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Los Angeles, CA 90012

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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 13 - 0 0 1 2
JAN 0 3 2013

REPORT RE:

DRAFT ORDINANCE AUTHORIZING THE SALE OF BISHOP NURSERY

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 12-1514

Honorable Members:

This Office has prepared and now transmits for your consideration, approved as to form and legality, the enclosed draft ordinance (referred to as the "Sale of Bishop Nursery"). The purpose of the ordinance is to authorize the sale of the real property listed below, owned by the City of Los Angeles and under the control of the Los Angeles Department of Water and Power (LADWP), which is no longer required for the use of the City of Los Angeles or its Department of Water and Power, and determining that it is in the best interest of the LADWP that said property be sold at public auction for not less than the minimum bid of \$528,000.00; provided, however, that pursuant to Charter Section 675, the sale of said property and the written instrument conveying title on the terms and conditions set forth herein shall first be duly approved by the Los Angeles City Council, whose approval is hereby requested. The public auction will be held in accordance with the Owens Valley Land Management Plan.

Cost and Duration

Advertising costs for publishing the Notice of Sale and administrative costs to hold the auction and process the sale are estimated at \$8,000.00.

Background

The Water Operations Division of the LADWP has determined that certain City-owned property under the control of LADWP, as identified herein, is no longer needed for the purposes for which it was acquired (contributing to the production and delivery of water and electric power, and for the promotion of the conservation of water and power resources), and that the divestiture of said property is in the best interest of LADWP and its operations for the City. This determination is consistent with the policies and past practices of LADWP to divest itself of land holdings located within existing communities that are not needed for operational purposes, and the divestment of such property into private ownership is for the betterment of the community.

Said property, consisting of approximately 2.8 acres, has been continuously leased as a floral nursery since 1974. The current lessee and LADWP have mutually agreed that it would be in the best interest of both parties to offer said property for sale at public auction. Under the provisions of Government Code Sections 50300 through 50308, the lessee will be given first right of refusal to match the highest bid received at public auction. The property is located within the City of Bishop and has access to the community water system, which permits the City to reserve all water rights. In addition, the property will be sold subject to the existing lease with Bishop Nursery, Inc., which expires on February 28, 2021. LADWP Real Estate staff performed a valuation of the property and estimated the fair market value to be \$528,000.00. It is recommended that the minimum bid be set at this price; however, in order to ensure that the minimum bid is current at the time of auction, the Resolution and Ordinance authorize the General Manager to have LADWP update the value, if necessary, and adjust the minimum bid to be consistent with the updated value prior to auction.

Summary of Ordinance Provisions

The real property is located in the City of Bishop, County of Inyo, State of California, and further described in the ordinance transmitted.

The Board of Water and Power Commissioners approved the sale of surplus property under Resolution No. 013 062. A copy of the Board resolution was submitted separately by the Secretary of the Board of Water and Power Commissioners. This sale of surplus property has been analyzed by the City Administrative Officer (CAO), and its findings and recommendations have been submitted under a separate report under CAO File No. 0150-09753-0000.

CEQA Determination


A Phase I environmental assessment was performed by Tetra Tech, and due to the historical use of the property as a nursery, which may include the storage of hazardous materials, it was recommended that a Phase II assessment be conducted.

Results of the Phase II assessment found trace amounts of metals in the soil and groundwater, but no further action was recommended. LADWP will disclose the environmental findings and make them accessible to all interested parties via LADWP's website and at its Bishop Administrative Office. The findings will be used to establish a base line condition for the property, which will be sold "as is." In accordance with the California Environmental Quality Act (CEQA), it has been determined that the sale of surplus City-owned property is categorically exempt pursuant to Article III, Class 12, of the CEQA Guidelines, and is further exempt under 14 California Administrative Code, Section 15312 (Class 12) Surplus Government Property Sales.

If you have any questions regarding this matter, please contact Deputy City Attorney Tina Shim at (213) 367-2372. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 
PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:TS:pj
Transmittal

ORDINANCE NO. _____

An ordinance approving a Resolution of the Board of Water and Power Commissioners for the sale of surplus real property.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The action of the Board of Water and Power Commissioners of the City of Los Angeles on the 18th day of September, 2012, approving the sale of surplus City-owned property is hereby ratified, confirmed, and approved. The approved Resolution reads:

RESOLUTION NO. 013 062

W-79914

BE IT RESOLVED:

Section 1. The Board finds and determines that the real property listed below, owned by the City of Los Angeles and under the control of the Los Angeles Department of Water and Power, is no longer required for the use of the City of Los Angeles or its Department of Water and Power, and it is in the best interest of the Los Angeles Department of Water and Power that said property be sold at public auction for not less than the minimum bid of \$528,000; provided, however, that pursuant to Charter Section 675, the sale of said property and the written instrument conveying title on the terms and conditions set forth herein shall first be duly approved by the Los Angeles City Council, whose approval is hereby requested.

