

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIALTO, ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF RIALTO, DECLARING CERTAIN REAL PROPERTY EXEMPT SURPLUS PURSUANT TO THE SURPLUS LAND ACT; AND APPROVING A PURCHASE AND SALE AGREEMENT FOR THE DISPOSITION OF REAL PROPERTY BY THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF RIALTO IN ACCORDANCE WITH ITS APPROVED LONG RANGE PROPERTY MANAGEMENT PLAN TO NEWMARK MERRILL COMPANIES, INC.

WHEREAS, the Successor Agency to the Redevelopment Agency of the City of Rialto (“Successor Agency”) have been established to oversee the wind down of the affairs of the former Redevelopment Agency of the City of Rialto in accordance with California Health and Safety Code (“HSC”) Section 34179; and

WHEREAS, the Successor Agency received a Finding of Completion on May 9, 2013 from the California Department of Finance (“DOF”); and

WHEREAS, as a result of its receipt of a Finding of Completion, the Successor Agency was required to (i) prepare a “Long Range Property Management Plan” (“LRPMP”) in accordance with the requirements of HSC Section 34191.5(c), and (ii) submit the LRPMP to the Oversight Board and DOF for approval within six (6) months of the date of the Finding of Completion; and

WHEREAS, the Successor Agency prepared its LRPMP in accordance with HSC Section 34191.5(c) and submitted to the Oversight Board for approval; and

WHEREAS, on December 3, 2014, the Oversight Board approved the LRPMP, as amended by Amendment No. 1 and Amendment No. 2 and directed that it be submitted to DOF for approval in accordance with HSC Section 34191.5(b); and

WHEREAS, the Successor Agency submitted the LRPMP, as amended, to DOF on December 8, 2014; and

WHEREAS, the Successor Agency received notice of DOF’s approval of the LRPMP on March 10, 2015; and

WHEREAS, as required by HSC Section 34191.5(a), the Successor Agency established a “Community Redevelopment Property Trust Fund” (“CRPTF”) to serve as a repository for the real property held by the Successor Agency; and

WHEREAS, the LRPMP provides that the Successor Agency shall have the right to market Successor Agency Disposition Properties for development for not less than five (5) years following

DOF approval of the LRPMP or until January 1, 2019, whichever occurs later (“Initial Marketing Period”); and

WHEREAS, the initial five-year Initial Marketing Period would have terminated on March 9, 2020; and

WHEREAS, the LRPMP provides further that the Successor Agency shall have the right, at its sole and absolute discretion, to extend the Initial Marketing Period by an additional five (5) years (for a total of ten (10) years) by submitting written notice to the Oversight Board stating the Successor Agency’s election to extend the Initial Marketing Period; and

WHEREAS, the Successor Agency previously determined to elect to extend the Initial Marketing Period by an additional five (5) years; and

WHEREAS, concurrent with submittal of this Resolution to the Countywide Oversight Board, the Successor Agency will provide to the Countywide Oversight Board written notice reaffirming its election to extend the Initial Marketing Period for an additional five (5) years, such extended Initial Marketing Period to terminate on March 9, 2025; and

WHEREAS, the LRPMP lists Project #12 – Gateway Commercial/WalMart Supercenter Block as a City Disposition Property (as defined in the LRPMP) consisting of seven (7) parcels; and

WHEREAS, the City of Rialto (“City”) determined that it was in the best interests of the public and the City to construct Fire Station 205 on property located at 1485 Willow Avenue rather than on property located at 2530 South Lilac Avenue as originally contemplated by the LRPMP; and

WHEREAS, the City entered into a Compensation Agreement with all affected taxing entities in connection with its acquisition of the property located at 1485 Willow Avenue, Rialto, California, being a portion of Assessor Parcel numbers 0132-161-13 and 0132-202-06 (the “Fire Station 205 Property”); and

WHEREAS, on September 11, 2018, the Successor Agency approved a Purchase and Sale Agreement with the City providing for the sale of the Fire Station 205 Property to the City for governmental use; and

WHEREAS, the Successor Agency owns the remaining parcels described in the LRPMP as Project #12 – Gateway Commercial/WalMart Supercenter Block, being APNs 0132-101-07, 0132-101-08, 0132-101-15, 0132-101-16, 0132-111-03, and portions of APNs 0132-161-13 and 0132-202-06 (the “Property”); and

WHEREAS, the LRPMP designates the Property for “transfer to the City for future development”; and

