

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO
RESOLUTION NUMBER R-03964
ADOPTED ON OCTOBER 18, 2005

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING THE SALE OF CERTAIN PROPERTY GENERALLY LOCATED TO THE IMMEDIATE SOUTH OF THE INTERSECTION OF PARK BOULEVARD AND THE 12TH AVENUE TROLLEY RIGHT OF WAY (EAST OF PETCO PARK) IN THE CENTRE CITY REDEVELOPMENT PROJECT AREA [AGENCY SALES PARCEL] TO BALLPARK VILLAGE LLC; DIRECTING CERTAIN REVISIONS TO THE OWNER PARTICIPATION AGREEMENT AS DESCRIBED HEREIN; AND APPROVING THE OWNER PARTICIPATION AGREEMENT, THE MASTER PLAN AND THE AFFORDABLE HOUSING AGREEMENT PERTAINING TO PARCELS C AND D (INCLUDING THE AGENCY SALES PARCEL); AS REVISED HEREIN AND MAKING CERTAIN FINDINGS WITH RESPECT TO SUCH SALE.

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 Centre City Redevelopment Project [Project]; and

WHEREAS, in order to carry out and implement such Redevelopment Plan the Agency proposes to enter into an Owner Participation Agreement [OPA] with Ballpark Village LLC, a Delaware limited liability company [Participant], regarding the redevelopment of certain property within the Project Area known as Parcel C and Parcel D [Site]. Parcel C is bounded by 12th Avenue on the east, Imperial Avenue to the south and Park Boulevard on the northwest. Parcel D is bounded by Imperial Avenue to the north, 11th Avenue to the east, Park Boulevard to

the west and the trolley tracks and rail yards to the south. Parcel C and Parcel D would be developed as a mixed use development of a variety of land uses including residential, office, commercial retail and/or hotel and service uses, parking, and other uses, including a required affordable housing component to be developed by Participant in accordance with a proposed Affordable Housing Agreement by and between Agency, Participant and the San Diego Housing Commission; and

WHEREAS, pursuant to the terms and conditions of the proposed OPA, the Agency proposes to sell to the Participant that portion of the Site described in the OPA as the Agency Sales Parcel (generally located to the immediate south of the intersection of Park Boulevard and the 12th Avenue trolley right of way); and

WHEREAS, all development on the Site is proposed to be governed by a Master Plan specifying development standards and controls for the Site; and

WHEREAS, the Participant has submitted to the Agency and the City Council of the City of San Diego copies of said proposed OPA including the proposed Master Plan and proposed Affordable Housing Agreement in a form desired by the Participant; and

WHEREAS, Centre City Development Corporation, Inc., has reviewed and discussed said proposed OPA and said proposed Master Plan and said proposed Affordable Housing Agreement, and has recommended that the City Council approve and the Agency enter into the OPA with Participant and that the City Council approve a variance to the City's Inclusionary Housing Ordinance pursuant to section 142.1304(c) of the Ordinance in the form of the Affordable Housing Agreement and that the Agency enter into the Affordable Housing Agreement with Participant and the San Diego Housing Commission; and

WHEREAS, pursuant to the California Community Redevelopment Law (California Health and Safety Code, sections 33000, et seq.) the Agency and the City Council held a joint public hearing on the proposed sale of the Agency Sales Parcel pursuant to such OPA, having duly published notice of such public hearing and made copies of the proposed OPA and other reports and documents available for public inspection and comment; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed sale of real property and believes that the development of the real property pursuant to the proposed OPA is in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements; and

WHEREAS, the Planning Commission, in a public hearing on August 25, 2005, having duly noticed such public hearing, has recommended to the City Council the approval of findings for a variance to the City's Inclusionary Housing Ordinance in accordance with section 142.1304(c) of the Ordinance (Municipal Code section 142.1301 et seq.) in connection with the development of the Site by Participant in accordance with the Affordable Housing Agreement [Variance]; and

WHEREAS, the San Diego Housing Commission, in a public meeting on August 26, 2005, has recommended the City Council's approval of deviations from the City's Inclusionary Housing Ordinance in the form of the Affordable Housing Agreement and authorized its President and Chief Executive Officer to execute the Affordable Housing Agreement; and

WHEREAS, the San Diego Housing Commission, in a public meeting on October 5, 2005, determined that either and both the Affordable Housing Agreement and the "Ballpark

Village Rental Housing Project Requirements,” attached hereto as Attachment A, meet the requirements of the City’s Inclusionary Housing Ordinance; and

WHEREAS, the City Council, in a concurrent public hearing, having duly noticed such public hearing, has granted the Variance pursuant to section 142.1304(c) of the Inclusionary Housing Ordinance, and based thereon the City Council has determined that, with respect to the City’s Inclusionary Housing Ordinance, the requirements set forth in the OPA and the Affordable Housing Agreement may govern the Site’s compliance with the Inclusionary Housing Ordinance; and

WHEREAS, the Agency has duly considered the Master Plan which specifies the development standards and controls governing the Site pursuant to the terms and conditions of the OPA; NOW, THEREFORE,

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

1. That the Agency recognizes that it has received and heard all oral and written objections to the proposed Owner Participation Agreement including the Master Plan and Affordable Housing Agreement and to the proposed sale of the real property pursuant to the proposed OPA, and to other matters pertaining to this transaction, and that all such oral and written objections are hereby overruled.