Section 2. The real property is located in the city of Bishop, county of Inyo, state of California, and further described as follows:

That portion of Lot 25 of the Sierra Tract, in the northwest quarter of Section 6, Township 7 South, Range 33 East, Mt. Diablo Meridian, in the City of Bishop, County of Inyo, State of California, as per map recorded in Map Book 1, page 52-2, on file in the office of the County Recorder of said County, described as follows:

BEGINNING at the southwesterly corner of said Lot 25; thence North 00°51'53" West, 254.92 feet, along the westerly line of said Lot 25, to the southwesterly corner of that real property described in Deed to the Roman Catholic Bishop of Fresno, a corporation sole, recorded in Document

No. 87-4038, of Official Records, in said Recorder's office; thence North 87°35'38" East, 670.61 feet, along the southerly line of said real property, to the easterly line of said Lot 25; thence South 00°19'37" East, 277.98 feet to the southeasterly corner of said Lot 25; thence South 89°33'55" West, 667.77 feet to the POINT OF BEGINNING.

EXCEPTING therefrom "Portion A": the southerly 170.00 feet of the easterly 280.00 feet of said Lot 25; and "Portion B": the southerly 20.00 feet of said Lot 25.

Containing 2.822 acres, more or less.

END OF DESCRIPTION

RESERVING unto that real property described in the above, EXCEPTING "Portion A", a Utility Easement and Right-of-Way to set power poles and guy wires; to construct, maintain, and repair power lines, underground conduit, appurtenant fixtures, and equipment; and the right to trim trees at any time in such a manner as to prevent interference with the same; together with the right of ingress and egress, all in, over, under, and across that portion of the real property conveyed herein, described as:

The northerly 10.00 feet of the southerly 46.50 feet of the above-described portion of said Lot 25.

SUBJECT TO all outstanding taxes and assessments, if any.

SUBJECT TO any and all easements, covenants, conditions, restrictions, and other matters of record.

EXCEPTING AND RESERVING unto the City of Los Angeles all water and water rights, whether surface, subsurface, or of any other kind, and all water and water rights appurtenant or in anywise incident to the real property herein described, or used thereon or in connection therewith, together with the right to develop, take, transport, control, regulate, and use all such water; and reserving unto the Grantor all oil, gas, petroleum, or other mineral or hydrocarbon substances in and under said land, without the right to enter upon the surface of said land for such use.

Section 3. The terms and conditions of the public auction, which shall be held in Bishop, California, shall be as specified herein and in the Notice of Sale pursuant to the authority granted herein and in the Ordinance submitted herewith.

Section 4. Prior to the auction, the General Manager of the Los Angeles Department of Water and Power is authorized to have the appraisal upon which the minimum bid set forth in this Resolution updated. Should the updated appraisal demonstrate an appraised value different from that set forth herein and in the notice of sale, the General Manager is authorized to replace the minimum bid with the updated value reflected in the updated appraisal.

Section 5. The Aqueduct Manager of the Los Angeles Department of Water and Power is hereby authorized and directed to cause said Notice of Sale to be given inviting oral bids for the sale of said excess real property at public auction; said Notice of Sale shall be given by publishing the same for three successive days in a newspaper of general circulation, printed and published in the city of Los Angeles, California; and further, said Notice of Sale shall be given by publishing the same for three consecutive days in a newspaper of general circulation in the county of Inyo, California, as the General Manager or his designees may direct.

Section 6. The Chief Accounting Employee of the Los Angeles Department of Water and Power, upon proper certification, is authorized and directed to draw demands on the Water Revenue Fund in payment of the publication of the aforesaid Notice of Sale and associated cost at the established legal rate and outreach advertising costs.

Section 7. After holding the auction, should no acceptable bid be received or should the sale not be completed for the property described herein, the General Manager of the Los Angeles Department of Water and Power or his designee, is hereby authorized to:

1. Re-offer said property for sale to the second highest bidder, and if second highest bidder fails to complete the sale and/or comply with the conditions of the sale, to the third then fourth highest bidders, upon the same terms and conditions specified in the Notice of Sale without further order or permission of the Los Angeles City Council, or
2. Declare the present Notice of Sale immediately invalid and, pursuant to Division 7, Chapter I, Article 4, Section 7.32 of the Los Angeles Administrative Code, cause one or more other notices of sale to be published and to conduct one or more other sale auctions under the terms and conditions of the new Notice of Sale until said property authorized for sale herein is sold or otherwise disposed.

The provisions of this section shall be effective for a period of two (2) years from the effective date of the Ordinance approving this Resolution.

Section 8. The General Manager of the Los Angeles Department of Water and Power is hereby authorized to confirm the sale of the property to the highest bidder or its successor or assigns according to the terms set forth above and for not less than the minimum bid described herein, subject to the right of the City Council, the Board, or the General Manager to reject any and all bids or to withdraw any of the real property from sale.

Section 9. Upon approval by City Council of this Resolution, the President or Vice President of this Board, or the General Manager, or such person as he shall designate in writing as his designee, and the Secretary, Assistant Secretary, or the Acting Secretary of this Board are hereby authorized, empowered, and directed to execute an instrument in writing, approved as to form and legality by the City Attorney, conveying title to the property, sold at public auction as provided herein, upon confirmation of the sale and acceptance by the Board of the successful bid for said property, for and on behalf of the City of Los Angeles and the Los Angeles Department of Water and Power.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held

Secretary

Sec. 2. Pursuant to Section 7.23 of the Los Angeles Administrative Code, the Los Angeles Department of Water and Power is hereby directed to take the following actions:

- a. Publish the Notice of Sale for three days in a newspaper of general circulation, printed and published in the City; and
- b. Post the Notice of Sale in a prominent and visible location on the real property to be sold not less than 30 days prior to the sale.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

