



REDEVELOPMENT AGENCY OF

THE CITY OF SAN DIEGO

RESOLUTION NUMBER 04592

DATE OF FINAL PASSAGE DEC 14 2010

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING THE THIRD IMPLEMENTATION AGREEMENT TO THE OWNER PARTICIPATION AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO AND PINNACLE BAYSIDE DEVELOPMENT US L.P., WITHIN THE EAST VILLAGE REDEVELOPMENT DISTRICT OF THE EXPANSION SUB AREA OF THE CENTRE CITY REDEVELOPMENT PROJECT.

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 Redevelopment Plan for the Project Area, the Agency and Pinnacle International Development, Inc., a California corporation, entered into that certain Owner Participation Agreement (OPA) dated October 12, 2005, as amended by the Agency and Pinnacle Bayside Development US L.P., a California limited partnership (Developer), pursuant to that certain First Implementation Agreement dated August 6, 2006 (First Implementation Agreement) and that certain Second Implementation Agreement dated May 2, 2007 (Second Implementation Agreement) (the OPA, the First Implementation Agreement and the Second Implementation Agreement are collectively referred to herein as the (Agreement)); and

WHEREAS, the Agreement provides for the construction of a neighborhood public park, a mixed-use high density residential and commercial development with a private underground

parking garage, and a corner commercial structure and patio including joint-use public restrooms at the corner of 14th Street and Island Avenue on a 120,000 square foot “super block” bounded by Island Avenue and 14th, 15th, and J Streets; and

WHEREAS, due to market conditions that were unfavorable for high density residential and commercial development, the Developer did not start construction of the private high-rise residential and commercial development and Park Improvements by October 2008 as required by the OPA in order to develop private parking beneath any portion of the Park Easement; and

WHEREAS, at the Developer’s request, the Agency and Developer intend to amend the OPA through a Third Implementation Agreement that would require the Developer to construct the neighborhood park in advance of the private high rise residential and commercial development (Stand-Alone Park) in exchange for providing the Developer an opportunity to elect within seven years after the development of the Stand-Alone Park to develop private parking beneath a portion of the Park Easement so long as the Developer delivers its written decision to construct any or all of the remaining private residential high rise and commercial development on the Site; and

WHEREAS, the Third Implementation Agreement provides that if the Developer develops the private parking beneath a portion of the Park Easement which includes demolishing a portion of the Stand-Alone Park, the Developer must fully restore the public park (Final Restored Park); and

WHEREAS, on October 11, 2005, pursuant to Resolution No. R-03959, the Agency certified that it had reviewed and considered information in the 1992 Master Environmental Impact Report (MEIR) for the Centre City Redevelopment Project, the 1999 Subsequent Environmental Impact Report (SEIR) to the MEIR for the Proposed Ballpark and Ancillary

Development Projects, and Associated Plan Amendments, and the 2005 Environmental Secondary Study (ESS) with respect to the OPA. In addition, the Final Environmental Impact Report (FEIR) for the Centre City Redevelopment Plan, Downtown Community Plan, and amendments to the Centre City Planned District Ordinance was certified by the Agency on March 14, 2006 pursuant to Resolution No. R-04001, and subsequent addenda to the FEIR were certified by the Agency on August 3, 2007 pursuant to Resolution No. R-04193, and on April 21, 2010 pursuant to Resolutions No. R-04508 and R-04510, in compliance with the California Environmental Quality Act (CEQA). The FEIR is a Program EIR prepared in compliance with State CEQA Guidelines Section 15168. The proposed Third Implementation Agreement does not propose changes in the scope of development envisioned in the OPA and, therefore, the environmental impacts of the proposed Third Implementation Agreement were adequately addressed in the 1992 MEIR, the 1999 SEIR, the 2005 ESS, and the 2006 FEIR and subsequent addenda. The proposed project is within the scope of the development program described in these environmental documents and, pursuant to CEQA Guidelines Section 15168, no further environmental documentation is required; and

WHEREAS, Agency has duly considered all terms and conditions of the proposed Third Implementation Agreement and believes that the conditions contained therein are in the best interests of the Project Area and the health, safety, morale and welfare of its residents, and in accordance with the public purposes and provisions of applicable state and local law and requirements; and

WHEREAS, pursuant to Article II, section 1 of the Bylaws of the Agency, the City Attorney acts as General Counsel for the Agency; and

WHEREAS, effective on March 1, 2007, by Resolution Number R-04124, the Agency authorized an Agreement for Legal Services (Legal Services Agreement) with Kane, Ballmer & Berkman (Special Counsel) in which Special Counsel agrees to render legal services to the Agency under the direction of the City Attorney on an "as needed" basis; and

WHEREAS, the Agency approved the First Amendment to the Legal Services Agreement pursuant to Resolution Number R-04251 effective April 8, 2008; the Second Amendment to the Legal Services Agreement pursuant to Resolution Number R-04393 effective May 4, 2009; and the Third Amendment to the Legal Services Agreement pursuant to Resolution Number R-04483 effective March 5, 2010; and

WHEREAS, the City Attorney has determined that the City Attorney's Office has insufficient personnel to handle the Third Implementation Agreement to the OPA and that the services of Special Counsel are therefore needed; and

WHEREAS, Special Counsel has drafted the Third Implementation Agreement and the attachments to that Agreement and has approved the Third Implementation Agreement as to form and legality; and

WHEREAS, based on Special Counsel's legal review and approval of such contract, the City Attorney, acting as General Counsel, has drafted this Resolution; NOW, THEREFORE,


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

1. That the Agency approves the Third Implementation Agreement and the terms and conditions thereof. A copy of the Third Implementation Agreement is on file in the office of the Secretary to the Agency as Document No. D- 04592.

2. That the Executive Director of the Agency, or designee, is authorized for and on behalf of the Agency to execute the Third Implementation Agreement for and on behalf of the

Agency and all other documents necessary and appropriate to carry out and implement the Third Implementation Agreement according to its terms, including the Second Amendment to Park Easement Deed, the Third Amendment to Grant Deed, the Third Amendment to Agreement Affecting Real Property and the Second Amendment to Park Maintenance Agreement, which are attached to the Third Implementation Agreement, and to administer the Agency's obligations, responsibilities and duties to be performed under the Third Implementation Agreement.

APPROVED: JAN I. GOLDSMITH, General Counsel

By   
Elisa A. Cusato  
Deputy General Counsel

KK/EAC:js/nja  
10/26/10  
Or.Dept:Redev.Agency  
RA-2011-29  
PL#2010-00924  
Comp. R-2011-497

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of DEC 07 2010

REDEVELOPMENT AGENCY

By   
Jeannette Santos, Deputy Secretary

Approved: 12-14-10  
(date)

  
JERRY SANDERS, Executive Director

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

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

Passed by the Redevelopment Agency of The City of San Diego on DEC 07 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"/> |
| Lorie Zapf      | <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"/> |
| David Alvarez   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |

Date of final passage DEC 14 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

Resolution Number R- 04592