

Resolution No. 2015-09-01-1201-01

STOCKTON CITY COUNCIL

RESOLUTION APPROVING THE FILING OF NOTICE OF EXEMPTION NO. CE009-15, APPROVING THE SALE OF REAL PROPERTY FROM THE CITY OF STOCKTON TO CHARLES TOLEDO AND REBECCA TOLEDO AND AMENDING THE FISCAL YEAR 2015-16 ANNUAL CAPITAL FUND BUDGET

The owners of C & R International Sales Inc., Charles Toledo and Rebecca Toledo (buyers), have offered to purchase a portion of City of Stockton's (City) property located at 2501 Navy Drive for the appraised value of \$490,000; and

This sale of the easterly portion of the property to the buyers will expand their property to accommodate truck turning movements associated with the CalTrans Navy Drive widening project; and

This project is exempt from the California Environmental Quality Act (CEQA) as specified under Article 19, Section 15301, Class 1 of the CEQA Guidelines; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The City Manager is authorized to approve the filing of Notice of Exemption No. CE009-15 under CEQA, a copy of which is attached as Exhibit 1 and incorporated by this reference.
2. The City is hereby authorized to sell and convey to the buyers that portion of real property located at 2501 Navy Drive, as more particularly described in the Agreement for Purchase and Sale of Real Property, which is attached hereto as Exhibit 2, and incorporated by this reference, and to settle all costs of every kind and description resulting from the disposition of said interest in real property.
3. It is hereby declared that notice of the intention to sell or dispose of City-owned property, as more particularly described in the Agreement, was duly published in accordance with the provisions of Article V, Section 510, of the Charter of the City.
4. The total purchase price of said property is \$490,000.
5. The City and the buyers shall each pay one-half of the escrow fees. The buyers are responsible for their closing costs, including title insurance, and all survey and lot line adjustment costs. The City is responsible for the cost of the documentary transfer taxes. The City's costs will be deducted from the sale proceeds.

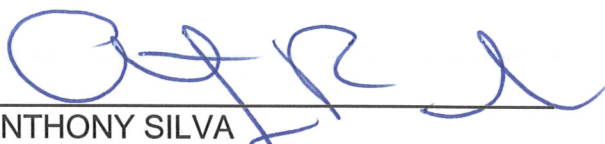
6. All of the specific terms and conditions of this transaction are as expressly provided in the Agreement for the Purchase and Sale of Real Property.

7. The City Manager is hereby authorized to execute the deed and/or other instrument of conveyance, as provided in the Agreement for the Purchase and Sale of Real Property, and the City Manager is hereby authorized to execute the Agreement and any other documents that are appropriate to carry out the purposes hereof.

8. In accordance with section 65402 of the Government Code, it has been determined that this project or action conforms to the City's General Plan designation for the site and with the General Plan Policy Document, as amended.

9. The City Manager is hereby authorized and directed to execute the Agreement for the Purchase and Sale of Real Property and any documents necessary to carry out the purposes hereof, and to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Resolution.

PASSED, APPROVED, and ADOPTED September 1, 2015.


ANTHONY SILVA
Mayor of the City of Stockton

ATTEST:


BONNIE PAIGE
City Clerk of the City of Stockton

The seal of the City of Stockton is circular. It features a central illustration of a landscape with a mountain, a river, and a ship. The text "STOCKTON FOUNDED JUNE 1849" is written along the top inner edge, and "INCORPORATED JULY 1850" is written along the bottom inner edge. There are small stars on either side of the central illustration.

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**CITY OF STOCKTON
NOTICE OF EXEMPTION**

TO: COUNTY CLERK
COUNTY OF SAN JOAQUIN
6 South El Dorado Street, 2nd Floor
Stockton, CA 95202

FROM: Lead Agency
City of Stockton
c/o Community Development Dept.
Planning Division
425 North El Dorado Street
Stockton, CA 95202-1997

**NOTICE OF EXEMPTION PURSUANT TO PUBLIC RESOURCES CODE SECTION 21152(B) AND CALIFORNIA
CODE OF REGULATIONS TITLE 14, SECTION 15062**

PROJECT DATA

Project Title: Sale of a Portion of 2501 Navy Drive
CEQA Exemption File No.: CE009-15
Applicant: Economic Development Department
Project Description/Location: Sale of a portion of the property at 2501 Navy Drive

