



## REDEVELOPMENT AGENCY OF

## THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04484DATE OF FINAL PASSAGE MAR 02 2010

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING THE "GRANT OF TEMPORARY EASEMENT AND REMAINING ENCROACHMENT AND AGREEMENT" BY AND BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO AND CITY HEIGHTS REALTY, LLC FOR THE EXCAVATION AND CONSTRUCTION OF A TIE-BACK SHORING SYSTEM AND RELATED IMPROVEMENTS UNDER AND WITHIN REAL PROPERTY KNOWN AS THE CITY HEIGHTS SQUARE MINI PARK LOCATED WITHIN THE CITY HEIGHTS REDEVELOPMENT PROJECT AREA.

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 City Heights Redevelopment Project Area [Project Area]; and

WHEREAS, on February 9, 2006, the Agency acquired a 5,348 square foot site [Property] located on 43<sup>rd</sup> Street between University Avenue and Polk Avenue, City of San Diego, in the Project Area for future development of the Property as a public park [City Heights Square Mini Park] in furtherance of the Redevelopment Plan for the Project Area and in accordance with that certain Disposition and Development Agreement entered into by and between the Agency and San Diego Revitalization Corporation, approved by the Agency on May 3, 2005, as amended by that certain First Implementation Agreement entered into by and between the Agency and Price Charities (formerly San Diego Revitalization Corporation) approved by the Agency on November 13, 2007, and as further amended by that certain Second

Implementation Agreement entered into by and between the Agency and City Heights Realty, LLC (assignee of the DDA from Price Charities) approved by the Agency on December 2, 2008 [collectively referred to herein as the DDA]; and

WHEREAS, the DDA provides for City Heights Realty, LLC's development of a mixed-use residential/commercial project including a subterranean parking garage and is a component of a 2.7 acre City Heights Square master plan that includes a senior housing project, a community medical clinic, the mixed-use residential/commercial project to be developed by City Heights Square, LLC, and the subject Property to be developed by the Agency as the City Heights Square Mini Park; and

WHEREAS, the Agency and the City of San Diego [City] have agreed that the City shall complete the design and construction of the City Heights Square Mini Park using Agency contributed funds and that, upon completion of construction, the Agency intends on transferring, and the City intends on accepting, fee title of the Property by Grant Deed, for the Property to be used as a public park; and

WHEREAS, in order to carry out and implement the DDA with City Heights Realty, LLC and to facilitate its development of the subterranean parking garage for the mixed-use residential/commercial project, City Heights Realty, LLC has requested the Agency, and the Agency proposes, to enter into a Grant of Temporary Easement and Remaining Encroachment and Agreement with City Heights Square, LLC; and

WHEREAS, the Grant of Temporary Easement and Remaining Encroachment and Agreement would provide the Agency's grant to City Heights Square, LLC of a temporary easement and remaining encroachment for the excavation and construction of a tie-back shoring system and related improvements [Tie-Back] under and within a portion of the Agency-owned

Property to be developed as the City Heights Square Mini Park, consisting of approximately 1,706 square feet of unimproved area within said Property, for the sole purpose of installing, maintaining, repairing, replacing, and removing the Tie-Back; and

WHEREAS, the proposed Tie-Back will serve City Heights Square, LLC's proposed mixed-use residential/commercial project, which said project is subject to certain permits issued by the City, to wit: Planned Development Permit No. 514696, Amendment to Planned Development Permit No. 308092; Neighborhood Use Permit No. 518933, Amendment to Neighborhood Use Permit No. 327436; Conditional Use Permit No. 518932, Amendment to Conditional Use Permit No. 308101; and Site Development Permit No. 519775, Amendment to Site Development Permit No. 308102 and the associated Community Plan Amendment, General Plan Amendment, and Rezone for the City Heights Square-Amendment project (Project No. 146605); and

WHEREAS, the proposed Tie-Back will be required only during construction of City Heights Square, LLC's mixed-use residential/commercial project and will be disengaged upon the expiration of the term of the Easement and will remain as an encroachment in the Agency-owned Property, until such time the Agency or its successors and assigns (including the City upon becoming the Property owner) requires such removal of the Tie-Back and restoration of the Property; and

WHEREAS, the proposed Tie-Back will extend from the real property owned by City Heights Square, LLC to the south located at 4302 University Avenue, on which its mixed-use residential/commercial project will be constructed, through the Agency-owned Property, and 35 feet to the north; and

WHEREAS, the Grant of Temporary Easement and Remaining Encroachment and Agreement is non-exclusive and the Agency expressly reserves for itself and its successors and assigns the right to use the easement area or to grant other easements or licenses at the same location; and


WHEREAS, Agency staff has determined that the temporary easement and remaining encroachment has a negligible fair market value and that, considering the public benefit of the Project, the Agency would not impose a charge on City Heights Realty, LLC for the grant of temporary easement and remaining encroachment; 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 Grant of Temporary Easement and Remaining Encroachment and Agreement by and between the Agency and City Heights Realty, LLC for the excavation and construction of a tie-back shoring system and related improvements [Tie-Back] on Agency-owned Property, and the Exhibits attached thereto; a copy of said Agreement, upon execution by the Agency, shall be placed on file in the office of the secretary of the Agency as Document No. D- 04484

2. That the Agency hereby authorizes the Agency Executive Director or designee to execute the Grant of Temporary Easement and Remaining Encroachment and Agreement and all other documents necessary and appropriated to carry out and implement said Agreement, 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  
01/27/10  
Or.Dept:Redev.Agency  
RA-2010-53  
MMS#7091  
Comp. RA-2010-54

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of FEB 23 2010.

REDEVELOPMENT AGENCY

By   
Jeannette Santos, Deputy Secretary

Approved: 3.2.10  
(date)

  
JERRY SANDERS, Executive Director

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

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

Passed by the Redevelopment Agency of The City of San Diego on FEB 23 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 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 02 2010.

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

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