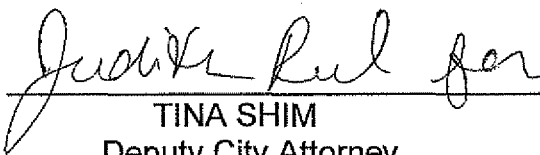
By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 
TINA SHIM
Deputy City Attorney

Date January 3, 2013

File No. CF 12-1514

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

Commission
THOMAS S. SAYLES, *President*
ERIC HOLOMAN, *Vice President*
RICHARD F. MOSS
CHRISTINA E. NOONAN
JONATHAN PARFREY
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS
General Manager

September 20, 2012

The Honorable City Council
City of Los Angeles
Room 395, City Hall
Los Angeles, California 90012

Honorable Members:

Subject: Sale of Surplus City of Los Angeles-Owned Land located at 789 Home Street, City of Bishop, Inyo County, California

Pursuant to Charter Section 675, enclosed for approval by your Honorable Body is Resolution No. 013 062, adopted by the Board of Water and Power Commissioners (Board) on September 18, 2012, approved as to form and legality by the City Attorney, which authorizes sale of Surplus City of Los Angeles-Owned Land located in the City of Bishop, Inyo County, California (W-79914) located at 789 Home Street, City of Bishop, Inyo County, California. As directed by the Board, transmitted to you are supporting documents.

If there are any questions regarding this item, please contact Ms. Winifred Yancy, Director of Local Government and Community Relations, at (213) 367-0025.

Sincerely,

Barbara E. Moschos
Board Secretary

BEM:oja

Enclosures: LADWP Resolution
Board Letter
CAO Report
Notice of Sale
Ordinance

Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2667 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA

Recycle and make your recycled water



c/enc: Mayor Antonio Villaraigosa
Councilmember Jose Huizar, Chair, Energy and the Environment Committee
Gerry F. Miller, Chief Legislative Analyst
Miguel A. Santana, City Administrative Officer
Rafael Prieto, Legislative Analyst, CLA
William R. Koenig, Chief Administrative Analyst
Winifred Yancy

W-79914

BE IT RESOLVED:

Section 1. The Board finds and determines that the real property listed below, owned by the City of Los Angeles and under the control of the Los Angeles Department of Water and Power, is no longer required for the use of the City of Los Angeles or its Department of Water and Power, and it is in the best interest of the Los Angeles Department of Water and Power that said property be sold at public auction for not less than the minimum bid of \$528,000; provided, however, that pursuant to Charter Section 675, the sale of said property and the written instrument conveying title on the terms and conditions set forth herein shall first be duly approved by the Los Angeles City Council, whose approval is hereby requested.

Section 2. The real property is located in the city of Bishop, county of Inyo, state of California, and further described as follows:

That portion of Lot 25 of the Sierra Tract, in the northwest quarter of Section 6, Township 7 South, Range 33 East, Mt. Diablo Meridian, in the City of Bishop, County of Inyo, State of California, as per map recorded in Map Book 1, page 52-2, on file in the office of the County Recorder of said County, described as follows:


BEGINNING at the southwesterly corner of said Lot 25; thence North 00°51'53" West, 254.92 feet, along the westerly line of said Lot 25, to the southwesterly corner of that real property described in Deed to the Roman Catholic Bishop of Fresno, a corporation sole, recorded in Document No. 87-4038, of Official Records, in said Recorder's office; thence North 87°35'38" East, 670.61 feet, along the southerly line of said real property, to the easterly line of said Lot 25; thence South 00°19'37" East, 277.98 feet to the southeasterly corner of said Lot 25; thence South 89°33'55" West, 667.77 feet to the POINT OF BEGINNING.

EXCEPTING therefrom "Portion A": the southerly 170.00 feet of the easterly 280.00 feet of said Lot 25; and "Portion B": the southerly 20.00 feet of said Lot 25.

Containing 2.822 acres, more or less.

END OF DESCRIPTION

RESERVING unto that real property described in the above, EXCEPTING "Portion A", a Utility Easement and Right-of-Way to set power poles and guy wires; to construct, maintain, and repair power lines, underground conduit, appurtenant fixtures, and equipment; and the right to trim trees at any time in such a manner as to prevent interference with the same; together with the right of Ingress and egress, all in, over, under, and across that portion of the real property conveyed herein, described as:

DESCRIPTION APPROVED BY: 
_____ FOR WATER OPERATIONS
DATED: 3/12/12

2. Declare the present Notice of Sale immediately invalid and, pursuant to Division 7, Chapter I, Article 4, Section 7.32 of the Los Angeles Administrative Code, cause one or more other notices of sale to be published and to conduct one or more other sale auctions under the terms and conditions of the new Notice of Sale until said property authorized for sale herein is sold or otherwise disposed.

The provisions of this section shall be effective for a period of two (2) years from the effective date of the Ordinance approving this Resolution.


Section 8. The General Manager of the Los Angeles Department of Water and Power is hereby authorized to confirm the sale of the property to the highest bidder or its successor or assigns according to the terms set forth above and for not less than the minimum bid described herein, subject to the right of the City Council, the Board, or the General Manager to reject any and all bids or to withdraw any of the real property from sale.

