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REDEVELOPMENT AGENCY

OF THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04490

DATE OF FINAL PASSAGE MAR 10 2010

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO UNENCUMBERING FUNDS IN THE AMOUNT OF \$11,457,209 PREVIOUSLY RESERVED BY AGENCY RESOLUTION NO. R-04394 FOR PAYMENT TO THE EDUCATIONAL REVENUE AUGMENTATION FUND DURING FISCAL YEAR 2009 PURSUANT TO ASSEMBLY BILL 1389.

WHEREAS, the Centre City Development Corporation, Inc. [CCDC] has been authorized, on behalf of the Redevelopment Agency of the City of San Diego [Agency], to administer the Centre City and Horton Plaza Redevelopment Projects located within the Centre City area of the City of San Diego [City]; and

WHEREAS, the Southeastern Economic Development Corporation, Inc. [SEDC] has been authorized, on behalf of the Agency, to administer the Central Imperial, Gateway Center West, Southcrest, and Mount Hope Redevelopment Projects located within the Southeastern area of the City; and

WHEREAS, the Redevelopment Division of the City Planning and Community Investment Department [City Redevelopment Division] has been authorized, on behalf of the Agency, to administer the Linda Vista, College Grove, Barrio Logan, City Heights, College Community, North Park, San Ysidro, Naval Training Center, North Bay, Crossroads, and Grantville Redevelopment Projects located within various areas of the City other than those located within the Centre City and Southeastern areas of the City; and

WHEREAS, Assembly Bill 1389 obligated the Agency to remit payment to the State of California's Education Revenue Augmentation Fund [ERAF]; and

WHEREAS, Program Budgets for Fiscal Year 2008-2009 previously approved by the Agency for the Redevelopment Projects managed by the CCDC, the SEDC, and the City Redevelopment Division did not allocate this payment to the ERAF; and

WHEREAS, pursuant to Agency Resolution No. R-04394 with the date of final passage of May 4, 2009 [Resolution to Encumber] the Agency amended the Fiscal Year 2008-2009 Program Budgets for the Redevelopment Projects managed by the CCDC, the SEDC, and the City Redevelopment Division in order to process the required payment totaling \$11,457,209 to the ERAF; and

WHEREAS, the validity of the legislation mandating this ERAF payment was challenged with litigation filed in the Superior Court of California for Sacramento County [Superior Court], *California Redevelopment Association et al v. Genest et al*, Case No. 34-2008-00028334-CU-WM-GDS [CRA v. Genest], which litigation action alleged, among other things, that the duties of county auditors under California Health and Safety Code Sections 33685(a) and 33687(a) to deposit funds received from redevelopment agencies in County Educational Revenue Augmentation Funds were inconsistent with various state and federal constitutional provisions and are therefore unlawful and unenforceable; and

WHEREAS, on May 7, 2009, the Superior Court issued a judgment in favor of the plaintiffs in CRA v. Genest and mailed a Notice of Entry of Judgment to the attorneys for all respondents and defendants in the litigation action on the same date; and

WHEREAS, on May 26, 2009, a Notice of Appeal was filed on behalf of Michael C. Genest, Director of the Department of Finance [Appellant]; and

WHEREAS, on September 23, 2009, Appellant filed an Abandonment of Appeal in the Superior Court [Abandonment of Appeal]; and

WHEREAS, California Rules of Court Section 8.104 (a) provides in pertinent part, “a notice of appeal must be filed on or before the earliest of: (1) 60 days after the superior court clerk mails the party filing the notice of appeal a document entitled “Notice of Entry” of judgment of a file-stamped copy of the judgment, showing the date either was mailed; (2) 60 days after the party filing the notice of appeal serves or is served by a party with a document entitled “Notice of Entry” of judgment or a file-stamped copy of the judgment, accompanied by proof of service; or (3) 180 days after entry of judgment.”; and

WHEREAS, California Rules of Court Section 8.244 provides in pertinent part, filing an abandonment of appeal “effects a dismissal of the appeal and restores the superior court’s jurisdiction”; and

WHEREAS, in applying the above referenced California Rules of Court, the filing of the Abandonment of Appeal restored the Superior Court’s jurisdiction, as such, the appeal has been dismissed, and, since more than 60 days have passed since the Notice of Entry of Judgment was mailed, the judgment in the action is now final and non-appealable; and

WHEREAS, in light of the final and non-appealable judgment in the action of CRA v. Genest in favor of the plaintiff, the Agency desires to unencumber those monies previously reserved under the Resolution to Encumber; NOW, THEREFORE,

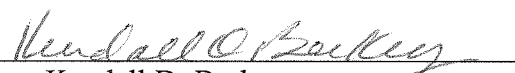
BE IT RESOLVED, by the Redevelopment Agency of the City of San Diego [Agency] as follows:

1. That the Agency hereby authorizes the City’s Chief Financial Officer, as delegated, to unencumber funds in the amount of \$11,457,209 previously reserved and

encumbered by Agency Resolution No. R-04394 for payment to the Educational Revenue Augmentation Fund during Fiscal Year 2009 pursuant to Assembly Bill 1389.

2. That the Agency Executive Director or designee is hereby authorized to execute all documents on behalf of the Agency that are necessary and appropriate to carry out and implement the purposes set forth in this Resolution according to its terms, and to administer the Agency's obligations, responsibilities and duties to be performed hereunder.

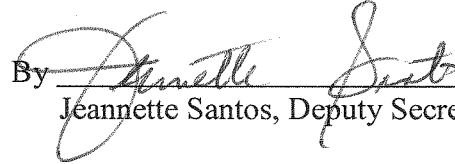
APPROVED: JAN I. GOLDSMITH, General Counsel

By 
Kendall D. Berkey
Deputy General Counsel

KDB:nda
02/05/10
Or.Dept:Redev.Agency
RA-2010-57
MMS#11513

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: 3-10-10
(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"/>

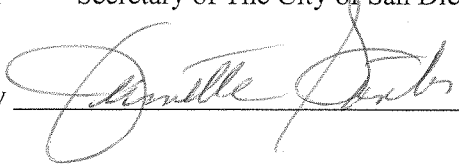
Date of final passage MAR 10 2010.

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

Resolution Number R- 04490