WHEREAS, the City entered into an Exclusive Right to Negotiate Agreement, dated June 27, 2017, as amended (the “2017 ENA”), between the City and NewMark Merrill Companies, Inc. relating to the disposition and development of the Property; and

WHEREAS, for the purpose of documenting the ongoing exclusive negotiations with NewMark Merrill Companies, Inc., the City subsequently entered into a new Exclusive Right to Negotiate Agreement, dated December 8, 2020 (the “2020 ENA”), between the City and NewMark Merrill Companies, Inc. relating to the disposition and development of the Property, as amended on June 22, 2021; and

WHEREAS, in order to facilitate the conveyance of the Site by the Successor Agency and to further the economic development goals established by the LRPMP, the City has requested that the Successor Agency enter into a purchase and sale contract with NewMark Merrill Companies, Inc. for the Property; and

WHEREAS, the Successor Agency has received an offer to purchase the Property for a purchase price of \$3,508,758, based on an MAI appraisal with a date of valuation of June 27, 2021, a copy of which is on file in the Office of City Manager; and

WHEREAS, the Successor Agency believes the offer represents the fair market value of the Property; and

WHEREAS, the Successor Agency desires to accept the offer and enter into a Purchase and Sale Agreement with NewMark Merrill Companies, Inc., for the sale of the Property in accordance with the LRPMP and direct certain other actions related thereto;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIALTO, ACTING AS THE SUCCESSOR AGENCY TO THE REDEVEOPMENT AGENCY OF THE CITY OF RIALTO, DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

SECTION 1. The Recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2. The Successor Agency hereby finds, determines and declares as follows:

A. The Property is held in the Community Redevelopment Property Trust Fund established by the Successor Agency and is designated in the Successor Agency to the Redevelopment Agency of the City of Rialto Long Range Property Management Plan, as approved by the California Department of Finance on March 10, 2015.

B. The Property has been the subject of continuous and ongoing negotiations between the City and NewMark Merrill Companies Inc. pursuant to the 2017 ENA and the 2020 ENA, contemplating its disposition and development.

C. The Purchase and Sale Agreement between the Successor Agency and NewMark Merrill Companies, Inc. that is the subject of this Resolution provides for an outside closing date of December 31, 2022.

SECTION 3. Based on the findings of fact set forth in Section 2 hereof, the Successor Agency hereby declares that the Property is “exempt surplus” property pursuant to the Surplus Land Act, being Government Code, Title 5, Division 2, Part 1, Chapter 5, Article 8, commencing with Section 54220.

SECTION 4. The Purchase and Sale Agreement by and between the Successor Agency and NewMark Merrill Companies, Inc., is approved in substantially the form attached hereto. The Successor Agency will utilize the proceeds of the sale to make payments on the enforceable obligations listed on the ROPS approved by DOF, with excess proceeds (if any) to be distributed to other taxing entities in accordance with HSC Section 34179.5(c)(2).

SECTION 5. The Successor Agency staff are directed to promptly submit the fully executed Purchase and Sale Agreement to the Countywide Oversight Board for review and approval.

SECTION 6. The Successor Agency staff are directed to submit a certified copy of this Resolution to the California Department of Housing and Community Development in accordance with the Surplus Land Act Guidelines dated April 2021.

SECTION 7. The Successor Agency governing board and the Successor Agency staff are authorized and directed to do any and all things, and to execute any and all documents, including, without limitation, a Purchase and Sale Agreement substantially in the form attached hereto, which upon consultation with Successor Agency legal counsel they may deem necessary or advisable to effectuate the transactions contemplated by this Resolution. Any previously taken acts or previously executed documents in furtherance of the subject matter hereof are hereby ratified.

SECTION 8. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency governing board hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 9. This Resolution shall take effect from and after the date of its adoption.

PASSED APPROVED AND ADOPTED this _____ day of _____, 2021.

DEBORAH ROBERTSON, Mayor

ATTEST:

BARBARA MCGEE, City Clerk

APPROVED AS TO FORM:

ERIC S. VAIL, City Attorney

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF RIALTO)

I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing Resolution No. ____ was duly passed and adopted at a regular meeting of the City Council of the City of Rialto held on the ____ day of _____, 2017.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing Resolution No. ___ was duly passed and adopted.

Vote on the motion:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City
of Rialto this _____ day of _____, 2017.

BARBARA McGEE, CITY CLERK