

REDEVELOPMENT AGENCY OF

THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04208

DATE OF FINAL PASSAGE OCT 18 2007

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO WAIVING ITS ATTORNEY-
CLIENT AND ATTORNEY WORK PRODUCT PRIVILEGES
IN THE CASE ENTITLED *FURGATCH v. SAN DIEGO
UNIFIED PORT DISTRICT, ET AL.*

WHEREAS, in February 2000, the City entered into a purchase and sale agreement with the San Diego Unified Port District [Port] whereby the Port would pay \$21 million for four parcels of land commonly known as Tailgate Park. The agreement benefited the City by providing funds for the ball park development. The Port would obtain the right to use the land for event parking and also enter into a lease agreement with the Padres to operate parking during the baseball games; and

WHEREAS, Plaintiff Harvey Furgatch, a former Port Commissioner, sued the Port to prevent the expenditure of Port funds for this purchase. The City intervened as an interested party. Plaintiff alleged that the land was overvalued, that it was outside of the tidelands managed by the Port and that the Port did not need additional parking; and

WHEREAS, an issue and a barrier to the finalization of the sale was the control the City would have over future use of this property. Thus, the City insisted that the land be subject to a conditional use permit [CUP]. The Port wanted to take the property free of land use restrictions. Because the parties failed to agree on this term, the City terminated the contract in August 2005; and

WHEREAS, The City's termination of the contract occurred during the trial of Furgatch's lawsuit, the trial court deemed the matter moot and dismissed the lawsuit. Plaintiff brought a motion for attorney's fees alleging his lawsuit, despite the dismissal, was a substantial factor in bringing about the termination of the purchase and sale agreement. The Court denied that motion. Plaintiff appealed and the appellate court remanded this matter to the trial court to allow Plaintiff discovery regarding the reasons why the City terminated the agreement. Further, the motion for attorney's fees will be reheard by the trial court after completion of discovery; and

WHEREAS, the City's ability to defend against Plaintiff's claim that his lawsuit was a substantial factor in the termination of the contract is supported by privileged documents and discussions between the City Attorney's office, the Centre City Development Corporation [CCDC], as a component and agent of the Redevelopment Agency, and the Redevelopment Agency. Specifically identified privileged documents are attached as Exhibit "1" and incorporated by reference herein; and

WHEREAS, waiver of the attorney client and work product privileges is necessary to defend Furgatch's claims; NOW THEREFORE;

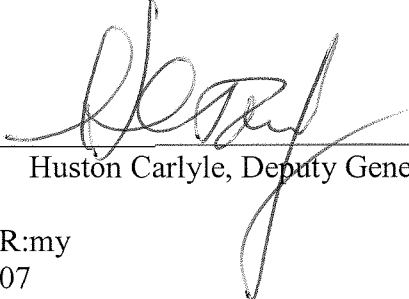
BE IT RESOLVED by the Redevelopment Agency of the City of San Diego as follows:

1. That the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO waives its attorney-client and attorney work product privileges, including and on behalf of CCDC, related to the reasons why the City of San Diego terminated the purchase and sale contract with the San Diego Unified Port District for the sale of Tailgate Park. Said termination of the purchase and sale contract is the subject of the waiver of privilege described herein. This waiver of privileges are specifically limited to the lawsuit known as *Harvey Furgatch v. San Diego Unified Port District, et al*, San Diego Superior Court Case No. GIC 775242 and further limited to the

documents identified in Exhibit "1" attached hereto, referenced and incorporated herein, together with testimony of REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO personnel related to the reasons why the City terminated the purchase and sale contract.

2. The waiver of the privileges described herein is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

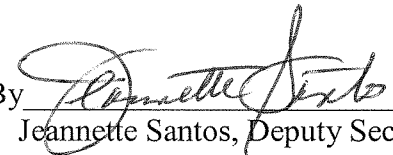
APPROVED: MICHAEL J. AGUIRRE, General Counsel

By 
Huston Carlyle, Deputy General Counsel

HC:JR:my
7/18/07
Or.Dept:CA
RA-2008-31
Council:Companion R-2008-2
LE:03-18158

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at its meeting of OCT 09 2007.

REDEVELOPMENT AGENCY

By 
Jeannette Santos, Deputy Secretary

Approved: 10-18-07
(date)


JERRY SANDERS, Executive Director

Vetoed: _____
(date)

JERRY SANDERS, Executive Director

Passed by the Redevelopment Agency of The City of San Diego on OCT 09 2007, by the following vote:

Agency Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 18 2007

AUTHENTICATED BY:

JERRY SANDERS
Executive Director of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
Secretary of The City of San Diego, California.

By *Janette J. Santos*, Deputy

Office of the Redevelopment Agency, San Diego, California.

Resolution Number R- 04208