

RESOLUTION NUMBER R- 315486
DATE OF FINAL PASSAGE APR 22 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING (1) AN ENCROACHMENT MAINTENANCE AND REMOVAL AGREEMENT AND (2) AN EASEMENT AGREEMENT, BOTH RELATED TO A PORTION OF CITY-OWNED REAL PROPERTY LOCATED AT THIRD AVENUE AND OLIVE STREET (APN 452-718-01) WITH THE OWNER OF THE ADJACENT PROPERTY AT 2765 SECOND AVENUE (APN 452-718-02), JENNIFER J. HASSO-NAJM, TRUSTEE OF THE NAJM FAMILY TRUST DATED 05-19-97.

WHEREAS, in 2015, the City of San Diego (City) began planning to develop certain City-owned property located at Third Avenue and Olive Street, designated as Assessor's Parcel Number 452-718-01 (City Property), into an active park; and

WHEREAS, in 2018, certain disputes arose between the City and Jennifer J. Hasso-Najm, as trustee of The Najm Family Trust Dated 05-19-97 (Ms. Hasso) and owner of the single-family home located at 2765 Second Avenue, designated as Assessor's Parcel Number 452-718-02 (Hasso Home), with respect to a portion of the City Property, which Ms. Hasso had used as her backyard for many years; and

WHEREAS, in 2019, Ms. Hasso sued the City in federal court to establish the accurate property line between the Hasso Home and the City Property (Action); and

WHEREAS, in May 2021, Ms. Hasso and the City entered into a settlement agreement (as amended, Settlement Agreement), under which the parties agreed to the boundaries of the City Property and Ms. Hasso agreed to dismiss the Action; and

WHEREAS, under the Settlement Agreement, the parties agreed to enter into a mutually agreeable (i) Encroachment Maintenance and Removal Agreement (EMRA) to address Ms. Hasso's free-standing encroachments on a portion of the City Property, including a bench, a

lamppost, a retaining wall, and other landscaping elements; and (ii) Easement Agreement to address certain fixtures attached to the Hasso Home that encroach upon the City Property, including the chimney, gas meter, and bay window; and

WHEREAS, the Settlement Agreement does not require Ms. Hasso to pay monetary consideration to the City for the EMRA or the Easement Agreement; and

WHEREAS, consistent with Council Policy 700-10, an independent MAI appraiser determined that the value of the easement granted by the City under the Easement Agreement is \$11,000, which cost the City agreed to pay under the Settlement Agreement; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided 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, as follows:

1. The Council approves the EMRA and the Easement Agreement.
2. The Mayor or designee is authorized, on behalf of the City, to sign, deliver, and record the EMRA and the Easement Agreement and all documents necessary or appropriate to perform the City's obligations under the EMRA and the Easement Agreement. Copies of the EMRA and the Easement Agreement, when fully signed, shall be placed on file in the Office of the City Clerk as Document Nos. RR- 315486-1 and RR- 315486-2, respectively.

APPROVED: MARA W. ELLIOTT, City Attorney

By Kevin Reisch /for
Brian W. Byun
Deputy City Attorney

BWB:nja
03/15/2024
Or. Dept: READ

Doc. No. 3565030

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 09 2024.

DIANA J.S. FUENTES
City Clerk

By 
Deputy City Clerk

Approved: 4/22/24
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on APR 09 2024, 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"/> |
| Henry L. Foster III | <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 APR 22 2024.

(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

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| Office of the City Clerk, San Diego, California |
| Resolution Number R- <u>315486</u> |