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10/13/09
Stem 1*

REDEVELOPMENT AGENCY OF

THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04449

DATE OF FINAL PASSAGE OCT 27 2009

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING THE FIRST IMPLEMENTATION AGREEMENT TO THE OWNER PARTICIPATION AGREEMENT BY AND BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO AND BALLPARK VILLAGE LLC, A DELAWARE LIMITED LIABILITY COMPANY.

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 Area [Project Area]; and

WHEREAS, in order to carry out and implement the objectives of the Redevelopment Plan for the Project Area, the Agency entered into an Owner Participation Agreement [OPA] with Ballpark Village LLC, a Delaware limited liability company [Participant], executed by the Agency on January 13, 2006, a copy of the OPA is on file in the office of the secretary to the Agency as Document No. D-03964 / R-03964; and

WHEREAS, the OPA and its accompanying Master Plan provide development standards and controls for two sites [collectively "the Site"] owned by the Participant on Imperial Avenue (Parcels C and D), east of Park Boulevard and within the Ballpark sub-district of the East Village neighborhood, collectively known as Ballpark Village [Project]; and

WHEREAS, the OPA and Master Plan envision a mixed-use development to include a variety of land uses including retail, residential (including 35,000 gross square feet of for-sale

affordable housing), office, hotel, commercial retail or services uses, parking, and other uses as permitted by the Centre City Planned District Ordinance; and

WHEREAS, due to current market conditions, JMIR-Ballpark Village LLC (the managing member of the Participant) is requesting two changes to OPA terms in order to satisfy partnership and lender requirements and to make Ballpark Village more attractive to capital markets and more marketable as development-ready land; and

WHEREAS, pursuant to the OPA and terms of the Master Plan, the permissible transfer of approximately 1.2 million gross square feet from the Ballpark site will expire within five years following the date of execution of the OPA (on January 13, 2011) absent the issuance of Centre City Development Permits for the parcels; and

WHEREAS, the first requested change to the OPA is a five year extension on the transfer of excess development floor area from the Ballpark site to the subject Site from January 13, 2011, to January 13, 2016; and

WHEREAS, the OPA also obligates the Participant to provide 267 parking spaces dedicated for Ballpark event parking, and allows the Participant the ability to provide the spaces as part of the development of the Site or at a location permitted by the Final Subsequent Environmental Impact Report [FSEIR] completed in 1999 as part of the overall approval of the Ballpark project; and

WHEREAS, the second requested change to the OPA is to add language clarifying the Participant's flexibility in where the dedicated Ballpark parking may be located in order to allow the Participant to determine which option fits best with future development scenarios while ensuring that the dedicated Ballpark parking is provided in conformance with the FSEIR; and

WHEREAS, language has been added acknowledging that the parking garage owned by Metropolitan Transit System (James R. Mills Building Garage) located at the corner of Imperial Avenue and 11th Avenue is a location permitted under the FSEIR to provide the dedicated parking spaces; and

WHEREAS, the originally submitted versions of the First Implementation Agreement to the OPA and the First Amendment to the Agreement to be Recorded Affecting Real Property attached as Exhibit 1 to the First Implementation Agreement reflect the terms of changes originally requested by the Participant; and

WHEREAS, at the October 13, 2009, hearing on this item, the Agency revised the versions of the First Implementation Agreement to the OPA and Exhibit 1 thereto originally submitted in the agenda, by adding a new section, Section 709, to the OPA to state the following: Any proposed hotel or visitor accommodations use on the Site shall require CCDC Board and Agency Board approval prior to Participant's submission of any written design concepts, draft plans, financial analysis, and other schematics or project terms for a hotel or visitor accommodations use. Such approval shall be separate from and in addition to, not in lieu of, any CCDC Board or Agency Board approvals required under Resolution 2130 and any other legally required CCDC Board or Agency Board approvals; and

WHEREAS, all parties were present at the October 13, 2009, Agency hearing and agreed to the revisions; and

WHEREAS, at the October 13, 2009, hearing on this item, the Agency further directed CCDC staff to provide the Agency Board with an update on the Participant's compliance with the Project's parking requirement when the Project comes before the Agency Board for approvals; and