Section 9. Upon approval by City Council of this Resolution, the President or Vice President of this Board, or the General Manager, or such person as he shall designate in writing as his designee, and the Secretary, Assistant Secretary, or the Acting Secretary of this Board are hereby authorized, empowered, and directed to execute an instrument in writing, approved as to form and legality by the City Attorney, conveying title to the property, sold at public auction as provided herein, upon confirmation of the sale and acceptance by the Board of the successful bid for said property, for and on behalf of the City of Los Angeles and the Los Angeles Department of Water and Power.


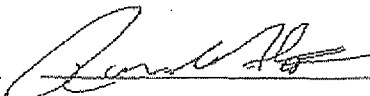
I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held SEP 18 2012


Secretary

APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

MAR 28 2012
BY 
TINA SHIM
DEPUTY CITY ATTORNEY

LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS		DATE: August 20, 2012
  JAMES B. McDANIEL Senior Assistant General Manager Water System		SUBJECT: Sale at Public Auction of Surplus City of Los Angeles-Owned Land Located in the City of Bishop, Inyo County, California W-79914
		FOR COMMISSION OFFICE USE:
		RESOLUTION NO. _____
CITY COUNCIL APPROVAL REQUIRED: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	IF YES, BY WHICH CITY CHARTER SECTION: 675	

PURPOSE

The attached Resolution recommends to the Los Angeles City Council approval for the sale at public auction of real property, owned by the City of Los Angeles (City) and under the control of LADWP, located at 789 Home Street, City of Bishop, Inyo County, California.

The property will be sold in accordance with the attached Notice of Sale or subsequent notices of sale in conformance with all legal requirements and the terms set forth in the attached Resolution.

COST AND DURATION

Advertising costs for publishing the Notice of Sale and administrative costs to hold the auction and process the sale, estimated at \$8,000.

BACKGROUND

Water Operations Division has determined that certain City-owned property under the control of LADWP, as identified herein, is no longer needed for the purposes it was acquired (contributing to the production and delivery of water and electric power, and for the promotion of the conservation of water and power resources), and the divestiture of said property is in the best interest of LADWP and its operations for the City. This determination is consistent with the policies and past practices of LADWP to divest itself of land holdings located within existing communities that are not needed for operational purposes, and the divestment of such property into private ownership is for the betterment of the community.

Board of Water and Power Commissioners
Page 2
August 20, 2012

Said property, consisting of approximately 2.8 acres, has been continuously leased as a floral nursery since 1974. The current lessee and LADWP have mutually agreed that it would be in the best interest of both parties to offer said property for sale at public auction. Under the provisions of government code Sections 50300 through 50308, the lessee will be given first right of refusal to match the highest bid received at public auction.

The property is located within the City of Bishop and has access to the community water system, which permits the City to reserve all water rights. In addition, the property will be sold subject to the existing lease with Bishop Nursery, Inc., which expires on February 28, 2021.

LADWP Real Estate staff performed a valuation of the property and estimated the fair market value to be \$528,000. It is recommended that the minimum bid be set at this price; however, in order to ensure that the minimum bid is current at the time of auction, the Resolution and Ordinance request that the Board and City Council authorize the General Manager to have LADWP update the value, if necessary, and adjust the minimum bid to be consistent with the updated value prior to auction.

ENVIRONMENTAL DETERMINATION

A Phase I environmental assessment was performed by Tetra Tech, and due to the historical use of the property as a nursery, which may include the storage of hazardous materials, it was recommended that a Phase II assessment be conducted. Results of the Phase II assessment found trace amounts of metals in the soil and groundwater, but no further action was recommended. LADWP will disclose the environmental findings and make them accessible to all interested parties via LADWP's website and at its Bishop Administrative Office. The findings will be used to establish a base line condition for the property, which will be sold "as is."

In accordance with the California Environmental Quality Act (CEQA), it has been determined that the sale of surplus City-owned property is categorically exempt pursuant to Article III, Class 12, in the CEQA Guidelines, and is further exempt under 14 California Administrative Code, Section 15312 (Class 12) Surplus Government Property Sales.

RECOMMENDATION

It is requested that your Honorable Board adopt the attached Resolution recommending the Los Angeles City Council's approval of an Ordinance authorizing the sale at public auction of the City-owned property located at 789 Home Street, City of Bishop, Inyo County, California.

SC:rjm/wlm/ymt

Attachments

e-c/att: Ronald O. Nichols
Richard M. Brown
Aram Benyamin
James B. McDaniel

Philip Leiber
Gary Wong
Martin L. Adams
Scott Cimino

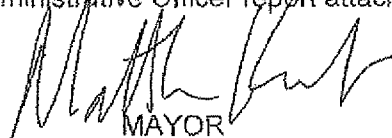
0150-09753-0000

TRANSMITTAL

TO Ronald O. Nichols, General Manager Department of Water and Power	DATE JUL 05 2012	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT City of Bishop, CA	

**PROPOSED PUBLIC AUCTION SALE OF APPROXIMATELY 2.8 ACRES OF LAND
LOCATED IN THE CITY OF BISHOP, CALIFORNIA**

Transmitted for further processing, including Council consideration. See the
City Administrative Officer report attached.


