

Article 2: Administrative Code

Division 9: Contracts — Leases — Sales

§22.0901 Leases of Real Property

Except as otherwise provided in the Charter, or by ordinance, the Council shall have the power to lease the real property of the City as follows:

- (a) No real property belonging to the City shall be leased except in pursuance of a resolution passed by a majority vote of all members of the Council, which shall contain the following:
 - (1) The reason for leasing such real estate;
 - (2) A description of the real estate to be leased;
 - (3) A statement of the market value of such real estate as appraised by an independent fee appraiser or City staff.
- (b) Nothing contained in this section shall be deemed to apply to any lease for a term of three years or less. The City Manager, at all times, shall have power, without advertising, notice, or competitive bidding, and upon such terms as he may deem proper, to lease any of the real property of the City of San Diego for a term of three years or less provided, however, that no such lease, so made, shall be renewed without the approval of the Council.
- (c) Nothing contained in this section shall be deemed to apply to any lease for a *wireless communications facility*, as defined in section 113.0103, for a term of ten years or less. The City Manager, at all times, shall have power, without advertising, notice, or competitive bidding, and upon such terms as he may deem proper, to lease any of the real property of the City of San Diego for a *wireless communications facility*, as defined in section 113.0103, for a term of ten years or less, provided however, that no such lease, so made, shall be renewed without approval of the Council.

Rental agreements may be executed by the City Manager covering month-to-month tenant occupancy of City-owned residential housing or Brown Field Airport Incubator Industries and shall not be subject to the provisions of subparagraphs (a)(1) through (3) of this section, and occupancy of the facilities under such agreements may exceed three years without the approval of the Council.

(Amended 4-11-1983 by O-15926 N.S.)

(Amended 5-3-2005 by O-19370 N.S.)

§22.0902 Sales of Real Property

Except as otherwise provided in the City Charter, the Council shall sell the real property of the City in compliance with the requirements herein established. No real property belonging to the City shall be sold except in pursuance of a resolution passed by an affirmative vote of five members of the Council, which shall contain the following:

- (a) The reason for selling such real property;
- (b) A description of the real property to be sold;
- (c) A statement of the value of such property as disclosed by an appraisal made by a qualified real estate appraiser, who may be a professional appraiser or a qualified employee of the City of San Diego, together with the minimum amount the Council will consider for the sale of each parcel of property;
- (d) A statement that the City may at its discretion pay a real estate broker's commission under the provisions of Section 22.0905 for the sale of such real property;
- (e) A statement that the property will be sold by negotiation or by public auction, or by sealed bids, or by a combination of public auction, and sealed bids; providing, however, that in the event that such property is to be sold by negotiation, then the reasons therefore shall be included in the resolution.

(Amended 7-2-1979 by O-12687 N.S.)

§22.0903 Sales of Real Property— Requirements for Sale at Auction

When real property belonging to the City is sold under the provisions of Section 22.0902 by public auction or by sealed bids or by a combination of public auction and sealed bids, whichever shall be recommended by the City Manager, then and in that event, a notice thereof shall be published for not less than three (3) consecutive days in the official newspaper, which notice shall contain a statement of the minimum price set by the Council for each parcel of property to be sold. The Council shall have the right to reject any and all bids provided for in this section. Real property belonging to the City may be put up for sale upon recommendation of the City Manager approved by the City Council. In the case of sale by auction or by sealed bid, the bid will not be less than the minimum amount fixed by the Council, pursuant to Section 22.0902(c).

