

REDEVELOPMENT AGENCY OF  
THE CITY OF SAN DIEGO



RESOLUTION NUMBER R- 04600

DATE OF FINAL PASSAGE JAN 16 2011

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (i) AUTHORIZING THE EXPENDITURE OF FUNDS FOR CONSTRUCTION OF AN URBAN PUBLIC PLAZA, INCLUDING THE REHABILITATION OF THE EXISTING HISTORIC HORTON PLAZA PARK LOCATED IN THE HORTON PLAZA REDEVELOPMENT PROJECT AREA; AND (ii) MAKING CERTAIN FINDINGS AND DETERMINATIONS RELATED THERETO IN ACCORDANCE WITH CALIFORNIA HEALTH AND SAFETY CODE SECTION 33445.

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 Horton Plaza Redevelopment Project (Redevelopment Plan) in the Horton Plaza Redevelopment Project Area (Project Area); and

WHEREAS, pursuant to the Redevelopment Plan for the Project Area, section 440.2 authorizes the Agency to cause the construction of public improvements including plazas and improvements to sidewalks, section 540 authorizes the Agency to cause the Horton Plaza, fountain and amenities to be restored, improved, and if feasible, expanded, and section 110.1 states that the objectives for the Project Area include, among other things, upgrading the quality of life in the downtown area and coordinating the upgrade of community facilities that will serve the needs of the entire downtown area; and

WHEREAS, in order to implement the Redevelopment Plan for the Project Area, the Agency adopted the Fourth Implementation Plan for the Project Area for the period of July 2009

through June 2014 (Implementation Plan) pursuant to Resolution No. R-04405 on June 19, 2009, and in accordance with Section 33490 of the California Health and Safety Code; a copy of the Implementation Plan is on file at the office of the Agency Secretary as Document No. D-04405e; and

WHEREAS, the Implementation Plan identifies, among other things, the need to contribute to blight removal by making improvements to streets and sidewalks in the public right-of-way within the Project Area, to create and enhance new and existing open spaces and to implement the 2006 Downtown Community Plan for the entire 1,445-acre Centre City jurisdiction including open space and other planning elements and implementing documents; and

WHEREAS, consistent with the Implementation Plan and the Redevelopment Plan for the Project Area, the Centre City Development Corporation, Inc. (Corporation), acting on behalf of the Agency, has negotiated an Owner Participation Agreement (OPA) with Horton Land LLC, a Delaware limited liability company, Horton Plaza Venture LLC, a Delaware limited liability company, and Horton Plaza L.P., a Delaware limited partnership (collectively, Developer), wherein the Developer has agreed, among other things, to prepare and transfer for consideration to the Agency an approximately 37,000 square-foot site (Sales Parcel) for the development and construction by the Agency of an urban public plaza (Public Plaza), including the rehabilitation of the existing historic Horton Plaza Park (together with the Public Plaza, shall be referred to as Plaza Improvements); and

WHEREAS, the proposed OPA requires the Agency to, among other obligations, contribute not less than \$8,000,000, to be funded as required by the OPA, towards the development and construction of the Plaza Improvements as well as to deposit \$150,000 on or before the end of Fiscal Year 2015 and on the next four anniversary dates thereof ending on or

before the end of Fiscal Year 2019 for a total of \$750,000 into a reserve account for anticipated capital repairs and replacement costs. Upon completion of the Plaza Improvements, the Agency would convey the Sales Parcel to the City of San Diego (City) pursuant to a proposed Cooperation Agreement, in the form attached to the proposed OPA as Attachment No. 5; and

WHEREAS, the Corporation, acting on behalf of Agency, now proposes to implement, administer and manage the construction and installation of the Plaza Improvements; and

WHEREAS, pursuant to Article II, Section 1 of the Bylaws of the Agency, the City Attorney of San Diego (City Attorney) acts as General Counsel for the Agency; and

WHEREAS, effective March 1, 2007, by Resolution Number R-04124, the Agency authorized an Agreement for Legal Service (Legal Service 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 City Attorney has determined that the City Attorney's Office has insufficient personnel to handle this matter and that the service of Special Counsel are therefore needed; and

WHEREAS, Special Counsel has drafted the OPA and all related and referenced documents in this Resolution and has approved the OPA and all related and referenced documents in this Resolution 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; and

