

Sp. RA meeting  
1/12/10  
Item 2

REDEVELOPMENT AGENCY

OF THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04477

DATE OF FINAL PASSAGE JAN 22 2010

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING THE AGREEMENT AFFECTING REAL PROPERTY BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO AND THE SAN DIEGO HOUSING COMMISSION THEREBY MODIFYING CERTAIN USE RESTRICTIONS FOR THE SAN DIEGO HOUSING COMMISSION OFFICE TOWER OF THE COMPLETED SMART CORNER PROJECT LOCATED IN THE EXPANSION SUB AREA OF THE CENTRE CITY REDEVELOPMENT PROJECT.

WHEREAS, the Redevelopment Agency of the City of San Diego [Agency] is engaged in certain activities necessary to carry out and implement the Redevelopment Plan [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 that certain Disposition and Development Agreement dated July 31, 2003 and on file in the Office of the Secretary to the Agency as Document No. D-03665/R-03665, as amended by that certain First Implementation Agreement to the Disposition and Development Agreement dated August 19, 2004 and on file in the Office of the Secretary to the Agency as Document No. D-03800a/R-03800, that certain Second Implementation Agreement to the Disposition and Development Agreement dated June 14, 2007 and on file in the Office of the Secretary to the Agency as Document No. D-04129/R-04129, and that certain Third Implementation Agreement to the Disposition and Development Agreement dated June 23, 2008 and approved by the Agency administratively [collectively, the DDA] with Lankford and Associates, Inc., a Colorado corporation, which DDA was assigned to Smart

Corner, LLC, a Delaware limited liability company, and then to CJUF Smart Corner LLC, a Delaware limited liability company [Developer]; and

WHEREAS, the DDA governs the acquisition, disposition and development of certain improvements including, but not limited to, a mid-rise five-story office building [Housing Commission Office Tower] and a nineteen-story, mixed use residential tower [Residential Tower], which Housing Commission Office Tower and Residential Tower share a four-level subterranean parking garage [Parking Garage, and collectively with the Housing Commission Office Tower and Residential Tower, the Project]; and

WHEREAS, the Project is a part of the completed Smart Corner project and located on that certain real property within the Expansion Sub Area of the Project Area; and

WHEREAS, in connection with the DDA, the Property was conveyed from the Agency to Developer by that certain Grant Deed recorded on October 8, 2004, as Document No. 2004-0958513 in the Official Records of the San Diego County Recorder's Office [Agency Grant Deed]; which Agency Grant Deed was later amended by that certain Amendment to Grant Deed recorded on June 26, 2007, as Document No. 2007-0429397 in the Official Records of the San Diego County Recorder's Office; and

WHEREAS, in connection with the DDA, subsequent to the recordation of the Agency Grant Deed, the Property was legally subdivided pursuant to Subdivision Map No. 15217 filed in the Office of the County Recorder of San Diego County December 22, 2005, into three (3) airspace lots: the Housing Commission Parcel, the Parking Parcel, and the Residential Parcel; The Housing Commission Parcel includes the Housing Commission Office Tower [Housing Commission Parcel]; and

WHEREAS, in connection with the DDA and the Agency Grant Deed, Developer conveyed the Housing Commission Parcel to the San Diego Housing Commission [Housing Commission] by that certain Grant Deed recorded on November 1, 2006, as Document No. 2006-0777950 in the Official Records of the San Diego County Recorder's Office; Said conveyance to the Housing Commission was subject to the Agency Grant Deed; and

WHEREAS, the Agency Grant Deed provides that the Housing Commission will occupy approximately 63,431 rentable square feet and will lease the remaining space to nonprofit organizations or governmental entities, with ground floor retail uses; and

WHEREAS, among other things, the Agency Grant Deed has been interpreted to require the Housing Commission to lease the remaining space of approximately 20,000 square feet on the second floor of the Housing Commission Office Tower to non-profit organizations or government entities [Non-Profit/Government Entity Leasing Requirement], with ground floor retail uses; and

WHEREAS, due to the negative conditions of the current financial market and its adverse affect on the local real estate market and business, the Housing Commission has advised that it has been challenged to find qualified tenants to satisfy the Non-Profit/Government Entity Leasing Requirement; and

