

REDEVELOPMENT AGENCY OF

THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04318

DATE OF FINAL PASSAGE AUG 25 2008

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (1) MAKING CERTAIN FINDINGS AND DETERMINATIONS PURSUANT TO HEALTH AND SAFETY CODE SECTION 33445 WITH RESPECT TO THE NORTH EMBARCADERO PUBLIC IMPROVEMENTS AND FACILITIES, (2) APPROVING AN AGREEMENT FOR COOPERATION BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO AND THE COUNTY OF SAN DIEGO RELATING TO THE FUNDING OF NORTH EMBARCADERO PUBLIC IMPROVEMENTS AND FACILITIES BY USING THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO'S TAX INCREMENT AND/OR LAND DISPOSITION PROCEEDS IN AN AMOUNT OF \$31,360,000 AND (3) MAKING CERTAIN FINDINGS ON THE ENVIRONMENTAL REVIEW COMPLETED FOR THE PROJECT.

WHEREAS, the Redevelopment Agency of the City of San Diego [Agency] is engaged in activities necessary to execute and implement the Redevelopment Plan, as amended and supplemented from time to time, for the Centre City Redevelopment Project Area [Centre City Project]; and

WHEREAS, the Centre City Development Corporation [CCDC] is responsible for implementing redevelopment projects in the Centre City Project on behalf of the Agency; and

WHEREAS, the County of San Diego [County] and Agency desire to implement the construction and completion of certain North Embarcadero public improvements and facilities located within the Centre City Redevelopment Project Area ("Redevelopment Project Area") (the "North Embarcadero Project Improvements") which will be financed in part through funds

for construction to be committed by the Agency (CCDC) pursuant hereto. The construction of the North Embarcadero Project Improvements is to be managed, administered and completed by the County; and

WHEREAS, the Agency (CCDC) proposes to commit \$31,360,000 to fund a portion of the cost of the construction of the North Embarcadero Project Improvements, to be paid to the County pursuant to thirty-nine (39) annual payments commencing in the 2011-12 fiscal year; and

WHEREAS, the County has determined that its ability to provide to the downtown San Diego area for the benefit of the community who would be hampered if the North Embarcadero Project Improvements not proceed at this time; and

WHEREAS, pursuant to Section 33445(a) of the California Community Redevelopment Law (Cal. Health & Safety Code §33000 et seq.) [Redevelopment Law], the Agency may, with the consent of the City Council of the City of San Diego [City Council], pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly owned either within or outside a project area, if the City Council makes certain determinations; and

WHEREAS, the Agency is considering the use of tax increment from the Centre City Project to fund the North Embarcadero Project Improvements, which is located within the Centre City Project and is publicly-owned by the County for the benefit of the community; and

WHEREAS, the Agency has been requested to use an amount of \$31,360,000 of tax increment and/or land disposition proceeds from the Centre City Project to fund the North Embarcadero Project Improvements due to the County's lack of funding resources; and

WHEREAS, the construction for the North Embarcadero Project Improvements would be administered by the County; and

WHEREAS, the Agency and the County are requested to approve a Cooperation Agreement (Attachment A) [Cooperation Agreement] that governs the administration and implementation of the North Embarcadero Project Improvements by the County and oversight of the expenditure of funds by the Agency (CCDC); and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED, by the Agency, as follows:

1. The Agency hereby finds and determines that:
 - a. The North Embarcadero Project Improvements are of benefit to the Centre City Project or the immediate neighborhood in which they are located;
 - b. No other reasonable means of financing the North Embarcadero Project Improvements are available to the community; and
 - c. The payment of funds by the Agency for the costs related to the North Embarcadero Project Improvements will assist in the elimination of one or more blighting conditions within the Redevelopment Project Area and North Embarcadero Project Improvements are consistent with the Centre City 2004-2009 Five-Year Implementation Plan for the Redevelopment Project Area.
2. The Agency authorizes the use of tax increment and/or land disposition proceeds from the Centre City Project to fund the North Embarcadero Project Improvements, in an amount not to exceed \$31,360,000.

