



REDEVELOPMENT AGENCY OF

THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04662

DATE OF FINAL PASSAGE APR 01 2011

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (i) APPROVING THE PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) WITH MARK AND SHARON PETRARCA FOR THE PROPERTY LOCATED AT 33RD AND E STREETS; (ii) MAKING CERTAIN FINDINGS AND DETERMINATIONS RELATED THERETO IN ACCORDANCE WITH CALIFORNIA HEALTH AND SAFETY CODE SECTION 33433; (iii) APPROVING THE BASIC CONCEPT DRAWINGS WITH RESPECT TO THE PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT; (iv) APPROVING THE EXPENDITURE OF AN AMOUNT NOT TO EXCEED \$187,639 FOR THE CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS RELATED TO THE PROPOSED DDA; (v) AUTHORIZING THE SOUTHEASTERN ECONOMIC DEVELOPMENT CORPORATION, INC., ON BEHALF OF THE AGENCY, TO ADVERTISE AND RECEIVE BIDS AND TO ADMINISTER A CONTRACT FOR THE CONSTRUCTION AND INSTALLATION OF THE PUBLIC IMPROVEMENTS; and (vi) AUTHORIZING THE AGENCY EXECUTIVE DIRECTOR OR DESIGNEE TO AWARD AND EXECUTE THE CONTRACT FOR CONSTRUCTION AND INSTALLATION OF THE PUBLIC IMPROVEMENTS.

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 Gateway Center West Component Area of the Southeastern San Diego Merged Project Area (Project Area) in accordance with the California Community Redevelopment Law (California Health and Safety Code Sections 330000 *et seq.*); and

WHEREAS, the Agency has adopted the Fourth Five-Year Implementation Plan covering the period of July 2009 through June 2014 for the Project Area (Implementation Plan); and

WHEREAS, among other things, the Implementation Plan provides for the implementation of certain activities necessary or appropriate to carry out the objectives of the Redevelopment Plan in accordance with California Health and Safety Code section 33490, which is part of the California Community Redevelopment Law; and

WHEREAS, the Southeastern Economic Development Corporation, Inc. (Corporation) is responsible for implementing redevelopment projects in the Project Area; and

WHEREAS, in order to carry out and implement the Redevelopment Plan for the Project Area, the Corporation acting on behalf of the Agency, has negotiated a proposed Disposition and Development Agreement (DDA) with Mark and Sharon Petrarca, husband and wife (Developer) for the sale of approximately .25 acre of real property located at the southwest corner of 33rd and E Streets within the Project Area (Property) for \$164,206 for development of an approximately 7,000 square foot two-story light industrial/flex office structure; and

WHEREAS, the Corporation's Board of Directors reviewed and discussed the DDA and has recommended that the Agency approve and enter into the DDA; and

WHEREAS, on or about March 16, 2011, the Agency transferred to the City of San Diego (City) fee title ownership of the Property by recorded quitclaim deed; and

WHEREAS, through an assignment agreement executed in connection with the property transfer, the Agency assigned to the City, and the City assumed, all of the Agency's rights, title, interest and obligation under all assets, agreements, contracts, permits and entitlements, and other documents relating directly or indirectly to the use, management, repair, maintenance, development and operation of the Property; and

WHEREAS, it is the intent of the Developer, the Agency, and the City (collectively, the “Parties”) that by executing the proposed DDA, the Parties confirm that they are all parties to the proposed DDA; and

WHEREAS, it is the intent of the Parties that, except as otherwise specified in the proposed DDA, all references to “Agency” in the proposed DDA, shall mean either the Agency or the City, whichever of those two Parties is the fee title owner of the Property at the relevant time, as further clarified in the proposed DDA; and

WHEREAS, it is the intent of the Parties that, as between the Agency or the City, the Party that owns fee title to the Property at the relevant time shall be entitled to exercise all rights, and shall be required to fulfill all outstanding obligations, attributable to “Agency” under the proposed DDA; and

WHEREAS, it is the intent of the Parties that, if the Agency’s prior transfer of the Property to the City is nullified, rescinded or invalidated for any reason whatsoever, then fee title to the Property shall automatically re-vest in the Agency (or its applicable successor, which may include the City), and all assets, agreements, contracts, permits and entitlements, and other documents previously assigned from the Agency to the City related to the Property shall automatically be re-assigned to the Agency (or its applicable successor, which may include the City), as further clarified in the proposed DDA; and