DETERMINATION/FINDING OF EXEMPTION

The above-described activity/project is exempt from the environmental assessment requirements of the California Environmental Quality Act (CEQA) pursuant to the following section(s) of the State CEQA Guidelines (California Code of Regulations, Title 14):

- ☐ The activity is not a "project" as defined in Section 15378.
- ☐ The activity is exempt under the "general rule" that CEQA applies only to projects which have the potential for causing significant environmental effects, as specified in Section 15061(B)(3).
- ☐ The project has been granted a "Statutory Exemption" under Article 18 and, specifically, by Section(s):
- ☒ The project has been granted a "Categorical Exemption" under Article 19 and, specifically, by Section(s): 15312, Class12.

BASIS FOR FINDING OF EXEMPTION

- ☐ The activity does not qualify as a project and/or clearly could not have a significant effect on the environment and, therefore, CEQA does not apply.
- ☒ The activity constitutes a discretionary project under the City's jurisdiction and qualifies as a project which has been determined not to have a significant effect on the environment and, therefore, is exempt from the provisions of CEQA under the above-noted statutory or categorical exemption(s).

JENNY LAIW, SENIOR PLANNER
PLANNING AND ENGINEERING SERVICES DIVISION

June 3, 2015
(DATE OF PREPARATION)

By 
SENIOR PLANNER JENNY LAIW

(DATE OF FINAL APPROVAL)

AFFIDAVIT OF FILING AND POSTING

I declare that on the date stamped above, I received and posted this notice or included it on a list of such notices which was posted as required by California Public Resources Code Section 21152(B). Said notice or list of notices will remain posted for 35 days from the filing date.

Signature

Title

Posting Period Ending Date

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AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY

This Agreement for the Purchase and Sale of Real Property ("Agreement") is made and entered into on _____ (Effective Date) by and between Charles Toledo and Rebecca Toledo, ("Buyer") and THE CITY OF STOCKTON, a municipal corporation, ("Seller".)

IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Seller agrees to sell and grant fee title to Buyer, and Buyer agrees to purchase from Seller, that certain portion of real property consisting of approximately 1.19 acres located at 2501 Navy Drive, City of Stockton, County of San Joaquin, State of California ("Property"), upon the terms and conditions set forth in this Agreement subject to those liens, encumbrances, conditions, restrictions, easements, and rights of possession of record.

2. The total purchase price to be paid by Buyer for the Property shall be the sum of FOUR HUNDRED NINETY THOUSAND DOLLARS (\$490,000). Buyer will make a deposit of TWENTY THOUSAND DOLLARS (\$20,000) in escrow within two (2) days of mutual execution of this agreement. Buyer will have a Due Diligence Period of forty-five (45) days from the Effective Date after which time the deposit will become non-refundable but applicable to the purchase price. Buyer to notify the Seller in writing prior to the expiration of the due diligence period if Buyer terminates this agreement.

3. Buyer agrees to perform and pay for all necessary engineering work and all other fees including any title costs associated with and necessary to prepare and record a legal description and plat map of the estimated 1.19 acre parcel of APN #163-320-01 and as shown in Exhibit "A". Buyer agrees to provide a legal description of the total area to be acquired that is acceptable to the Seller prior to the close of escrow.

4. Seller grants to Buyer, its employees, agents, and contractors, permission to enter upon the easterly 120 foot portion of the Property as shown in Exhibit "B" prior to the close of escrow for the purpose of constructing a truck turning area for the benefit of 2403 Navy Drive (APN # 163-320-02) and accomplishing all incidents necessary thereto. It is understood that this permission is not a waiver in any way of the right of compensation for the sale that is the subject of this agreement or of any remedy authorized by law to secure payment thereof for the property rights to be granted. The right of the Buyer to enter said property shall commence upon the Effective Date of this agreement and shall remain in effect until it is terminated by mutual agreement or upon close of escrow. Buyer, its agents, employees, and contractors shall not commence any work onsite before obtaining, the policies of insurance specified in Exhibit "C", which is attached to this agreement and incorporated by this reference. Buyer, its agents, employees, and contractors further agree to maintain said insurance in force at all times during the duration and performance of this agreement. Buyer shall indemnify and hold Seller harmless from any liability resulting from the use and occupancy of said property under this provision.

