

ORDINANCE NO. 2002- 22

An ordinance authorizing the City Manager to execute a Special Warranty Deed to transfer the following parcels of property to Victoria of Texas, LP, a Delaware limited partnership d/b/a Detar Hospital, which is the abutting property owner, in exchange for \$125,000 and other consideration:

- (1) Cameron Street between the intersections of Guadalupe and San Antonio Streets,**
- (2) San Antonio Street between the intersections of Cameron and Depot Streets,**
- (3) the intersection of San Antonio and Depot Streets, and**
- (4) Depot Street between the intersections of San Antonio and Nueces Streets;**

repealing all conflicting ordinances; providing for severability; and declaring an effective date.

Section 253.001(c) of the Texas Local Government Code provides in relevant part ". . . the governing body of a municipality may sell and convey land or an interest in land that the municipality owns, holds, or claims as a public square, park, or site for the city hall or other municipal building or that is an abandoned part of a street or alley requires that before any land which is owned by a municipality is conveyed, the governing body for that municipality must adopt an ordinance directing the City Manager to execute the conveyance. . . "

Section 272.001 of the Texas Local Government Code provides in relevant part:

. . . (b) The notice and bidding requirements of Subsection (a) do not apply to the types of land and real property interests described by this subsection and owned by a political subdivision. The land and those interests described by this subsection may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the underlying fee simple. The fair market value is determined by an appraisal obtained by the political subdivision that owns the land or interest or, in the case of land or an interest owned by a home-rule municipality, the fair market value may be determined by the price obtained by the municipality at a public auction for which notice to the general public is published in the manner described by Subsection (a). The notice of the auction must include, instead of the content required by Subsection (a), a description of the land, including its location, the date, time, and location of the auction, and the procedures to be followed at the auction. The appraisal or public auction price is conclusive of the fair market value of the land or interest, regardless of any contrary provision of a home-rule charter. This subsection applies to:

- (1) narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
- (2) streets or alleys, owned in fee or used by easement;
- (3) land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;

(c) The land or interests described by Subsections (b)(1) and (2) may be sold to:

- (1) abutting property owners in the same subdivision if the land has been subdivided; or
- (2) abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

In exchange for \$125,000 and non-monetary consideration to be specified by the City Manager, the City Manager is authorized to execute a Special Warranty Deed to transfer the following parcels of property to the **Victoria of Texas, LP, a Delaware limited partnership, d/b/a Detar Hospital** , which is the abutting property owner:

- (1) Cameron Street between the intersections of Guadalupe and San Antonio Streets,
- (2) San Antonio Street between the intersections of Cameron and Depot Streets,
- (3) the intersection of San Antonio and Depot Streets, and
- (4) Depot Street between the intersections of San Antonio and Nueces Streets.

The aforementioned transfers shall be subject to the City's retention of necessary utility easements and emergency ingress/egress easements in the following parcels of property other than in Cameron Street. The City Manager is empowered to obtain an appraisal of the property, and the aforementioned transfers shall not be made unless the City Manager has received an appraisal obtained by the City that has determined that the fair market value of the property is

equal to or less than the value of the consideration to be paid for the aforementioned property. If the aforementioned appraisal determines that the fair market value of the aforementioned properties exceeds the value of the consideration to be paid for the aforementioned property, then this ordinance shall be invalid, and the aforementioned transfer shall not be undertaken until further authorization from the City Council. The City Council further finds that all requirements of Sections 253.001(c) and 272.001 of the Texas Local Government Code have been met or will be met prior to conveyance.

2.

All ordinances or parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

3.

If any provision of this Ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

4.

This ordinance shall become effective immediately upon passage and approval by the City Council of the City of Victoria, Texas.

PASSED FIRST READING, this the 3RD day of DECEMBER, 2002.

AYES: 7
NAYS: 0
ABSTENTIONS: 0

PASSED SECOND READING, this the 17TH day of DECEMBER, 2002.

AYES: 7
NAYS: 0
ABSTENTIONS: 0

PASSED THIRD READING, this the 17TH day of DECEMBER, 2002.


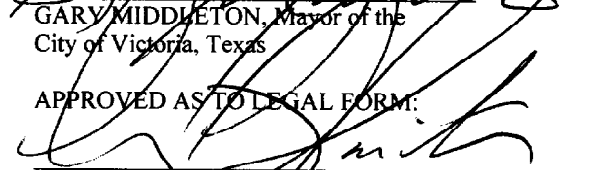
AYES: 7
NAYS: 0
ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 17TH day of DECEMBER, 2002.

ATTEST:


SCARLET SWOBODA, City Secretary




GARY MIDDLETON, Mayor of the City of Victoria, Texas
APPROVED AS TO LEGAL FORM:

DAVID ATMAR-SMITH, City Attorney

Distribution: Legal Department
Planning Department
Department of Public Works
The Victoria Advocate

Copies Sent: DECEMBER 18, 2002