WHEREAS, in accordance with California Health and Safety Code section 33433, the Agency and the City Council of the City of San Diego (Council) held a joint public hearing to consider the approval of the proposed DDA on March 29, 2011, after publishing notice of the public hearing in accordance with California Health and Safety Code section 33433; and

WHEREAS, pursuant to California Health and Safety Code section 33433, the Corporation administered the preparation of the “Summary Report Pertaining to the Sale of Real Property 3272 E Street Parcel Pursuant to a Proposed Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and Mark Petrarca and Sharon Petrarca” (Summary Report), which is attached to the Corporation Report No. SEDC-11-006, dated March 23, 2011, as revised (Staff Report), and is incorporated fully into this Resolution by this reference; and

WHEREAS, the Agency has made copies of the proposed DDA and the Summary Report available for public inspection and copying no later than the time of the first publication of the notice of the public hearing; and

WHEREAS, the Summary Report contains a summary which describes and specifies all of the following:

- (i) The cost of the DDA to the Agency, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the Agency, plus the expected interest on any loans or bonds to finance the DDA;
- (ii) The estimated value of the interest to be conveyed, determined at the highest and best uses permitted under the Redevelopment Plan;
- (iii) The estimated value of the interest to be conveyed, determined at the use and with the conditions, covenants, and development costs required by the DDA, and an explanation as to why the sales price to Developer is less than fair market value, determined at highest and best use under the Redevelopment Plan, including an explanation of the difference;

(iv) An explanation of why conveyance of the Property to Developer in accordance with the DDA will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation; and

WHEREAS, pursuant to California Health and Safety Code section 33433, the Council considered the information in the Summary Report and has made the findings required by California Health and Safety Code section 33433 with respect to the DDA; and

WHEREAS, the Agency believes that the DDA is in the best interests of 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; and

WHEREAS, the Agency has considered any written evidence or testimony, or both, received in support of or in opposition to the proposed DDA, as well as the entire record prepared by the Corporation; and

WHEREAS, pursuant to the Agreement, Developer has submitted to the Agency the Basic Concept Drawings pertaining to the Development; and

WHEREAS, in connection with the DDA, the Agency, by and through the Corporation, proposes to implement, administer and manage the installation and construction of certain public improvements to the Property consisting of property preparation, curb, gutter, sidewalk, streetlight, parkway irrigation and trees, landscape planters, sewer and water and utility connections, and storm drains (Improvements); and

WHEREAS, determinations under California Health and Safety Code section 33445 for the Improvements were approved on February 28, 2011 as part of the Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Projects (Cooperation Agreement) (Document D-04618 and D-04630a and Resolution R-04618) and

identified in the Cooperation Agreement Exhibit 1- Schedule of Projects, on page 53, Row #292;
and

WHEREAS, Agency funds in the amount of \$157,560 are available from Gateway-City Loans Sales Tax Proceeds, and Agency funds in the amount of \$30,079 are available from Gateway-General Fund; and

WHEREAS, the Agency, by and through the Corporation, now proposes to implement, administer and manage the construction and installation of the Improvements, and to contribute funds up to \$187,639 to pay for the cost of construction and installation of the 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 proposed DDA and all related and referenced documents in this Resolution and has approved the proposed DDA 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; 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 recognizes that it has received and heard all oral and written objections to the proposed DDA, to the proposed sale of the real property pursuant to the proposed DDA, and to other matters pertaining to this transaction, and that all such oral and written objections are overruled.
3. That the Agency has reviewed and approves the Summary Report.
4. That the Agency finds and determines that the consideration to be received by the Agency for the Property is not less than fair market value at its highest and best use in accordance with the Implementation Plan for, among other reasons, the reasons set forth in Sections IV and VI of the Summary Report.
5. That the Agency finds and determines that the consideration to be received by the Agency for the Property is not less than fair reuse value at the use and with covenants and conditions and development costs authorized by the DDA for, among other reasons, the reasons set forth in Sections V and VII of the Summary Report.
6. That the Agency finds and determines that the conveyance and development of the Property to Developer in accordance with the DDA will assist in the elimination of blight for, among other reasons, the reasons set forth in Section VIII of the Summary Report.
7. That the Agency finds and determines that the conveyance of the Property and the development of the Property in accordance with the DDA are consistent with Section III of the Implementation Plan adopted pursuant to California Health and Safety Code section 33490, which states that the provision of sites for new and relocated industries that will provide

employment for community residents, the development of underutilized parcels, and the enhancement of infrastructure and other public improvements are is a goal of the Implementation Plan.