The public auction or the sale by sealed bids shall be conducted by the Real Estate Assets Department and shall be held at a location determined by the City Manager. At or before the making of a bid at an auction or sale by sealed bids the bidder must be identified, and the bidder's name and address must be registered with the Real Estate Assets Department. Before any bid can be received, the bidder must have deposited with the Real Estate Assets Department a certified check or cashier's check in the amount of not less than ten (10) percent of the required minimum acceptable price. The amount so deposited shall be applied to the purchase price of the property if the City Council approves the sale to that bidder. Within ten (10) days of the approval of the sale by the City Council, the successful bidder and City shall formally open escrow with specific executed instructions that provide the date for payment of balance of the bid and delivery of the executed deed. In the event the bidder becomes the Council-approved purchaser of the property, the Real Estate Assets Department shall cause the sum to be deposited in the City Treasury, and the sum shall be applied to the purchase price. However, if the City does not have a marketable title to the real property or if the property is not sold to that bidder, the Real Estate Assets Department shall return the deposit to the person from whom the deposit was received. If, after the City Council approves the sale to the bidder, the bidder refuses or is unable to proceed with consummation of the property transfer, the deposit shall be forfeited to City as liquidated damages to reimburse City for its cost of processing the bid and proposed sale.

("Sales of Real Property— Requirements for Sale at Auction" renumbered from Sec. 22.0902.1 and amended 3-7-1994 by O-18042 N.S.)

§22.0904 Exchanges of Real Property

No real property belonging to the City shall be exchanged for other real property except in pursuance of a resolution, passed by an affirmative vote of five members of the Council, and containing the following:

- (a) The reason for exchanging such real property.
- (b) The description of the real property to be conveyed by the City.
- (c) The identification of the real property to be conveyed to the City.
- (d) A statement of the value of the real property to be conveyed by the City as disclosed by the report of a qualified real estate appraiser.
- (e) A statement of the value of the real property to be conveyed to the City as disclosed by the report of a qualified real estate appraiser.

- (f) When such valuation is disproportionate, a statement of the consideration to be paid to the owner of the higher valued property.
- (g) A statement that the interest being exchanged is either fee or easement. If the exchange involves easement interests only and the easement interests to be exchanged are approximately equal, subsections (d), (e) and (f) may be omitted from the resolution. If subsections (d), (e) and (f) are omitted, the resolution shall contain a statement that the City Manager certifies that the easement interests to be exchanged are approximately equal in value.

The quitclaim deed or grant deed of the City shall not be delivered to the grantee until the City shall have received the consideration if any to be paid to the City and the deed conveying the property as required by the City.

(“Exchanges of Real Property” renumbered from Sec. 22.0902.2 and amended 3-7-1994 by O-18042 N.S.)

§22.0905 Real Estate Broker’s Registration and Fee

- (a) Whenever the City Council by resolution determines to pay a real estate broker’s commission (fee) in connection with the lease of City-owned real property as provided in Section 22.0901 or in connection with the sale of City-owned real property as provided in Section 22.0902, the commission payment will be made to the broker who meets all of the following conditions:
 - (1) The broker holds a valid State of California real estate broker’s license; and
 - (2) Both the broker’s and client’s name and address are registered with the City Real Estate Assets Director, together with written confirmation by the client that the broker is authorized to represent the client for a specified property:
 - (A) No later than the normal working day preceding the date fixed for the auction sale, or
 - (B) In the case of a non-auction transaction, No later than the date of the first offer to lease or purchase or the date of the request to open negotiations to lease or purchase, whichever first occurs.