MAYOR

MAS:RPR:10100149t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: June 29, 2012

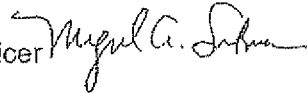
CAO File No.: 0150-09753-0000

Council File No.:

Council District: City of Bishop, CA

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Department of Water and Power dated March 28, 2012; referred by the Mayor for report on April 11, 2012

Subject: **PROPOSED PUBLIC AUCTION SALE OF APPROXIMATELY 2.8 ACRES OF LAND LOCATED IN THE CITY OF BISHOP, CALIFORNIA**

SUMMARY

Department of Water and Power (DWP; Department) requests approval of a proposed resolution which authorizes the sale at public auction of approximately 2.8 acres of City of Los Angeles (City) owned land, excluding all water rights, located at 789 Home Street in the City of Bishop, California. It has been determined by the DWP that the property is not required for current or future Water System purposes. To assist with establishing a minimum bid amount, the DWP contracted with a third party appraiser in June 2008 that determined the fair market value at \$600,000. Due to delays caused by environmental testing, DWP Real Estate staff subsequently performed a valuation in April 2011 that reduced the value (and minimum bid) to \$528,000. It was noted by DWP that the sale is at the request of the current Lessee, who has first right of refusal for the property, and they have not opposed the Department's minimum bid amount.

Approval of the proposed resolution and related ordinance will authorize the General Manager to further update the value, if necessary, and adjust a minimum bid to be consistent with an updated value prior to auction. Charter Section 675(d)(2) requires Council approval to sell, lease, or otherwise dispose of, or in any manner withdraw from the control of the Board of Water and Power Commissioners real property. The City Attorney has approved the proposed resolution as to form and legality.

Since 1974, the land has been leased and operated as a floral nursery. In 2005, the DWP entered into a 17 year lease (CF 05-1029) with Bishop Nursery, Inc. (Lessee) that expires in 2021. As a result, the property will be sold subject to the existing lease. In accordance with California Government Code Sections 50300 through 50308, the Lessee will be given first right of refusal to match the highest bid received at public auction.

The results of an environmental assessment found trace amounts of metals in the soil and groundwater; however, no further action was recommended. Prior to auction, DWP will disclose the environmental findings and make them accessible to all interested parties via DWP's website and

administrative office located in Bishop. The findings will be used to establish a base line condition for the property which will be sold "as is." In accordance with the California Environmental Quality Act (CEQA), the sale of surplus City owned property is categorically exempt pursuant to Article III, Class 12, in the CEQA guidelines, and is further exempt under 14 California Administrative Code, Section 15312 (Class 12) for Surplus Government Property Sales.

Upon review of the attached DWP request, it is the opinion of this Office that the item can be approved as the requested action appears to be reasonable and in accordance with City policies and procedures.

RECOMMENDATION

That the Mayor:

1. Approve the proposed resolution which authorizes the sale at public auction of approximately 2.8 acres of City of Los Angeles owned land, excluding all water rights, located at 789 Home Street, Bishop, California; and
2. Return the proposed resolution to the Department for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed resolution may result in a yet to be determined amount of revenue to the Water Revenue Fund. Since the Department of Water and Power is bound only by the City Debt Management Policies, the City Financial Policies are not applicable. Approval of the proposed resolution will have no impact on the City's General Fund.

TIME LIMIT FOR COUNCIL ACTION

Pursuant to Charter Section 675(d)(2), "Powers and Duties of the Board – Real Estate Interests," subject to the water rights of the City, there is no time limit for Council action on agreements for real property or any rights in real property held by DWP that will be sold, leased or withdrawn from the Department's control.

NOTICE OF SALE

NOTICE OF SALE OF REAL PROPERTY OWNED BY THE CITY OF LOS ANGELES AND UNDER THE CONTROL OF THE DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, SITUATED IN THE CITY OF BISHOP, COUNTY OF INYO, STATE OF CALIFORNIA, AND INVITING ORAL BIDS AT PUBLIC AUCTION FOR THE PURCHASE OF SAID PROPERTY.

Pursuant to Resolution No. _____ of the Board of Water and Power Commissioners of the City of Los Angeles (City), adopted _____, and approved by Council of the City of Los Angeles on _____, NOTICE IS HEREBY GIVEN that the Board of Water and Power Commissioners of the City of Los Angeles intends to sell to the highest regular responsible bidder at public auction, for cash, the following described real property situate in the city of Bishop, county of Inyo, state of California, to wit:

LEGAL DESCRIPTION

That portion of Lot 25 of the Sierra Tract, in the northwest quarter of Section 6, Township 7 South, Range 33 East, Mt. Diablo Meridian, in the City of Bishop, County of Inyo, State of California, as per map recorded in Map Book 1, page 52-2, on file in the office of the County Recorder of said County, described as follows:

BEGINNING at the southwesterly corner of said Lot 25; thence North 00°51'53" West, 254.92 feet, along the westerly line of said Lot 25, to the southwesterly corner of that real property described in Deed to the Roman Catholic Bishop of Fresno, a corporation sole, recorded in Document No. 87-4038, of Official Records, in said Recorder's office; thence North 87°35'38" East, 670.61 feet, along the southerly line of said real property, to the easterly line of said Lot 25; thence South 00°19'37" East, 277.98 feet to the southeasterly corner of said Lot 25; thence South 89°33'55" West, 667.77 feet to the POINT OF BEGINNING.