WHEREAS, after having duly considered the actions described above and the Agency's proposed financial contribution for the construction and installation of the Plaza Improvements, the Agency believes that the actions and the payment by the Agency of costs of the Plaza

Improvements are of benefit to the Project Area and are in the best interests of the Project Area, the City and the safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law; NOW, THEREFORE,

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

1. That the Agency finds and determines that all recitals set forth in this Resolution are true and correct and fully incorporated herein by this reference.
2. That the Agency authorizes the expenditure of not less than \$8,000,000, to be funded as required by the OPA, towards the development and construction of the Plaza Improvements and the deposit of \$750,000 into a reserve account for anticipated capital repairs and replacement costs, upon certification from the Comptroller that funds are available.
3. That the Agency finds and determines each of the following in accordance with California Health and Safety Code section 33445:
  - (a) That the Plaza Improvements within the Project Area, for which the Agency proposes to pay using Agency funds from the Project Area, are of benefit to the Project Area by helping to eliminate blighting conditions within the Project Area, in that:
    - (1) The Plaza Improvements will cause the Horton Plaza, fountain and amenities to be restored, improved and expanded.
    - (2) The Plaza Improvements will assist in improving the existing damaged and outdated surface improvements to current City standards.
    - (3) The Plaza Improvements will increase and enhance the amount of public open space to enhance downtown commercial districts and residential neighborhoods.

(b) That there are no reasonable means available to the community (i.e., City of San Diego) for financing the Plaza Improvements for which the Agency proposes to pay, in that:

(1) The City's General Fund is dependent on the financial health of the local economy in addition to the state and nationwide economy. Some economic indicators are currently still lagging and could possibly restrain economic stabilization or expansion in the economy in Fiscal Year 2011. The improvement in municipal budgets appears to be also lagging the overall economy. Overall, the economic outlook remains very uncertain in the upcoming fiscal year.

(2) The City's General Fund Budget is funded from various sources, but the four largest revenue sources are property tax, sales tax, transient occupancy tax (TOT), and franchise fees, and account for approximately \$710.8 million or 64.8 percent of total General Fund revenues. The decline in these four major revenues in the Fiscal Year 2011 Adopted Budget accounts for approximately \$31.6 million or 94.3 percent of the total General Fund decline of \$33.5 million compared to the Fiscal Year 2010 Adopted Budget.

(3) In Fiscal Year 2011 sales tax is budgeted at \$187.5 million, which represents a decrease of \$22.7 million or 10.8 percent from the Fiscal Year 2010 Adopted Budget due to the decline in per capita income and consumer spending, and the high unemployment rate in the City. TOT is budgeted at \$66.1 million, a decrease of \$9.8 million or 12.9 percent from the Fiscal Year 2010 Adopted Budget due to the decline in local tourism. Franchise fees are budgeted at \$67.2 million, a decrease of \$6.5 million or 8.9 percent from the Fiscal Year 2010 Adopted Budget due to a decline in refuse haulers tonnage.

(4) The City's Fiscal Year 2011 Adopted Budget reflects General Fund revenues and expenditures of \$1.10 billion, representing a decline of \$33.5 million or 3.0% over the Fiscal Year 2010 Adopted Budget. The Fiscal Year 2011 Adopted Budget includes 7,067.98 budgeted full time equivalent (FTE) positions, a decrease of 328.94 FTE positions over the Fiscal Year 2010 Budget. The net decrease in General Fund positions is primarily due to the reduction of 485.16 FTE positions as part of the revised Fiscal Year 2010 Budget approved by the City Council that has been incorporated in the Fiscal Year 2011 Adopted Budget. These reductions were to City's critical services including brownouts in the Fire Department, reductions in lifeguard positions, and reductions in library hours. If the City's revenues improve, then the City's first priority would be to restore those critical services funded by General Fund that have been reduced this year due to the loss of revenue in fiscal year 2011.

(5) The City's Fiscal Year 2011 Adopted Budget, approved by the City Council of the City of San Diego (City Council) in June 2010, includes reduced revenue projections adjusted for a continuation of slow economic growth and a continued constriction of economic activity. Growth in revenues is anticipated to be negative in most major revenue categories such as property tax, sales tax, TOT, and franchisee fees.

