

RA ME
11/17/09
RA [Signature]

REDEVELOPMENT AGENCY OF

THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04463

DATE OF FINAL PASSAGE NOV 24 2009

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING THE AGREEMENT TO TERMINATE DISPOSITION AND DEVELOPMENT AGREEMENT WITH SETTLEMENT AND MUTUAL GENERAL RELEASE AND AUTHORIZING THE EXPENDITURE OF \$75,000 IN CONNECTION THEREWITH.

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 Central Imperial Redevelopment Project Area [Project Area]; and

WHEREAS, in furtherance of the objectives of the Redevelopment Plan for the Project Area, the Agency and Pacific Development Partners, LLC, a Nevada limited liability company [Developer], entered into that certain Disposition and Development Agreement dated as of December 18, 2006 [DDA] for the development of certain parcels of unimproved land within the Project Area known as Lots 2-7 of the proposed Valencia Business Park, consisting of approximately 4.33 acres, situated on Imperial Avenue, bordered on the north by the San Diego East Trolley Line, on the south by the Encanto Branch of South Las Chollas Creek, on the west by 54th Street, and on the east by Merlin Drive [Property]; and

WHEREAS, the Southeastern Economic Development Corporation [SEDC] is authorized, on behalf of the Agency, to administer redevelopment activities within the Project Area; and

WHEREAS, pursuant to the terms and conditions of the DDA, the Developer was required to develop certain light-industrial uses on the Property; and

WHEREAS, after seeking tenants for an industrial development, the Developer determined that industrial uses on the Property were not economically feasible and consequently decided to revise the planned development to include retail and commercial uses; and

WHEREAS, in order to implement the development of retail and commercial uses (rather than light- industrial uses) on the Property, the Developer submitted to SEDC a request for a zoning change of the Property and an amendment to the DDA; and

WHEREAS, due to community controversy regarding the Developer's change in the planned development of the Property and other issues and community concerns involving the Developer and SEDC, a zoning change of the Property was not completed and an amendment to the DDA was not presented to the Agency for consideration; and

WHEREAS, the Agency, SEDC, and the Developer each agree that it is in each party's best interest to voluntarily terminate the DDA and to settle any and all claims by and between the parties in connection with the DDA and the development of the Property; and

WHEREAS, as part of the agreement to terminate the DDA and to settle any and all claims, the Agency agrees to make a total payment of \$75,000 to the Developer which is offset by the Agency's retention of the \$50,000 good faith deposit paid by the Developer to the Agency pursuant to the DDA, resulting in a net out-of-pocket cost to the Agency of \$25,000; NOW, THEREFORE,

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

1. That the Agreement to Terminate Disposition and Development Agreement with Settlement and Mutual Release [Agreement] is hereby approved, thereby terminating immediately upon the Agreement's execution that certain Disposition and Development Agreement dated as of December 18, 2006 [DDA] entered into by and between the Agency and Pacific Development Partners, LLC, a Nevada limited liability company [Developer].

2. That the Agency hereby authorizes the expenditure in the amount of Seventy Five Thousand Dollars (\$75,000) as total payment to the Developer in connection with the Agreement.

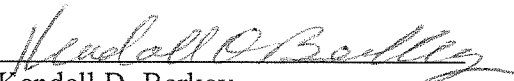
3. That the Agency shall retain the entire amount of the good faith deposit in the amount of Fifty Thousand Dollars (\$50,000) submitted by the Developer to the Agency pursuant to the DDA, as the Agency's sole property, including any accrued interest thereon.

4. That the Agency Executive Director or designee is hereby authorized to execute the Agreement, a copy of which when executed by the Agency, shall be placed on file in the office of the Secretary of the Agency as Document No. 04463.

5. That the Agency Executive Director or designee is hereby authorized, on behalf of the Agency, to sign all documents necessary and appropriate to carry out and implement the Agreement and this Resolution and to administer the Agency's obligations, responsibilities and duties to be performed thereunder.

APPROVED: JAN I. GOLDSMITH, General Counsel


By


Kendall D. Berkey
Deputy General Counsel

KDB:nda
10/26/09
Or.Dept:SEDC
Cert.No: C3000002792
RA-2010-27
MMS#8692

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of NOV 17 2009.

REDEVELOPMENT AGENCY

By 
Jeannette Santos, Deputy Secretary

Approved: 11-24-09
(date)


JERRY SANDERS, Executive Director

Vetoed: _____
(date)

JERRY SANDERS, Executive Director

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

CC CC3000002792

ORIGINATING DEPT. NO.: 9094

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: Francisco Lopez

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
TOTAL AMOUNT									

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: _____ \$75,000.00

Vendor: Pacific Development Partners

Purpose: Authorized the distribution of \$75,000 to the Developer as a settlement payment per the proposed termination and release agreement for the Valencia Business Park project within the Central Imperial Redevelopment Project Area.

Date: November 2, 2009 By: Francisco J. Lopez

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
1	400641	915500110000	915500110101	OTHR-00000000-NS	512182	2215	2215500011		\$75,000.00
TOTAL AMOUNT									\$75,000.00

FUND OVERRIDE

CC CC3000002792

Passed by the Redevelopment Agency of The City of San Diego on NOV 17 2009, by the following vote:

Agency Members	Yeas	Nays	Not Present	Recused
Sherr 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"/>

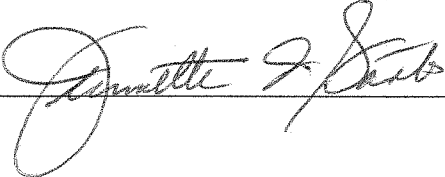
Date of final passage NOV 24 2009.

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- 04463