WHEREAS, the Agency has duly considered all of the terms and conditions provided in the revised First Implementation Agreement to the OPA and the revised Exhibit 1, and determines that the revised First Implementation Agreement together with the revised Exhibit 1 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, in accordance with the Agency's Guidelines for Implementation of the California Environmental Quality Act [CEQA], an Environmental Secondary Study [SS] dated July 15, 2009, was prepared for the proposed activity, and the SS concluded that the proposed activity is covered under the following previously certified environmental documents: the Final Subsequent Environmental Impact Report to the Final Master Environmental Impact Report for the Centre City Redevelopment Program and Addressing the Centre City Community Plan and Related Documents for the proposed Ballpark and Ancillary Development Projects, and Associated Plan Amendments, dated September 13, 1999; the 2005 Final Addendum to the Final Subsequent Environmental Impact Report to the Final Master Environmental Impact Report for the Centre City Redevelopment Project and Addressing the Centre City Community Plan and Related Documents for the proposed Ballpark and Ancillary Development Projects, and Associated Plan Amendments; the 2006 Final Environmental Impact Report [FEIR] for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and 10th Amendment to the Redevelopment Plan for the Centre City Project; and the 2007 Addendum to the FEIR for the 11th Amendment to the Redevelopment Plan for the Centre City Redevelopment Project, Amendments to the San Diego Downtown Community Plan, Centre City Planned District Ordinance, Marina Planned District Ordinance, and Mitigation, Monitoring

and Reporting Program of the FEIR for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and the Redevelopment Plan for the Centre City Redevelopment Project [collectively “the Environmental Documents”]; NOW, THEREFORE,

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

1. That the Agency hereby approves the revised First Implementation Agreement to the OPA and the revised First Amendment to the Agreement to be Recorded Affecting Real Property attached as Exhibit 1 to the revised First Implementation Agreement, a copy of the revised First Implementation Agreement to the OPA together with the revised Exhibit 1 shall be placed on file in the office of the secretary of the Agency as Document No. D-04449.

2. That the Executive Director of the Agency, or designee, is hereby authorized for and on behalf of the Agency, to execute the revised First Implementation Agreement to the OPA and the revised Exhibit 1, and all other documents necessary and appropriate to carry out and implement the revised First Implementation Agreement to the OPA according to its terms, and to administer the Agency's obligations, responsibilities and duties to be performed under the revised First Implementation Agreement.

3. That, consistent with the analysis contained in the SS, the effects of the proposed activity were adequately addressed in the previous Environmental Documents and the proposed activity is within the scope of the project described therein.

4. That based on the SS and those previous Environmental Documents, including the determinations made therein, the Agency finds:

a. No substantial changes are proposed in the Project which will require major revisions to the previous Environmental Documents due to the involvement of new

significant environmental effects or a substantial increase in the severity of previously identified significant effects;

b. No substantial changes have occurred with respect to the circumstances under which the Project is to be undertaken which will require major revisions to the previous Environmental Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

c. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time of the adoption and certification of the Environmental Documents shows the Project would result in new or substantially more severe significant environmental impacts not covered in the previous Environmental Documents or that mitigation measures or alternatives found to be infeasible would in fact be feasible or that there are considerably different mitigation measures or alternatives that would substantially reduce one or more significant effects of the Project;

d. No Negative Declaration, Subsequent EIR or Supplement or Addendum to EIR is necessary or required; and

e. The proposed action will have no significant effect on the environment, except as identified and considered in the previous Environmental Documents and the SS.

5. That the Agency determines that pursuant to CEQA Guidelines Sections 15162 and 15168, no further environmental documentation is required.

6. That the City Clerk, or designee, is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Activities.

APPROVED: JAN I. GOLDSMITH, General Counsel

By



Jana L. Garmo
Deputy General Counsel

JLG:hm

08/24/09

10/15/09 REV.COPY

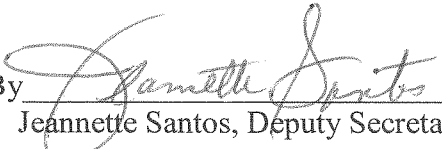
Or.Dept:Redev.Agency

RA-2010-10

MMS#9796

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at its meeting of OCT 13 2009.

REDEVELOPMENT AGENCY

By 
Jeannette Santos, Deputy Secretary

Approved: 10-27-09
(date)


JERRY SANDERS, Executive Director

Vetoed: _____
(date)

JERRY SANDERS, Executive Director

Passed by the Redevelopment Agency of The City of San Diego on OCT 13 2009, by the following vote:

Agency Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	<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"/>
Todd Gloria	<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"/>
Carl DeMaio	<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"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 27 2009.

AUTHENTICATED BY:

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

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

(Seal)

By , Deputy

Office of the Redevelopment Agency, San Diego, California

Resolution Number R- 04449