- (b) A broker who is a principal in the sale or lease transaction shall not be entitled to a commission. For purposes of this section, principals include officers, directors, shareholders, partners and other financial equity holders as determined by the City Manager at his sole discretion.
- (c) The City of San Diego shall pay a real estate broker's sale or lease commission pursuant to a commission schedule adopted by resolution of the Council which is in effect at the time the sale or lease is presented for final Council approval.
- (d) The City Council shall have the right in every instance to reject any and all bids in any sale or any offer for any lease of City-owned real property without cause or liability and, in the event of such rejection, the City shall not be obligated to pay any broker's fee whatsoever. The intent of Section 22.0905(d) is to make the payment of any real estate commission absolutely contingent upon the acceptance of the bid or of the negotiated agreement and the complete consummation of the sale or lease, including, in the case of a sale, receipt by the City of the full purchase price. A broker who is not registered with the City's Real Estate Assets Director as required under Section 22.0905(a) shall not be entitled to a commission from the City.
- (e) Any dispute between brokers as to which broker is entitled to receive the broker's commission shall be decided by the City Manager, in accordance with recognized real estate industry arbitration procedures as set forth in the California Code of Civil Procedure.
- (f) If a commission is due and payable to any real estate broker as provided in Section 22.0905, the City shall pay the same out of the money received as the purchase price of the property sold or out of the money received as lease payments.
- (g) When the amount of purchase price or rental offered is a criterion for selecting a purchaser or lessee of City property in a competitive situation, the City will consider the highest net purchase price or highest net rental offered, taking into account any brokerage fee involved.

(Amended 3-7-1994 by O-18042 N.S.)

§22.0907 Sales of Real Property to Public Agencies

Subject to the provisions of Section 219 of the Charter of the City of San Diego, whenever the Council shall find that lands belonging to the City are required for public purposes, the said Council may, by resolution, authorize the sale of any of said lands to any political subdivision, or public agency, without advertising for bids and without regard for any of the provisions of Section 22.0902; provided, however, that the sale shall be at such price and upon such terms as the Council shall deem to be fair and equitable and in the public interest.

The City Attorney is authorized to settle any eminent domain action brought by another public agency to acquire City property under the following conditions:

- (a) The value of the property to be conveyed is \$50,000 or less; and
- (b) the value is established by appraisal satisfactory to the City Manager.
(Amended 1-31-1994 by O-18032 N.S.)

§ 22.0908 Sale of Real Property to SDSU

The Existing Stadium Site belonging to the City is needed for Bona Fide Public Purposes by SDSU, a public agency, and for that reason, the City shall sell such property to SDSU in accordance with the City Charter, but only if such sale is in compliance with the conditions herein established.

- (a) Such sale shall be at such price and upon such terms as the Council shall deem to be fair and equitable and in the public interest; and the City may fairly consider various factors, including but not limited to: adjustments, deductions, and equities in arriving at a Fair Market Value.
- (b) Such sale shall proceed without advertising for bids and shall not be subject to any of the provisions of this Code pertaining to the sale of City property, including but not limited to Sections 22.0902, 22.0903, and 22.0907.
- (c) Such sale shall provide for the development of:
 - (1) A new Joint Use Stadium for SDSU Division 1 collegiate football and other Potential Sports Partners including but not limited to professional, premier, or MLS soccer and adaptable for the NFL;
 - (2) A River Park, public trails, walking and biking paths or trails, and associated open space for use by all members of the public;
 - (3) Passive and active recreation space, community and neighborhood parks;
 - (4) Practice, intramural, intermural, and recreation fields;
 - (5) Facilities for educational, research, entrepreneurial, and technology programs within a vibrant mixed-used campus village and research park that is constructed in phases and comprised of:
 - (A) Academic and administrative buildings and classrooms;
 - (B) Commercial, technology, and office space, compatible and synergistic with SDSU's needs, to be developed through SDSU-private partnerships, and with such uses contributing to sales tax and possessory interest tax, as applicable, to the City;