EXCEPTING therefrom "Portion A": the southerly 170.00 feet of the easterly 280.00 feet of said Lot 25; and "Portion B": the southerly 20.00 feet of said Lot 25.

Containing 2.822 acres, more or less.

END OF DESCRIPTION

RESERVING unto that real property described in the above, EXCEPTING "Portion A", a Utility Easement and Right-of-Way to set power poles and guy wires; to construct, maintain, and repair power lines, underground conduit, appurtenant fixtures, and equipment; and the right to trim trees at any time in such a manner as to prevent interference with the same; together with the right of ingress and egress, all in, over, under, and across that portion of the real property conveyed herein, described as:

The northerly 10.00 feet of the southerly 46.50 feet of the above-described portion of said Lot 25.

SUBJECT TO all outstanding taxes and assessments, if any.

SUBJECT TO any and all easements, covenants, conditions, restrictions, and other matters of record.

EXCEPTING AND RESERVING unto the City of Los Angeles all water and water rights, whether surface, subsurface, or of any other kind, and all water and water rights appurtenant or in anywise incident to the real property herein described, or used thereon or in connection therewith, together with the right to develop, take, transport, control, regulate, and use all such water; and reserving unto the Grantor all oil, gas, petroleum, or other mineral or hydrocarbon substances in and under said land, without the right to enter upon the surface of said land for such use.

The sale parcel is improved with a privately owned building. The parcel will be sold encumbered with a lease to Bishop Nursery, Inc. (Lessee), which will expire on February 28, 2021. Any sale of this parcel shall be subject to all terms and conditions of the existing 17-year lease. According to the terms of the lease, the ownership of certain Lessee-owned real property improvements will pass to the landlord upon expiration of the lease. The lease document for this parcel is available for inspection at the office of the Los Angeles Department of Water and Power (LADWP) at 300 Mandich Street, in Bishop, California. The minimum acceptable sales price for this parcel is \$528,000. In accordance with California Government Code Sections 50300 through 50308 (Charles Brown Act), Lessee shall be given the first right of refusal to match the highest bid received.

NOTICE IS FURTHER GIVEN that for the purpose of receiving bids for the minimum acceptable sale price, or higher, for the aforementioned property, a public auction will be held in Bishop, California, on _____ . Said auction will be held at the LADWP's Bishop Administrative Office at 300 Mandich Street, Bishop, and will commence at _____ a.m.

All persons interested are invited to attend said auction and bid for the property intended to be sold. Said property may orally be bid on by all persons present who have been designated as qualified bidders, provided, however, that each bid after the first shall exceed the last previous regular bid for that parcel by not less than One Thousand Dollars (\$1,000) until no person is willing to bid higher. Any person wishing to be designated as a qualified bidder must place a deposit with the auctioneer or his/her representative prior to the commencement of bidding on the parcel. Said deposit must be \$10,000. The required deposit must be in the form of a cashier's check from a bank, credit union, or savings and loan institution made payable directly to the Los Angeles Department of Water and Power. **NO PERSONAL CHECKS, ENDORSED CHECKS, OR MONEY ORDERS WILL BE ACCEPTED.** At the close of bidding, deposits will be returned to the unsuccessful bidders on the parcel.

The qualified bidder making the highest regular bid for the parcel (subject to Lessee's first right of refusal to match said highest regular bid) shall thereupon execute and deliver to the authorized representative of the LADWP present at said auction a written confirmation of bid on the form provided for that purpose, constituting an offer in writing to purchase for cash for the amount bid as the purchase price of said parcel; all upon the terms and conditions, and subject to the exceptions, reservations, matters, and things herein set forth or referred to, and as contained in the Board Resolution authorizing this sale, and subject to such further matters, if any, as shall have been publicly announced at the commencement of the auction.

In addition to the deposit noted above, an additional deposit is required within 10 days of the date of the auction, to make the total deposit held by LADWP equal to ten percent (10%) of the purchase price. Said deposit shall constitute a guarantee that in the event the offer of purchase is accepted, the

person making said offer will complete the purchase according to the terms of said offer. In the event said offer is accepted and the purchase is completed according to the terms thereof, the said deposit shall be credited and applied on account of the purchase price; but, in the event the offer is rejected, the deposit shall be returned to the bidder.

In the event the said offer is accepted but the purchase is not completed and the failure in that regard is not caused by any act or omission of the City or LADWP or any representative of either, the said deposit shall be retained by and become the property of LADWP as and for all costs and expenses incurred for the necessary proceedings incidental to acceptance of the offer.

The written offer so received from the qualified bidder making the highest regular bid and accompanied by the required deposit shall be submitted to the General Manager of LADWP for acceptance or rejection on behalf of said LADWP, and is subject to the right of the City Council, the Board of Water and Power Commissioners, or the General Manager of LADWP to reject any and all bids or to withdraw any of the real property from sale without suffering any penalty or forfeiture whatsoever, at any time prior to the actual acceptance of said bid.