WHEREAS, the Housing Commission has requested a modification and clarification of the use restrictions set forth in the Agency Grant Deed, through the execution and recordation of the proposed Agreement Affecting Real Property [AARP], to provide that (i) the Housing Commission, its successors and assignees, shall occupy approximately 63,431 rentable square feet [Housing Commission Space]; (ii) the Housing Commission shall lease a minimum of 20,000 rentable square feet of the Housing Commission Office Tower to non-profit organizations

or governmental entities, which leases may be dispersed on either the first or second floors of the Housing Commission Office Tower, with ground floor retail uses; (iii) nothing shall preclude the Housing Commission from utilizing the balance or a portion of the balance of the space within the building itself on the first and second floors; (iv) nothing shall require that retail space on the ground floor be leased to non-profit organizations and/or governmental entities; and (v) the Housing Commission, its successors and assignees, shall not be required to lease more than 20,000 rentable square feet on the first and/or second floors (which does not include the Housing Commission Space) to non-profit organizations and/or governmental entities, and that the occupation and utilization of space by the Housing Commission on the first and/or second floor, in addition to the top three floors, shall be counted toward this requirement; and

WHEREAS, the Centre City Development Corporation [CCDC] Board considered the proposed AARP and voted unanimously to recommend that the Agency approve the AARP; and

WHEREAS, the Housing Commission has administratively approved and the CCDC recommends approval of the proposed AARP as a workable solution because it removes certain use restrictions and allows flexibility in the Housing Commission's leasing arrangements in order to generate revenue, while maintaining the spirit and intent of the original leasing conditions; and

WHEREAS, the Agency has duly considered the recommendations of CCDC and the terms and provisions of the proposed AARP and determines that the modification and clarification of the use restrictions relating to the Housing Commission Office Tower, pursuant to the proposed AARP, are in the best interest of the Agency, 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,

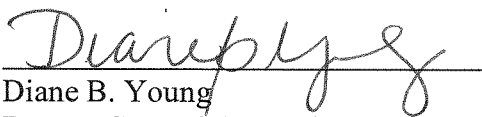
BE IT RESOLVED, by the Redevelopment Agency of the City of San Diego [Agency],  
as follows:

1. That the Agency hereby finds and determines that the proposed modification and clarification of the use restrictions relating to the Housing Commission Office Tower, pursuant to the proposed Agreement Affecting Real Property, maintain the spirit and intent of the use restrictions contemplated by the DDA and the Agency Grant Deed.

2. That the Agency hereby approves the Agreement Affecting Real Property by and between the Agency and the San Diego Housing Commission; a copy of the Agreement Affecting Real Property, after execution by all parties shall be placed on file in the office of the Agency secretary as Document No. D- 04477.

3. That the Executive Director of the Agency, or designee, is hereby authorized for and on behalf of the Agency, to execute the Agreement Affecting Real Property and all other documents necessary and appropriate to carry out and implement the Agreement Affecting Real Property according to its terms, and to administer the Agency's obligations, responsibilities, and duties to be performed thereunder.

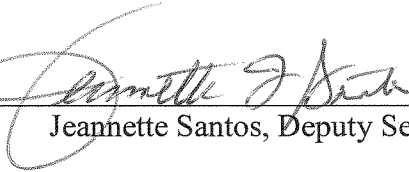
APPROVED: JAN I. GOLDSMITH, General Counsel

By   
Diane B. Young  
Deputy General Counsel

DBY:nda  
12/23/09  
Or.Dept:CCDC  
RA-2010-47  
MMS#11246

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of JAN 12 2010 .

REDEVELOPMENT AGENCY

By   
Jeannette Santos, Deputy Secretary

Approved: 1.22.10  
(date)

  
JERRY SANDERS, Executive Director

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Executive Director

Passed by the Redevelopment Agency of The City of San Diego on JAN 1 2 2010, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

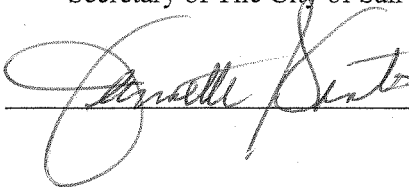
Date of final passage JAN 2 2 2010.

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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