- (C) Complementary retail uses serving neighborhood residents and businesses while also creating an exciting college game-day experience for SDSU football fans and other Potential Sports Partners, and with such retail uses contributing to sales tax and possessory interest tax, as applicable, to the City;
 - (D) Hotel(s) to support visitors to campus and stadium-related events, provide additional meeting and conference facilities, and serve as an incubator for graduate and undergraduate students in SDSU's L. Robert Payne School of Hospitality and Tourism Management; and with such uses contributing to sales taxes, possessory interest taxes, and transient occupancy taxes, as applicable, to the City;
 - (E) Faculty and staff housing to assist in the recruitment of nationally recognized talent, and with such uses contributing to possessory interest taxes, as applicable, to the City;
 - (F) Graduate and undergraduate student housing to assist athlete and student recruitment, and with such uses contributing to possessory interest taxes, as applicable, to the City;
 - (G) Apartment-style homes for the local community interested in residing in proximity to a vibrant university village atmosphere, and with such uses contributing to possessory interest taxes, as applicable, to the City;
 - (H) Other market-rate, workforce and affordable homes in proximity to a vibrant university village atmosphere, and with such uses contributing to possessory interest taxes, as applicable, to the City; and
 - (I) Trolley and other public transportation uses and improvements to minimize vehicular traffic impacts in the vicinity.
- (d) Such sale shall be based on the Fair Market Value of the Existing Stadium Site, and the City may fairly consider various factors, adjustments, deductions, and equities, including, but not limited to: the costs for demolition, dismantling, and removal of the Existing Stadium; the costs associated with addressing current flooding concerns; the costs of existing contamination; the costs for revitalizing and restoring the adjacent River Park and the costs of avoiding, minimizing, and mitigating impacts to biota and riparian habitat.

- (e) Such sale shall be at such price and upon such terms as are fair and equitable, including without limitation payment terms, periodic payments, payment installments, and other payment mechanisms.
- (f) After such sale, the Existing Stadium Site shall be comprehensively planned through an SDSU Campus Master Plan revision process, which process requires full compliance with the California Environmental Quality Act (Pub. Resources Code commencing with section 21000), the State CEQA Guidelines (14 Cal. Code Regs., commencing with section 15000), and Education Code section 67504, subdivisions (c) and (d), along with ample opportunities for public participation, including but not limited to input from the Mission Valley Planning Group.
- (g) Though not required by the SDSU Campus Master Plan revision process, SDSU shall use the content requirements of a Specific Plan, prepared pursuant to California Government Code section 65451, subdivision (a), in completing the SDSU Campus Master Plan revision contemplated by this section.
- (h) The environmental commitment set forth in subdivision (f) shall include the requirements arising under CEQA for SDSU to: (i) take steps to reach agreements with the City of San Diego and other public agencies regarding the payment of fair-share mitigation costs for any identified off-site significant impacts related to campus growth and development associated with the Existing Stadium Site; and (ii) include at least two publicly noticed environmental impact report (EIR) scoping meetings, preparation of an EIR with all feasible alternatives and mitigation measures, allowance for a 60-day public comment period on the Draft EIR, preparation of written responses to public comments to be included in the Final EIR, and a noticed public hearing.
- (i) Such sale shall cause the approximate 34-acre San Diego River Park south of the Existing Stadium Site to be revitalized and restored as envisioned by past community planning efforts so as to integrate the Mission Valley's urban setting with the natural environment; the River Park will incorporate active and passive park uses, 8- to 10-foot wide linear walking and biking trails; a river buffer of native vegetation, and measures to mitigate drainage impacts and ensure compliance with water quality standards. River Park improvements shall be made at no cost to the City General Fund and completed not later than seven years from the date of execution of the sales agreement. The City shall designate or set aside for park purposes the River Park pursuant to City Charter Section 55. In addition, the Existing Stadium Site shall reserve and improve an additional minimum of 22 acres as publicly-accessible active recreation space.