2. That the Agency hereby finds and determines that the sale of the real property pursuant to the proposed OPA will assist in the elimination of blight within the Project area, and is consistent with the Implementation Plan for the Centre City Redevelopment Project adopted pursuant to section 33490 of the California Community Redevelopment Law.

3. That the Agency hereby finds and determines that the consideration to be paid by the Participant for the sale of the real property as described in the OPA is not less than the fair market price and fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale.

4. That the sale of the Agency Sales Parcel, the OPA which establishes the terms and conditions for the sale of the Agency Sales Parcel and development of the Site, the Master Plan specifying the development standards and controls governing the Site (Attachment No. 9 of the OPA), and the Affordable Housing Agreement specifying the terms and conditions for the development of affordable housing on the Site and the Project's compliance with the City's Inclusionary Housing Ordinance (Attachment No. 10 of the OPA) are hereby approved, with the following direction that the OPA, the Master Plan and the Affordable Housing Agreement be revised prior to execution by the Participant and the Executive Director of the Agency to provide:

- a. That the Participant shall provide no less than 35,000 gross square feet (rather than 100,000 gross square feet) of Affordable For-Sale Housing on the Site;
- b. That the Participant shall provide Affordable For-Rent Housing off-site as provided by Attachment A, "Ballpark Village Rental Housing Project Requirements," attached hereto, and that such Attachment A shall become Attachment No. 11 to the OPA; and
- c. That the Participant's compliance with the on-site and off-site Affordable Housing requirements as described above shall relieve Participant of the payment of In-Lieu Fees which otherwise would have been required by the City's

Inclusionary Housing Ordinance. In no event shall the payment of In-Lieu Fees relieve Participant of its obligations to satisfy the on-site and off-site Affordable Housing requirements as described above; and

- d. Further, that the following constitutes a Condition of Approval of the Ballpark Village Project to be developed on the Site:

Disclosure Condition: The Ballpark Village Project proponent, or any subsequent seller of residential units within the Ballpark Village Project, shall provide a disclosure to all initial purchasers of residential units within the Ballpark Village Project notifying them that the property is located in the vicinity of railroad, marine terminal and other industrial uses and that the property could be exposed to noise, vibration, fumes, particulate matters (dust), odors, or other similar impacts from these uses. This disclosure shall be substantially in the form attached hereto as Attachment B, or otherwise acceptable to the City and Redevelopment Agency. This disclosure shall also be included within the Ballpark Village Project's Covenants, Conditions and Restrictions (CC&Rs) and the State Department of Real Estate public report known as the "white paper."

5. That the Executive Director of the Agency (or his designee) is hereby authorized to execute such revised Owner Participation Agreement and Affordable Housing Agreement on behalf of the Agency, provided that the City Council has first approved the revised OPA, Master Plan and Affordable Housing Agreement and the sale of the real property pursuant to the OPA. A copy of the OPA, when executed by the Agency, shall be placed on file in the office of the Secretary of the Agency as Document No. D-03964a. A copy of the Affordable Housing

Agreement, when executed by the Agency, shall be placed on file in the office of the Secretary of the Agency as Document No. D-03964b.

6. That the Executive Director of the Agency, or his designee, is hereby authorized, on behalf of the Agency, to sign all documents necessary and appropriate to carry out and implement the OPA, the Master Plan and the Affordable Housing Agreement and to administer the Agency's obligations, responsibilities and duties to be performed under said OPA, the Master Plan and Affordable Housing Agreement.

APPROVED: MICHAEL J. AGUIRRE, General Counsel

By _____
Susan Y. Cola
Deputy General Counsel

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10/25/05 **REV. COPY**
Or.Dept: CCDC.
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ATTACHMENT B

Homeowner Disclosure – Marine Terminal and Rail Facilities

The Tenth Avenue Marine Terminal and BNSF Railway Company rail yard are located and operate in the general vicinity of Ballpark Village. The marine terminal is the site of bulk and breakbulk loading and unloading activities conducted by tenants of the Port of San Diego. Other operations at the terminal include trucking, storage and maintenance activities. The railroad operates trains 24 hours every day. In the future, activities at the terminal and railroad may intensify or may be expanded to include other activities not currently conducted or contemplated. The present and future operations of the terminal and railroad may create significant adverse impacts affecting purchasers, tenants and occupants of Ballpark Village. Those impacts include inconvenience, noise, and interference with the comfortable use and enjoyment of the homes in Ballpark Village. Specifically, there may be noise from operation of equipment, lights and illumination, fumes and odors, dust and debris, vibration, sun blockage and traffic. One potential effect of these impacts may be a diminution in the quality of life for those residing in Ballpark Village and a reduction of the value of homes built there.