5. Buyer agrees to allow the Seller to continue to occupy the Municipal Utilities stores building and adjoining land as shown in Exhibit "D" after close of escrow for a period

of six (6) months at no cost to the Seller. Unless written notice is given by either party prior to expiration of the Initial Term, the Initial Term shall be extended for up to six (6) months commencing on the day following the end of the Initial Term however, the extended term will allow Seller to occupy one half of the stores building with the Buyer paying for the required security divider.

6. Seller makes no representation or warranty whatsoever regarding the Property, the physical condition of the Property, its past use, its compliance with laws (including, without limitation, laws governing environmental matters, zoning, and land use), or its suitability for Buyer's intended or future use. The Property is sold AS-IS, WHERE-IS, WITH ALL FAULTS, AND THERE IS NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE CONDITION OF THE PROPERTY. Buyer hereby represents and warrants that Buyer is relying solely upon its own independent inspection, investigation, and analysis of the Property as it deems necessary or appropriate in so acquiring the Property from Seller and is not in any way or manner relying on any written or oral representation of the Seller in connection with the sale of the Property to the Buyer pursuant to the terms of this Agreement.

7. Cost of CLTA insurance, preliminary title report, and documentary transfer taxes, if any, associated with the transfer of the property to be acquired shall be paid by Seller. Buyer to be solely responsible for any additional ALTA owner's coverage requested on the property. The cost of the Escrow fees, Escrow Holder's customary out-of-pocket expenses for messenger services, long distance telephone, etc. shall be paid in equal parts by Buyer and Seller.

8. Taxes, assessments, penalties, interest charges, delinquency charges, and municipal service charges of every kind levied upon or assessed against the Property in the Seller's name, except as otherwise expressly set forth herein, shall be paid by Seller to the date of recording.

7. For the purpose of conveying the herein described fee title to Buyer, Seller shall execute, acknowledge and deliver a Grant Deed, for recordation with the San Joaquin County Recorder, to be used in accordance with this Agreement, upon completion by Buyer of all necessary conditions.

9. For the benefit of Buyer, the Close of Escrow and Buyer's obligation to consummate the purchase of the Property shall be contingent upon and subject to Buyer's approval of a Preliminary Title Report issued by Chicago Title Company within ten (10) days from the Buyer's receipt of the Preliminary Title Report. Buyer will have forty-five (45) days from the Effective Date to perform its due diligence inspections and reviews. Buyer will have 10 days from the Effective Date of the agreement to request due diligence items from Seller and Seller will have 10 days to deliver requested items in its possession.

10. The Close of Escrow shall be no later than the first business day occurring ninety (90) days after the Effective Date of this Agreement signed by both Buyer and Seller. Each party agrees to execute escrow instructions as may be necessary or proper in order to consummate the transaction contemplated by this Agreement.

11. Buyer acknowledges that if desired, it will perform its own due diligence inspections of the property and agrees to hold the Seller harmless as to the condition of any improvements located on the property at time of close of escrow. Buyer agrees that the information obtained from Seller or pursuant to any inspections completed by Buyer shall be kept in confidence and will not be revealed to outside parties other than lenders, principals, affiliates or clients or as required by law or for a valid business purpose of Buyer.

Buyer agrees to indemnify, save, hold harmless, and at City's request, defend the City, its officers, agents, and employees from any and all costs and expenses (including attorney and legal fees), damages, liabilities, claims, and losses occurring or resulting to the City in connection with the performance, or failure to perform, by Buyer or its contractor, officers, agents, sub-contractors, employees, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable in regards to performing any due diligence inspections under this Agreement, and from any and all costs and expenses (including attorney and legal fees), damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of Buyer, contractor, its officers, agents, or employees while performing any due diligence inspections under this Agreement. The duty to defend and the duty to indemnify are separate and distinct obligations. The indemnification obligations of this section shall survive the termination of this agreement.

12. Buyer shall, upon request by Seller, execute, acknowledge and deliver such documents or take such action as may be necessary or convenient to carry out the spirit and intent of this Agreement.