- (j) Such sale shall result in the demolition, dismantling, and removal of the Existing Stadium and construction of a new Joint Use Stadium. The construction of the Joint Use Stadium shall be completed not later than seven years from the date of execution of the sales agreement.
- (k) Such sale shall facilitate the daily and efficient use of the existing underutilized Metropolitan Transit System's Green Line transit station, accommodate a planned Purple Line transit station, and enhance a pedestrian connection to the existing light rail transit center.
- (l) Such sale and ultimate development shall require development within the Existing Stadium Site to comply with the City's development impact fee requirements, parkland dedication requirements, and housing impact fees/affordable housing requirements.
- (m) Such sale and ultimate development shall require development within the Existing Stadium Site to comply with the City's greenhouse gas (GHG) emission reduction goals.
- (n) Such sale, upon completion, shall ensure that the City does not pay for any stadium rehabilitation costs, stadium demolition or removal costs, stadium cost overruns, Joint Use Stadium operating costs, Joint Use Stadium maintenance, or Joint Use Stadium capital improvement expenses; and that the City be reimbursed for reasonable costs incurred by the City in providing public safety and traffic management- related activities for games or other events at the Existing Stadium Site.
- (o) Such sale and ultimate development shall not impair or preclude SDSU from engaging in SDSU-private partnerships with other entities or affiliates to finance, construct, and operate the resulting buildings and facilities on the Existing Stadium Site for a defined period of time.
- (p) Such sale and ultimate development shall not impair the City's ability to continue its plan of environmental remediation of the Existing Stadium Site and River Park based on its existing agreements with responsible parties.
- (q) Such sale shall not raise or impose any new or additional taxes on City residents.
- (r) Such sale shall not prohibit SDSU from leasing, selling, or exchanging any portion of the Existing Stadium Site to an entity or affiliate as part of a SDSU-private partnership/arrangement, or to an SDSU auxiliary organization.

- (s) Such sale shall require SDSU and the City to negotiate fair-share contributions for feasible mitigation and applicable taxes for development within the Existing Stadium Site.
- (t) Such sale shall not change or alter any obligation under any existing lease regarding the use of Existing Stadium Site, or any portion thereof, that continues in effect until approximately 2018 and that could be extended until approximately 2022 or thereafter.
- (u) Such sale shall acknowledge that portions of the Existing Stadium Site are currently owned by the City's Public Utilities Department, which has reserved rights to extract subsurface water, minerals, and other substances (excluding those under permanently erected structures) and that such department has received, and may continue to receive, compensation for its portion of the Existing Stadium Site. If the Initiative is approved, the sale shall acknowledge said department's entitlement, if any, to receive compensation for its portion of the Existing Stadium Site at a price that is fair and equitable, in the public interest, and commensurate with prior compensation actually received.
- (v) Such sale shall require the City and SDSU to cooperate to modify or vacate easements or secure lot line adjustments on the Existing Stadium Site (other than easements of the City or any utility department of the City for which the City retains its full regulatory discretion), so that development of the Existing Stadium Site is facilitated.
- (w) Such sale shall require SDSU or its designee to pay prevailing wages for construction of the Joint Use Stadium and other public improvements, provided that the construction occurs on state-owned property or involves the use of state funding. To the extent possible under state law, all building and construction work shall be performed by contractors and subcontractors licensed by the State of California, who shall make good faith efforts to ensure that their workforce construction hours are performed by residents of San Diego County. With respect to the new Joint Use Stadium, SDSU will use good faith efforts to retain qualified employees who currently work at the Existing Stadium.

