

(RA-2005-37)
(COR.COPY)

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO
RESOLUTION NUMBER R-03813
ADOPTED ON SEPTEMBER 14, 2004

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO APPROVING A SECOND
IMPLEMENTATION AGREEMENT BY AND AMONG THE
REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO
AND TAYRAD, LLC.

WHEREAS, the Redevelopment Agency of the City of San Diego [Agency] is engaged in activities necessary to carry out and implement the Redevelopment Plan for the Central Imperial Redevelopment Project Area [Project Area]; and

WHEREAS, the Agency and TayRad, LLC [Developer], have heretofore entered into that certain Disposition and Development Agreement as amended by a First Implementation Agreement to Disposition and Development Agreement (both documents are collectively referred to herein as the “Agreement”) for the development of certain real property referenced therein as the “Site” which is located in the Central Imperial Redevelopment Project Area; and

WHEREAS, the Agency has negotiated a proposed Second Implementation Agreement [Second Implementation] and the Agency proposes to enter into the Second Implementation Agreement with the Developer, a copy of which is on file in the office of the Secretary to the Agency as Document No. D-03813; and

WHEREAS, the purpose of the Second Implementation Agreement shall be to make any and all such other changes in the Agreement as deemed appropriate and necessary by the parties with respect to the provision for the performance of the Remedial Work as defined in the Agreement by the Development at its sole cost and expense, revising the Schedule of Performance for the development of the improvements on the Site, modifying the purchase price payable for the Site by the Developer previously set forth in the Method of Financing, modifying Grant Deed B and making any and all other changes deemed necessary and appropriate by the parties; NOW THEREFORE,

BE IT RESOLVED, by the Redevelopment Agency of the City of San Diego as follows:

1. That the forth paragraph of Section 212 of the Disposition and Development Agreement is hereby amended to read as follows:

Notwithstanding for foregoing, the parties are aware that the vacant portion of the Site, consisting of approximately two acres, lies below the flooding level as identified in the Valencia Park CLOMR. Both the Agency and Developer acknowledge and agree that it shall be necessary for the Developer to undertake certain additional remedial measures in the form of the Grading work to raise the vacant portion of the Site above the flooding level in order to construct the Improvements as required under this Agreement. Therefore, Developer hereby agrees to perform the Grading work as well as provide any and all other such remedial measures necessary to raise the vacant portion of the Site above the flooding level [Remedial Work], and to complete all such Remedial Work within the time established in the Amended Schedule of Performance, attached to this

Second Implementation Agreement as Attachment No. 1. Moreover, all such costs of the Remedial Work shall be the financial responsibility of Developer.

2. That Section 307 of the Disposition and Development Agreement is hereby amended to read as follows:

The cost of developing the Site and constructing all improvements hereon shall be borne by the Developer, including all of those certain costs necessary to raise the vacant portion of the Site over the CLOMR flooding level.

3. That the amount of the Additional Purchase Price payable by the Developer its successors or assigns in the event that any part of the vacant portion of the Site as originally set forth in Exhibit A to the Method of Financing, (Attachment No. 2 of the Agreement) is hereby amended and revised in accordance with the calculations set forth in that certain “Additional Purchase Price for Vacant Portion of the Site” attached to the Second Implementation Agreement as Attachment No. 2

That Part B of the Method of Financing (Attachment No. 2) is hereby amended to read as follows:

Notwithstanding any to the contrary, the Agency shall have no responsibility for any of the costs attributed to the public improvements required to be constructed pursuant to the Agreement and the Scope of Development (Attachment No. 4 of the Agreement, including, but not limited to, those certain costs directly related to the Rough Grading as well as any and all additional remedial required to raise the two vacant portions of the Site above the CLOMR flooding level.

Except as specifically and otherwise indicated, all fees or charges payable to private or public entities, including the City of San Diego, shall be the sole responsibility of the Developer.

4. That the Schedule of Performance of the Agreement is hereby deleted in its entirety and replaced with the Amended Schedule of Performance attached to the Second Implementation Agreement.

5. The second numbered item of Section B, "Preliminary Site Preparation," of Part III, "Agency Responsibility" of the Scope of Development is hereby amended to read as follows:

"2. Rough Grading (Preliminary Site Preparation): Rough Grading has been partially completed by the Agency. However, all additional Rough Grading including, but not limited to, the Rough Grading necessary to raise the two vacant lots comprising the Site above the CLOMR flooding levels, shall be the responsibility of the Developer and not the Agency."

6. Grant Deed B is hereby deleted in its entirety and replaced by that certain Grant Deed B, in the form attached as Attachment No. 3 to the Second Implementation Agreement and fully incorporated.

APPROVED: CASEY GWINN, General Counsel

By _____
Sung Phillips
Deputy General Counsel

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Or.Dept:SEDC

AudCert: N/A
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