



**CITY OF**

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# **NEWPORT BEACH**

## **City Council Staff Report**

July 26, 2022  
Agenda Item No. 4

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** Seimone Jurjis, Community Development Director - 949-644-3232,  
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**TITLE:** Resolution No. 2022-48: Declaring a Portion of City-Owned Property at 1516 Balboa Boulevard West Property as Exempt Surplus Land, and Sale of the Property Under an Agreement for Purchase and Sale of Real Property and Escrow Instructions with Orange County Sanitation District

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**ABSTRACT:**

The City of Newport Beach (City) owns a parcel of land at 1516 Balboa Boulevard West on the Balboa Peninsula. Most of the parcel is currently developed as part of the Marina Park Community Center and operates as a parking lot. A small portion of the lot was left undeveloped in anticipation of selling it to the Orange County Sanitation District (OC San) to use with its adjacent pump station property. For the City Council's consideration is an Agreement for Purchase and Sale of Real Property and Escrow Instructions, to sell the property to OC San.

**RECOMMENDATION:**

- a) Determine this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this action will not result in a physical change to the environment, directly or indirectly;
- b) Adopt Resolution No. 2022-48, *A Resolution of the City Council of the City of Newport Beach, California, Declaring a Portion of City-Owned Property Located at 1516 Balboa Boulevard West, Newport Beach, California as Exempt Surplus Land*;
- c) Authorize the City Manager and City Clerk to execute the Agreement for Purchase and Sale of Real Property and Escrow Instructions, and all associated documents necessary to complete the sale transaction, with Orange County Sanitation District, to sell a portion of the property at 1516 Balboa Boulevard West, for a price of \$467,629.56, in a form substantially similar to the agreement prepared by the City Attorney; and
- d) Approve Budget Amendment No. 23-009 to record \$467,629.56 of property sale proceeds as revenue to the General Fund.

## **DISCUSSION:**

In 2014, the City acquired an approximately 5,872 square foot property at 1516 Balboa Boulevard West (Property) from Southern California Edison (SCE). The Property was incorporated into the redevelopment of the adjacent City-owned property, what is now the Marina Park Community Center (Marina Park). The purchase included a cash payment from the City, as well as acknowledgement of a non-cash charitable contribution by SCE. SCE had three years from the sale to claim the tax benefit of the charitable contribution, during which time the City held ownership of the Property.

The City completed construction of Marina Park in late 2015. A parking lot was built on most of the Property as part of the project. Approximately 1,042 square feet along the eastern edge of the Property (Transfer Area) was left vacant and undeveloped and the City planned for the area to be sold to OC San, the adjacent property owner, to improve access and circulation around the existing pump station, which serves Newport Beach exclusively. Since the property benefits OC San's access and circulation, it has no significant value to anyone else. Therefore, the value of the property was established based on a 2012 appraisal report adjusted for CPI.

The City and OC San have negotiated terms of an Agreement for Purchase and Sale of Real Property and Escrow Instructions (Agreement) (Attachment A), to sell the Transfer Area to OC San.

At its meeting on June 23, 2022, the Board of Directors of OC San reviewed and approved the proposed Agreement, and their signatures are included on Attachment A.

### **Proposed Agreement**

The proposed terms of the sale are summarized below:

1. OC San will pay the City a purchase price of \$467,629.56;
2. OC San will deposit \$167,867 in earnest money, which money will become non-refundable after the expiration of the due diligence period;
3. OC San will have a 45-day due diligence period from the opening of escrow, to inspect the property and perform any tests to determine its condition;
4. OC San is accepting the property in "as-is" condition;
5. OC San will process a lot line adjustment to incorporate the Transfer Area into its parcel;
6. Escrow will close 180 days from the opening of escrow, or 15-days after the lot line adjustment is ready to record; and
7. City and OC San will each pay half of the closing costs, and OC San will pay for its own owner's title insurance policy.

The Agreement has been prepared by the City Attorney's Office and has been approved as to form.

#### **California Surplus Land Act**

Pursuant to the requirements of state law at the time, the City issued a notice of surplus land in September 2017, soliciting offers from other public agencies and interested parties for the Transfer Area, in compliance with the California Surplus Land Act (SLA) (Government Code §54222). The City did not receive interest in the Transfer Area from any of the parties contacted.

Assembly Bill 1486 was signed into law in 2019, and went into effect in 2020, and made significant changes to the SLA. In compliance with the updated SLA, prior to disposing of surplus land the City Council is required to take formal action at a regular public meeting to declare the property as surplus land (Attachment B). The Transfer Area meets the definition of exempt surplus land under the SLA because the area is not necessary for the City's use and has not been used for City purposes following its acquisition. The Transfer Area also meets the size and use constraints outlined in the SLA, and the property is being transferred to another local agency for its use. These findings are outlined in the proposed resolution and have been submitted to the California Department of Housing and Community Development for its review pursuant to the changes to SLA under the 2019 bill.

#### **FISCAL IMPACT:**

The attached Budget Amendment records \$467,629.56 of revenue to the General Fund from the sale of the property, which will ultimately be reduced by the City's share of closing costs (anticipated to be less than \$5,000). Staff will administratively reduce the revenue budget once the final closing costs are known. The revenue will be posted to the Sale of Property account in the Community Development Department – 01050505-611005.

#### **ENVIRONMENTAL REVIEW:**

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

#### **NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

**ATTACHMENTS:**

Attachment A – Agreement for Purchase and Sale of Real Property and Escrow  
Instructions

Attachment B – Resolution No. 2022-48

Attachment C – Budget Amendment No. 23-009