When the General Manager of LADWP shall have accepted any such offer, there shall be, in due course and subject to terms and conditions of sale, executed and delivered to the purchaser, his nominee, or assign, upon payment of the balance of the purchase price and any applicable documentary transfer taxes, escrow fees, or other fees or costs associated with the closing, a deed granting title to said property, subject to the lien for taxes and assessments then current and unpaid, if any, and subject to the following exceptions and reservations, to wit:

- a) Excepting therefrom and reserving unto the Grantor all water and water rights, whether surface, subsurface, or of any other kind, and all water and water rights appurtenant or in anywise incident to the real property herein described, or used thereon, or in connection therewith, together with the right to develop, take, transport, control, regulate, and use all such water, and reserving unto the Grantor all oil, gas, petroleum, or other mineral or hydrocarbon substances in and under said land, without the right to enter upon the surface of said land for such use.
- b) Subject to the lien for taxes and assessments then current and unpaid, if any; to all easements, rights of way, encroachments, covenants, conditions, restrictions, and reservations; and to all other matters of record; together with pertinent ordinances, rules, or regulations of the City of Bishop.
- c) Appropriate public utility easements shall be reserved for the parcel at the discretion of LADWP.

A Policy of Title Insurance, if any be desired by the purchaser, shall be obtained by and at the expense of the purchaser. The property is being sold without warranty or guarantee, either expressed or implied, as to the ground location of property lines, zoning, or encroachments.

The property is available for inspection by bidders prior to the auction. Seller urges all bidders to inspect the property before bidding.

By bidding on the parcel, the bidder represents to the Seller that bidder has in fact inspected the property to bidder's satisfaction, knows the condition thereof, and based on that knowledge and inspection, is nevertheless ready, willing, and able to purchase the property.

SELLER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER AS TO THE CONDITION OR USABILITY OF THE PROPERTY; THE PRESENCE OF ANY DEFECTS, WHETHER APPARENT OR HIDDEN; OR THE FITNESS OF THE PROPERTY FOR USE, OR ITS FITNESS FOR A PARTICULAR USE.

AN ENVIRONMENTAL ASSESSMENT HAS BEEN CONDUCTED ON THE PROPERTY. IT IS AVAILABLE FOR REVIEW ON LADWP'S WEBSITE www.ladwpauction.com, OR VISIT OUR OFFICE AT 300 MANDICH STREET, BISHOP, CALIFORNIA, TO REVIEW OR PURCHASE A COPY.

THE PROPERTY OFFERED FOR SALE IS OFFERED AND SOLD IN AN "AS IS" CONDITION, AND ALL BIDDERS, BY BIDDING ON THE PROPERTY, ARE, BY SUCH ACT, EXPRESSLY AGREEING TO PURCHASE THE PROPERTY IN AN "AS IS" CONDITION AND WITHOUT ANY WARRANTY AS TO FITNESS FOR USE, FITNESS FOR A PARTICULAR USE, OR CONDITION OF THE PROPERTY, AND THAT THE SELLER HAS NO OBLIGATION TO CORRECT ANY CONDITION OF THE PROPERTY, WHETHER KNOWN BEFORE OR AFTER THE DATE OF THE AUCTION.

Dated this _____ day of _____, 2012.

DEPARTMENT OF WATER AND POWER OF
THE CITY OF LOS ANGELES BY
BOARD OF WATER AND POWER COMMISSIONERS
OF THE CITY OF LOS ANGELES

Dated _____

By _____
RONALD O. NICHOLS
General Manager


And: _____
Barbara E. Moschos, Secretary

AUTHORIZED BY:

Resolution No. _____
Adopted _____

APPROVED BY COUNCIL ON:

APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

MAR 28 2012
BY  _____
TINA SHIM
DEPUTY CITY ATTORNEY

ORDINANCE NO. _____

An Ordinance approving a Resolution of the Board of Water and Power Commissioners for the sale of surplus real property.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The action of the Board of Water and Power Commissioners of the City of Los Angeles on the ___ day of _____, approving the sale of surplus City-owned property is hereby ratified, confirmed, and approved. The approved Resolution reads:

RESOLUTION NO. _____

W-79914

BE IT RESOLVED:

Section 1. The Board finds and determines that the real property listed below, owned by the City of Los Angeles and under the control of the Los Angeles Department of Water and Power, is no longer required for the use of the City of Los Angeles or its Department of Water and Power, and it is in the best interest of the Los Angeles Department of Water and Power that said property be sold at public auction for not less than the minimum bid of \$528,000; provided, however, that pursuant to Charter Section 675, the sale of said property and the written instrument conveying title on the terms and conditions set forth herein shall first be duly approved by the Los Angeles City Council, whose approval is hereby requested.

Section 2. The real property is located in the city of Bishop, county of Inyo, state of California, and further described as follows:

That portion of Lot 25 of the Sierra Tract, in the northwest quarter of Section 6, Township 7 South, Range 33 East, Mt. Diablo Meridian, in the City of Bishop, County of Inyo, State of California, as per map recorded in Map Book 1, page 52-2, on file in the office of the County Recorder of said County, described as follows:

BEGINNING at the southwesterly corner of said Lot 25; thence North 00°51'53" West, 254.92 feet, along the westerly line of said Lot 25, to the southwesterly corner of that real property described in Deed to the Roman Catholic Bishop of Fresno, a corporation sole, recorded in Document No. 87-4038, of Official Records, in said Recorder's office; thence North 87°35'38" East, 670.61 feet, along the southerly line of said real property, to the easterly line of said Lot 25; thence South 00°19'37" East, 277.98 feet to the southeasterly corner of said Lot 25; thence South 89°33'55" West, 667.77 feet to the POINT OF BEGINNING.