3. The Agency approves a Cooperation Agreement between the Agency and the County that governs the administration and implementation of the North Embarcadero Project Improvements by the County and oversight of the expenditure of funds by Agency (CCDC).
4. The Agency directs the Executive Director of the Agency, or his designee, to:
 - a. Conduct periodic reviews on a quarterly basis as permitted under Section 1.5 of the Cooperation Agreement and meet with the County's Chief Administrative Officer, or his designee, to review the County's progress in diligently pursuing its obligations under Section 1.3 of the Cooperation Agreement to diligently pursue efforts to plan, design, construct, provide construction management for and complete the North Embarcadero Project Improvements; and
 - b. Obtain and review any and all Progress Reports and plans, specifications, and estimates of progress levels consistent with work invoices as may be provided by the County under Section 2.5 of the Cooperation Agreement;
 - c. Verify and confirm the Agency Contribution under Sections 1.2 and 2.2 shall be used by the County only to pay the cost for project design, acquisition, administration, planning, permits, environmental review, for work done as a result of environmental review, legal fees, financing, rehabilitation, construction, inspection, or project management related to the North Embarcadero Project Improvements under section 2.3A of the Cooperation Agreement and consistent with Redevelopment Law; and

- d. Withhold the Agency Contribution, as defined in the Cooperation Agreement, following the proper issuance of such written notice according to Section 4.1 of the Cooperation Agreement and the passage of the cure period set out in Section 4.1 of the Cooperation Agreement, in the event the County has not performed its obligations under Sections 1.3, 1.5, or 2.5 or in the event funds are used contrary to Section 2.3A of the Cooperation Agreement.

The provisions of this paragraph are directions of the Agency to the Executive Director, or his designee, and are not directed to limit or reduce the Executive Director's discretion or authority set forth in the following paragraph.

5. The Executive Director of the Agency, or his designee, is authorized to execute the Cooperation Agreement on behalf of the Agency and sign all documents necessary and appropriate to carry out and implement the Cooperation Agreement and to take any action and execute any and all documents and agreements necessary to implement this Resolution.

BE IT FURTHER RESOLVED, that the Agency finds that the Cooperation Agreement is a subsequent discretionary approval of the Redevelopment Plan for the Centre City Redevelopment Project addressed in the Final Environmental Impact Report for the Redevelopment Plan for the Centre City Redevelopment Project and not a separate project under the California Environmental Quality Act [CEQA] and CEQA Guideline sections 15060(c)(3) and 15378(c); and

BE IT FURTHER RESOLVED, that the Agency finds that this subsequent discretionary approval of the Cooperation Agreement does not involve project changes, a change in circumstances, or new information of substantial importance which would warrant any additional environmental review.

MICHAEL J. AGUIRRE, General Counsel

By _____

Deputy General Counsel

XX:cfq
07/12/08
Or.Dept:R.A.
Aud.Cert:
RA-2009-8
Council:Companion R-2009-64 through R-2009-67
MMS#6503

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at its meeting of JUL 29 2008 .

REDEVELOPMENT AGENCY

By Jeannette Santos
Jeannette Santos, Deputy Secretary

Approved: 8.25.08
(date)

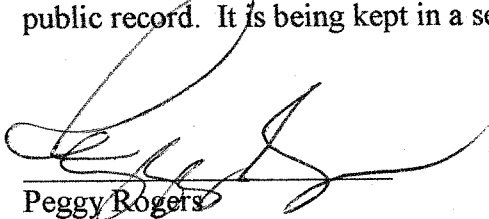
[Signature]
JERRY SANDERS, Executive Director

Vetoed: _____
(date)

JERRY SANDERS, Executive Director

September 19, 2008

I Peggy Rogers, Deputy City Clerk, do hereby certify that this memorandum authored by Huston Carlyle on July 31, 2008, referred to an attached memorandum further explaining the position of the City Attorney's office authored and signed by City Attorney Michael Aguirre on July 31, 2008. That Memorandum is Attorney/Client privileged and is not a public record. It is being kept in a secure location by City Clerk Elizabeth Maland.

A handwritten signature in black ink, appearing to read 'Peggy Rogers', written over a horizontal line.

Peggy Rogers
Deputy City Clerk

Passed by the Redevelopment Agency of The City of San Diego on JUL 29 2008, 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


Date of final passage AUG 25 2008

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 , Deputy

Office of the Redevelopment Agency, San Diego, California

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