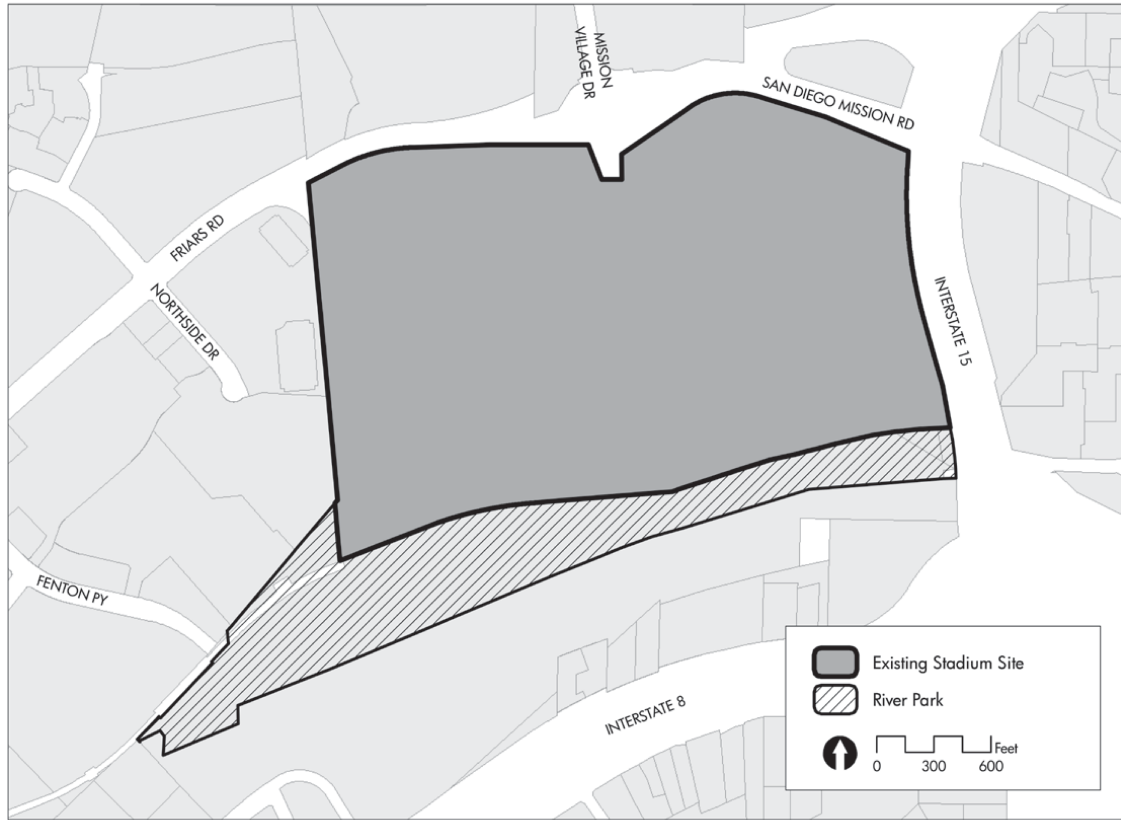
(x) For the purpose of this division, the following definitions shall apply:

- (1) “Bona Fide Public Purposes” means a good faith or genuine use or uses for public or government purposes such as public university uses or facilities; institutional uses or facilities; offices; buildings; stadium, park, open space, trail, and recreation uses and facilities; academic uses and facilities; public parking; faculty, staff, student and residential market-rate and affordable housing; hotel uses and facilities to support university goals and objectives; and public-private partnership support uses and facilities, including but not limited to commercial, neighborhood-serving retail, research, technology, development, entrepreneurial, and residential uses, because all such uses, individually and cumulatively, promote or facilitate SDSU’s higher education mission, goals, and objectives.
- (2) “Campus Master Plan” means an SDSU physical master plan, or any revisions to such plan, to guide future development of SDSU facilities, based on academic goals for an established time horizon.
- (3) “Existing Stadium Site” means the approximate 132-acre real property situated in the City of San Diego at 9449 Friars Road, between Interstate 15 (I-15) and Interstate 8 (I-8), as reflected on the site map, Exhibit A (page A-1).
- (4) “Existing Stadium” means the existing “SDCCU Stadium,” formerly known as Qualcomm Stadium and Jack Murphy Stadium, located on the Existing Stadium Site, as of Initiative Effective Date.
- (5) “Fair Market Value” means the value of the Existing Stadium Site with a date of value that is the date of the “Initiative Notice Date,” defined below. This determination is intended to be based on a value of the Existing Stadium Site that does not consider any later effect on value caused by adoption of this Initiative. In determining the appropriate factors to use, the City may consider an independent appraisal or appraisals of the Fair Market Value of the Existing Stadium Site, which considers the physical condition of the Existing Stadium Site and other above-identified factors, adjustments, deductions, and equities as of the Initiative Notice Date, together with the zoning for such property and other permits and approvals for development, as of the Initiative Notice Date. Any and all such appraisals, including any prepared for SDSU, shall be made available to the public upon submittal to the City.