EXCEPTING therefrom "Portion A": the southerly 170.00 feet of the easterly 280.00 feet of said Lot 25; and "Portion B": the southerly 20.00 feet of said Lot 25.

Containing 2.822 acres, more or less.

END OF DESCRIPTION

RESERVING unto that real property described in the above, EXCEPTING "Portion A", a Utility Easement and Right-of-Way to set power poles and guy wires; to construct, maintain, and repair power lines, underground conduit, appurtenant fixtures, and equipment; and the right to trim trees at any time in such a manner as to prevent interference with the same; together with the right of ingress and egress, all in, over, under, and across that portion of the real property conveyed herein, described as:

The northerly 10.00 feet of the southerly 46.50 feet of the above-described portion of said Lot 25.

SUBJECT TO all outstanding taxes and assessments, if any.

SUBJECT TO any and all easements, covenants, conditions, restrictions, and other matters of record.

EXCEPTING AND RESERVING unto the City of Los Angeles all water and water rights, whether surface, subsurface, or of any other kind, and all water and water rights appurtenant or in anywise incident to the real property herein described, or used thereon or in connection therewith, together with the right to develop, take, transport, control, regulate, and use all such water; and reserving unto the Grantor all oil, gas, petroleum, or other mineral or hydrocarbon substances in and under said land, without the right to enter upon the surface of said land for such use.

Section 3. The terms and conditions of the public auction, which shall be held in Bishop, California, shall be as specified herein and in the Notice of Sale pursuant to the authority granted herein and in the Ordinance submitted herewith.

Section 4. Prior to the auction, the General Manager of the Los Angeles Department of Water and Power is authorized to have the appraisal upon which the minimum bid set forth in this Resolution updated. Should the updated appraisal demonstrate an appraised value different from that set forth herein and in the notice of sale, the General Manager is authorized to replace the minimum bid with the updated value reflected in the updated appraisal.

Section 5. The Aqueduct Manager of the Los Angeles Department of Water and Power is hereby authorized and directed to cause said Notice of Sale to be given inviting oral bids for the sale of said excess real property at public auction; said Notice of Sale shall be given by publishing the same for three successive days in a newspaper of general circulation, printed and published in the city of Los Angeles, California; and further, said Notice of Sale shall be given by publishing the same for three consecutive days in a newspaper of general circulation in the county of Inyo, California, as the General Manager or his designees may direct.

Section 6. The Chief Accounting Employee of the Los Angeles Department of Water and Power, upon proper certification, is authorized and directed to draw demands on the Water Revenue Fund in payment of the publication of the aforesaid Notice of Sale and associated cost at the established legal rate and outreach advertising costs.

Section 7. After holding the auction, should no acceptable bid be received or should the sale not be completed for the property described herein, the General Manager of the Los Angeles Department of Water and Power or his designee, is hereby authorized to:

1. Re-offer said property for sale to the second highest bidder, and if second highest bidder fails to complete the sale and/or comply with the conditions of the sale, to the third then fourth highest bidders, upon the same terms and

conditions specified in the Notice of Sale without further order or permission of the Los Angeles City Council, or

2. Declare the present Notice of Sale immediately invalid and, pursuant to Division 7, Chapter I, Article 4, Section 7.32 of the Los Angeles Administrative Code, cause one or more other notices of sale to be published and to conduct one or more other sale auctions under the terms and conditions of the new Notice of Sale until said property authorized for sale herein is sold or otherwise disposed.

The provisions of this section shall be effective for a period of two (2) years from the effective date of the Ordinance approving this Resolution.

Section 8. The General Manager of the Los Angeles Department of Water and Power is hereby authorized to confirm the sale of the property to the highest bidder or its successor or assigns according to the terms set forth above and for not less than the minimum bid described herein; subject to the right of the City Council, the Board, or the General Manager to reject any and all bids or to withdraw any of the real property from sale.

Section 9. Upon approval by City Council of this Resolution, the President or Vice President of this Board, or the General Manager, or such person as he shall designate in writing as his designee, and the Secretary, Assistant Secretary, or the Acting Secretary of this Board are hereby authorized, empowered, and directed to execute an instrument in writing, approved as to form and legality by the City Attorney, conveying title to the property, sold at public auction as provided herein, upon confirmation of the sale and acceptance by the Board of the successful bid for said property, for and on behalf of the City of Los Angeles and the Los Angeles Department of Water and Power.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held

Barbara E. Moschos, Secretary

Sec. 2. Pursuant to Section 7.23 of the Los Angeles Administrative Code, the Los Angeles Department of Water and Power is hereby directed to take the following actions:

- a. To publish the Notice of Sale for three days in a newspaper of general circulation, printed and published in the City; and
- b. Post the Notice of Sale in a prominent and visible location on the real property to be sold not less than 30 days prior to the sale.

Sec. 3. The City Clerk shall certify to the passage of this Ordinance and have it published in accordance with Los Angeles City Council policy, either in a daily newspaper circulated in the city of Los Angeles or by posting for ten days in three public places in the city of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE A. LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

By _____
TINA SHIM
Deputy City Attorney

MAR 28 2012
BY 
TINA SHIM
DEPUTY CITY ATTORNEY

Date _____

File No. _____