

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO
RESOLUTION NUMBER R-03972
ADOPTED ON NOVEMBER 15, 2005

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING THE SECOND IMPLEMENTATION AGREEMENT TO THE OWNER PARTICIPATION AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO AND BROADWAY & 9^{T H}, LP (BUD FISCHER) FOR THE BROADWAY SQUARE AFFORDABLE HOUSING PROJECT.

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 and implement the Redevelopment Plan, the Agency has entered into that certain Owner Participation Agreement [OPA], dated April 7, 2003, and on file in the Office of the Agency as Document No.D-3601, and into that certain First Implementation Agreement, dated November 29, 2004, and on file in the Office of the Agency as Document No. D-3840 with Broadway & 9th, LP (Bud Fischer) [Developer], pertaining to the real property described in the OPA [Property]; and

WHEREAS, the Developer has determined that the plan and method of financing the costs of the development of the Property and the construction of the improvements thereon as contemplated by the OPA have become infeasible as the result of increasing construction costs and interest rates; and

WHEREAS, the Agency and Developer propose (pursuant to the terms and conditions of the Second Implementation Agreement) to terminate the Developer's obligations to develop the Property under the OPA and preserve the Agency's ability to develop affordable housing on the Site, and to make other changes deemed appropriate by the parties; and

WHEREAS, the proposed Second Implementation Agreement provides the Agency with an opportunity to develop affordable housing on the Property without the participation of Developer by providing the Agency with an option to purchase the Property from the Owner, for the amount of \$8,800,000, under the terms and conditions provided in the proposed Second Implementation Agreement and attached Option Agreement; and

WHEREAS, the proposed Second Implementation Agreement also provides the Developer with an option to repurchase the Property from the Agency in the event that the Agency is unable to develop affordable housing on the Property within five (5) years from the date of the Agency's purchase of the Property, for the amount of \$8,800,000 plus interest in the amount of four percent (4%) compounded annually, in accordance with the terms of the Second Implementation Agreement and attached Repurchase Agreement; and

WHEREAS, the Centre City Development Corporation [CCDC] has reviewed and discussed the proposed Second Implementation Agreement and attached Option Agreement and Repurchase Agreement [hereinafter referenced collectively as Second Implementation

Agreement] and has recommended that the Agency enter into the Second Implementation Agreement; and

WHEREAS, the Agency has duly considered the recommendations of CCDC and all the terms and conditions of the proposed Second Implementation Agreement and believes that the terms contain therein are in the best interest 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; NOW, THEREFORE,

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

1. That it approves the Second Implementation Agreement, a copy of which is on file in the Office of the Agency as Document No. D-03972.
2. That the Executive Director of the Agency, or designee, is authorized to execute the Second Implementation Agreement for and on behalf of the Agency.
3. That the Executive Director of the Agency, or designee, is authorized, on behalf of the Agency, to sign all documents necessary and appropriate to carry out and implement the Second Implementation Agreement and to administer the Agency's obligations, responsibilities and duties to be performed under Second Implementation Agreement.
4. That, in the event the Executive Director exercises the Agency's option to purchase the Property on behalf of the Agency, the expenditure of \$8,800,000 for the Agency's purchase of the Property is authorized contingent upon the City

Auditor and Comptroller first furnishing a certificate that the funds are available in the City Treasury.

5. That development of the Property in conformance with the proposed Second Implementation Agreement shall be conditioned upon compliance with CEQA per CEQA Guideline 15004(b)(1)(A).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Susan Y. Cola
Deputy General Counsel

SYC:mm
10/31/05
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