13. Any notice which either party may or is required to give shall be in writing and given by personal delivery or mailing same by certified mail, return receipt requested, postage prepaid, to the other party at the address shown below or at such other place as may be designated by the parties from time to time, and any notice so mailed shall be deemed received on the third day after mailing.

Buyer's address: Charles and Rebecca Toledo
29484 East River Road
Escalon, CA 95320

Seller's address: City of Stockton
425 N. El Dorado Street
Stockton, CA 95202
Attn: City Manager

Escrow Holder: Chicago Title Company
2021 W. March Lane, Suite #1A
Stockton, CA 95207
Attn: Lisa Westfall

14. Time is of the essence in this Agreement
15. This Agreement is subject to final approval by the City Council of the City of Stockton.

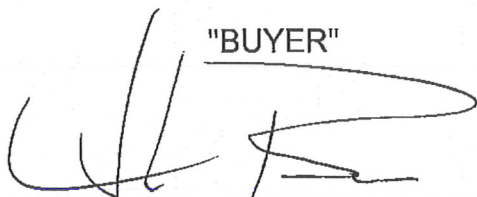
16. If suit should be brought for any sum due or the enforcement or declaration of any obligation or right hereunder, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorney's fees.

17. This Agreement shall bind and inure to the benefit of the parties and their respective successors, heirs, executors, administrators and assigns.

18. This agreement represents the entire and integrated agreement between Seller and Buyer and supersedes all prior negotiations, representations, or agreements, either written or oral. This agreement may be amended only by written instrument signed by both parties.

19. The undersigned represent and warrant they are duly authorized to execute the Agreement and to bind the parties.

DATED: 4/23/2015

"BUYER"


CHARLES TOLEDO


REBECCA TOLEDO

BUYER'S ATTORNEY:

By: _____

"SELLER"

CITY OF STOCKTON

APPROVED AS TO FORM AND CONTENT

JOHN M. LUEBBERKE
CITY ATTORNEY

By: _____
DEPUTY CITY ATTORNEY

By: _____
LAURIE MONTES
DEPUTY CITY MANAGER

Attachment A



Attachment B



Attachment C



Exhibit D:
Insurance Requirements
(Right of Entry)

Lessee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the leased premises. The cost of such insurance shall be borne by the Lessee.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than **\$1,000,000** per accident for bodily injury or disease. (for lessees with employees).
4. **Property insurance** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

If the Lessee maintains higher limits than the minimums shown above, the City of Stockton requires and shall be entitled to coverage for the higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Stockton.

Other Insurance Provisions:

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City of Stockton, its Mayor, Council, officers, representatives, agents, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Lessee

including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Lessee's insurance (at least as broad as ISO Form CG 20 10 11 85).

Primary Coverage

For any claims related to this contract, the Lessee's insurance coverage shall be primary insurance as respects the City of Stockton, its Mayor, Council, officers, representatives, agents, employees, and volunteers. Any insurance or self-insurance maintained by the City of Stockton, its Mayor, Council, officers, representatives, agents, employees, and volunteers shall be excess of the Lessee's insurance and shall not contribute with it. The City of Stockton does not accept primary endorsements limiting the Lessee's insurance coverage to sole negligence.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Stockton.

Waiver of Subrogation

Lessee hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Lessee may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Lessee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City of Stockton Risk Services. The City of Stockton may require the Lessee to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII if admitted to do business in the State of California; If not admitted to do business in the State of California, insurance is to be placed with insurers with a current A.M. Best's rating of no less than A+:X.

Verification of Coverage

Lessee shall furnish the City of Stockton with original certificates and amendatory endorsements required by this clause. All certificates and endorsements are to be received and approved by the City of Stockton Risk Services before work commences. Failure to obtain the required documents prior to the work beginning shall not waive the Lessee's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time, for any reason or no reason.

Special Risks or Circumstances

City of Stockton reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Certificate holder address

Proper address for mailing certificates, endorsements and notices shall be:

- City of Stockton
- Attention: Risk Services
- 425 N. El Dorado Street
- Stockton, CA 95202

City of Stockton Risk Services Phone: 209-937-5037

City of Stockton Risk Services Fax: 209-937-8558

Maintenance of Insurance

If at any time during the life of the Contract or any extension, the Lessee fails to maintain the required insurance in full force and effect, the CITY may terminate this Contract.