(6) The City's Capital Improvements Program (CIP) budget allocates existing funds and anticipated revenues to rehabilitate, restore, improve, enhance, and increase the City's capital facilities. This budget supports the design and construction of a wide range of infrastructure improvement projects and other significant capital infrastructure investments. The Fiscal Year 2011 CIP Adopted Budget totals \$299.6 million. This is a reduction of \$153.6 million or 33.9 percent from the Fiscal Year 2010 CIP Adopted Budget of \$453.2 million.

(7) Deferred capital projects remain one of the eight significant areas identified in the Five-Year Financial Outlook. Since Fiscal Year 2008, approximately \$142 million has been appropriated for facilities, streets, storm drain and other deferred capital projects, funded by proceeds from land sales, bond financing, and Proposition 1B funding. Another proposal for bond financing is anticipated to come before City Council in Fiscal Year 2012 to continue efforts to address the City's approximately \$900 million backlog of deferred projects.

(8) There are currently no funds allocated in the Fiscal Year 2011 Adopted CIP Budget to fund the Plaza Improvements.

(c) That the payment of Agency funds for construction and installation of the Plaza Improvements is consistent with the Implementation Plan for the Project Area pursuant to California Health and Safety Code section 33490, in that:

(1) The Plaza Improvements address the specific goals and objectives of the Implementation Plan, as identified on page 11 of the work program which includes replacement of inadequate public improvements and the increase and enhancement of the amount of public open space to enhance downtown commercial districts and residential neighborhoods.

(2) By furthering the specific goals and objectives of the Implementation Plan, the Plaza Improvements and the Agency's payment thereof are a means to eliminate blight within the Project Area and will facilitate the objectives of the Redevelopment Plan for the Project Area.

4. That the Agency authorizes the Executive Director or designee, to implement, adhere to, and administer and execute all other 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 Monique R. Tayyab  
Monique R. Tayyab  
Deputy General Counsel

MRT:hm  
12/28/10  
Cert.No. 3000003870  
Or.Dept:CCDC  
RA-2011-62  
PL#2010-01468  
Comp. R-2011-581

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at its meeting of JAN 11 2011.

REDEVELOPMENT AGENCY

By Jeannette Santos  
Jeannette Santos, Deputy Secretary

Approved: 1-16-11  
(date)

JSL  
JERRY SANDERS, Executive Director

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

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

**The City of San Diego  
COMPTROLLER'S CERTIFICATE**

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING

CC 3000003870

DEPT. \_\_\_\_\_  
NO. \_\_\_\_\_

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: \$5,800,000.00 Fund: See below

Purpose: e1472 - (Line 1) To encumber \$1,200,000 for the cost of design for the proposed urban plaza and historic rehabilitation of existing Horton Plaza areas. (Lines 2 - 4) To encumber \$4,600,000 of the \$8,000,000 minimum cost for Horton Plaza Park Improvements per an OPA agreement with the Developer's that is being approved under the same action. (Per the action, the remaining \$3,400,000 will be approved subsequent to this action in FY11 and FY12). Vendor(s) for the design and construction to be determined at a later date as authorized by the action.

Date: December 29, 2010

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
001	400413	955500102000	955500102101	OTHR-03-NS	512025	2255	2255500011		\$1,200,000.00
002	400413	955500102000	955500102101	OTHR-10-NS	512025	2255	2255500011		\$2,524,419.00
003	400646	955500102000	955500102101	OTHR-10-NS	512025	2255	2255500011		\$1,185,581.00
004	400404	955500102000	955500102101	OTHR-10-NS	512025	2255	2255500011		\$890,000.00
TOTAL AMOUNT									\$5,800,000.00

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: \_\_\_\_\_

Vendor: \_\_\_\_\_

Purpose: \_\_\_\_\_

Date: \_\_\_\_\_

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
TOTAL AMOUNT									

FUND OVERRIDE ☐

CC 3000003870

Passed by the Redevelopment Agency of The City of San Diego on JAN 11 2011, 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"/>
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 JAN 16 2011

AUTHENTICATED BY:

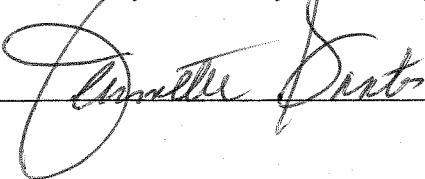
JERRY SANDERS

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- 04600