- (6) “Initiative” means the “SDSU West Campus Research Center, Stadium and River Park Initiative” adopted on the Initiative Effective Date.
- (7) “Initiative Effective Date” means the date that the Initiative becomes effective.
- (8) “Initiative Notice Date” means the date the Notice of Intent is first published signaling the intent to circulate the Initiative.
- (9) “Joint Use Stadium” means a quality multi-use outdoor stadium comprised of approximately 35,000 seats for collegiate and professional sports, including use for SDSU Division 1 football, National Collegiate Athletic Association Football Bowl Subdivision Division 1 programs, the National Football League, professional, premier, or Major League Soccer, collegiate and professional football bowl games, other sports, and other events, including without limitation concession areas, restaurants, bars, clubs, retail stores, kiosks, media facilities, athletic training and medical facilities, locker rooms, offices, meeting rooms, banquet facilities, ticketing facilities, on- and off-site signage, scoreboards, and other ancillary and support uses and facilities customarily made part of a stadium of the quality necessary to house collegiate and professional or premier sports, civic events, conventions, exhibitions, concerts and other outdoor events. SDSU also can explore, and proceed with, a phased build-out of such stadium that will allow SDSU to add on to such stadium at a later point to facilitate SDSU growth and acquisition of Potential Sports Partners.
- (10) “Potential Sports Partners” means collegiate or professional sports leagues including but not limited to football, soccer, esports, or other high level or premier sports leagues, clubs, or franchises.
- (11) “River Park” means approximately 34-acres of land south of the Existing Stadium Site to be revitalized and restored as envisioned by past community planning efforts so as to integrate the Mission Valley’s urban setting with the natural environment (Exhibit A); the River Park will incorporate active and passive park/recreation uses, 8- to 10-foot wide linear walking and biking trails; a river buffer of native vegetation, and measures to mitigate drainage impacts and ensure compliance with water quality standards.

- (12) “SDSU” means San Diego State University, a California State University, with authority delegated by the Board of Trustees of the California State University, which is the State of California acting in its higher education capacity; and any SDSU auxiliary organization, entity, or affiliate. As defined, SDSU is a public university; and as such, acts in its capacity as a state public agency. Nothing in this Initiative abrogates, or is intended to abrogate, the authority of the Board of Trustees of the California State University.
- (y) This section shall be liberally construed in order to effectuate its purpose, intent and findings. No error, irregularity, informality, and no neglect or omission of any officer, in any procedure taken under this division which does not directly affect the jurisdiction of the City to order the work, contract, or process shall void or invalidate such work, contract, or process done thereunder.
- (zz) Nothing in this section abrogates, or is intended to abrogate, the Mayor’s administrative and executive authority, particularly with regard to engaging in good faith contract negotiations, including purchase and sales agreements for the City. The section does not mandate, dictate, or impede the Mayor’s administrative or executive authorities; instead, the section makes clear the City’s legislative policy is to sell the Existing Stadium Site to SDSU for Bona Fide Public Purposes consistent with the purpose, intent, findings, and conditions set forth above in this section.
- (aa) The sale of the Existing Stadium Site to SDSU, and its other related provisions, shall be independent of, and shall not be subject to, any previously enacted City ordinance or resolution pertaining to the sale of property owned or controlled by the City, including but not limited to Sections 22.0902 (sales of real property), 22.0903, and 22.0907 (sales of real property to public agencies) of the San Diego Municipal Code.

Exhibit A - Site Map



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(“Sale of Real Property to SDSU” added 7-30-2018 by O-20967 N.S.; effective 12-10-2018.)