing successor under California Health and Safety Code section 34176 in accordance with a list of housing assets approved by the California Department of Finance (State DOF) in January 2013; and

WHEREAS, the former Redevelopment Agency of the City of San Diego leased the Land to Columbia Tower L.P., a California limited partnership (Columbia), for affordable housing purposes under a ground lease dated July 13, 1982, and recorded on August 25, 1982, in the Official Records of the County of San Diego, California (Official Records) as Document No. 82-263907, as amended by the First Supplement to Lease Agreement dated March 8, 1986, and recorded on March 20, 1986, in the Official Records as Document No. 1986-107407 (as amended, the Ground Lease); and

WHEREAS, as required by the Ground Lease, Columbia developed the Land with the following improvements: (1) a 16-story building containing 148 residential rental units (Rental Units), two residential manager's units, a community room, a fitness room, and administrative offices for the operation of the building; and (2) an outdoor courtyard, walkways, and landscaping (collectively, Improvements); and

WHEREAS, the Ground Lease provides that Columbia will own the Improvements for the term of the Ground Lease, which expires August 1, 2037; and

WHEREAS, the City currently holds all right and title in the Land and, as lessor, in the Ground Lease; and

WHEREAS, the Ground Lease requires Columbia, through July 31, 2037, to make the Rental Units available to qualifying lower income households at an affordable housing cost consistent with Section 8 of the United States Housing Act of 1937 (Section 8); and

WHEREAS, Columbia and the United States Department of Housing and Urban Development entered into a Housing Assistance Program contract (HAP Contract) for the Rental Units, requiring compliance with the affordability requirements in Section 8; and

WHEREAS, households with incomes equal to or less than 30 percent of Area Median Income (AMI) currently occupy 145 Rental Units, and households with incomes equal to or less than 50 percent of AMI currently occupy three Rental Units; and

WHEREAS, lower income households (i.e., those earning up to 80 percent of AMI) are eligible for Section 8 program benefits; and

WHEREAS, the HAP Contract for the Rental Units expires in 2038; and

WHEREAS, the City wishes to sell, and Columbia wishes to purchase, all of the City's right, title, and interest in the Land and the Improvements (collectively, Property) provided that Columbia agrees to record new affordability covenants against the Property (Regulatory Agreement), which are more fully described below (collectively, Property Disposition); and

WHEREAS, the Regulatory Agreement requires Columbia to comply with the current HAP Contract or its successor, provided that at least 60 Rental Units remain affordable to households with incomes less than 60 percent of AMI, and at least 30 of these Rental Units remain affordable to households with incomes less than 50 percent of AMI; and

WHEREAS, in the event the HAP Contract terminates, the Regulatory Agreement requires at least 74 Rental Units to remain affordable to households with incomes less than 50 percent of AMI, and up to 74 Rental Units to remain affordable to households with incomes less than 80 percent of AMI; and

WHEREAS, the City could not consider retaining the Property for the use of any individual City departments because the State DOF approved the City's acquisition of the Property as a housing asset under the redevelopment dissolution laws, and the Property Disposition 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 San Diego City Council (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 30 days before the City's disposition of the land under Section 400(e) of HCD's Surplus Land Act Guidelines; and

WHEREAS, the Property is no longer necessary for City use and under Government Code section 54221(f)(1)(A), the Council can declare property to be exempt surplus property when its disposition will satisfy the requirements of Government Code section 37364; 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 Property Disposition 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 Property Disposition meets or exceeds the requirements of Government Code section 37364, which requires that: (1) 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); (2) 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 not less than 60 of the 150 residential units on the Property being so reserved); (3) 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 Property Disposition will result in not less than 30 of the 150 residential units on the Property being so reserved); (4) 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 (5) the affordability covenants be appropriately recorded so the covenants bind the housing sponsor and its successors in interest (the Property Disposition will cause the Regulatory Agreement to be recorded in the Official Records, with provisions that will bind Columbia and its successors in interest); and

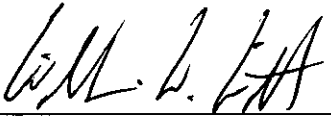
WHEREAS, the Council's declaration that the Property is exempt surplus land is contingent upon the City's sale of the Property to Columbia, and if for any reason the City does not sell the Property to Columbia, the Council does not intend for this declaration to have any force or effect; and

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 City Council of the City of San Diego, that 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 the Council's discretionary approval of the sale of the Property to Columbia and the completion of that sale transaction.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
William W. Witt  
Deputy City Attorney

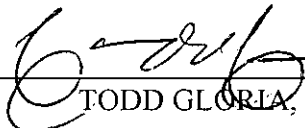
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11/15/2023  
Or.Dept: Economic Dev.  
Doc. No. 3474985

I certify that the foregoing Resolution was passed by the Council of the City of San Diego at this meeting of DEC 04 2023.

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk

Approved: 12/11/23  
(date)

  
TODD GLORIA, Mayor

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

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

Passed by the Council of The City of San Diego on DEC 04 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 DEC 11 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.)

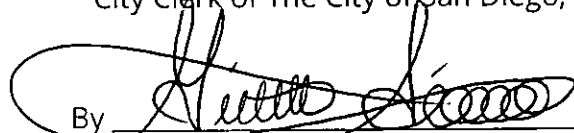
AUTHENTICATED BY:

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

 for Carrie P.  
Deputy

Office of the City Clerk, San Diego, California

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