8. That the Agency approves the conveyance of the Property to Developer and the development of the Property, in accordance with the DDA.

9. That the Agency has reviewed and approved the DDA and any and all attachments related thereto.

10. That the Agency's Executive Director, or designee, is authorized, on behalf of the Agency, to execute the DDA and all exhibits thereto requiring the Agency's signature; a copy of the DDA, when executed by the Agency, shall be placed on file in the office of the Agency Secretary as Document No. D- 04662 a.

11. That the Agency approves the Basic Concept Drawings submitted by Developer are approved; a copy of the Basic Concept Drawings in on file in the office of the Agency Secretary as Document No. D- 04662 b.

12. That the Agency authorizes the expenditure of \$157,560 from Gateway-City Loans Sales Tax Proceeds, and \$30,079 from Gateway-General Fund to pay for the cost of construction and installation of the public improvements in connection with the DDA (Improvements).

13. That the Agency authorizes the Chief Financial Officer or designee, to appropriate and expend an amount not to exceed \$187,639 for the Improvements.

14. That the Agency authorizes the Southeastern Economic Development Corporation, Inc. (Corporation), on behalf of the Agency, to advertise and receive bids for the construction of the Improvements on or adjacent to the property located at 33rd and E Streets in

Gateway Center West Component Area of the Southeastern San Diego Merged Project Area.

15. That the Agency authorizes the Agency Executive Director or designee to award the construction contract to the lowest responsible bidder for the construction and installation of the Improvements provided that the bids are within the established allocation of \$187,639, that the construction contract shall not exceed \$187,639, and that all other public contracting requirements are met.

16. That the Agency authorizes the Agency Executive Director or designee to execute the construction contract with the lowest responsible bidder for the construction and installation of the Improvements.

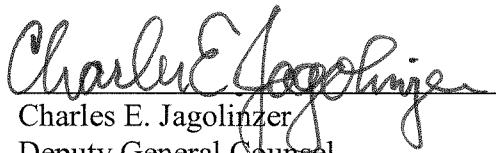
17. That the Agency authorizes the Corporation, on behalf of the Agency, to administer the construction contract for the construction and installation of the Improvements.

18. That the Agency authorizes the Executive Director, or designee, to implement, adhere to, and administer and 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 thereunder.

19. That the Agency approves and authorizes the Agency Executive Director, or designee, to administer the Agency's obligations, responsibilities and duties to be performed under the terms of this Resolution.

APPROVED: JAN I. GOLDSMITH, General Counsel

By


Charles E. Jagolinzer
Deputy General Counsel

CEJ:nja:js
3/15/2011
3/23/2011 Cor.Copy
Cert. No. 3000004017
Or.Dept:SEDC
RA-2011-118
PL#2011-06004
Comp. R-2011-783

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of MAR 29 2011

REDEVELOPMENT AGENCY

By Jeannette Santos
Jeannette Santos, Deputy Secretary

Approved: 4.1.11
(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 3000004017

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: \$187,639.00 400621 & 400645

Purpose: E1472 - Authorizing SEDC to put out to bid and enter into an agreement with a contractor for construction of the Agency Public Improvements to the property located at 33rd and E Street in the amount of \$157,560 plus \$30,079 for contingency cost. This encumbrance is governed by the DDA with Mark and Sharon Petrarca. This project is located in the Gateway Redevelopment Project Area.

Date: February 25, 2011

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
001	400621	945500103000	945500103101	OTHR-10-NS	512059	2245	2245500011		\$157,560.00
001	400645	945500103000	945500103101	OTHR-10-NS	512059	2245	2245500011		\$30,079.00
TOTAL AMOUNT									\$187,639.00

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 3000004017

Passed by the Redevelopment Agency of The City of San Diego on MAR 29 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 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 01 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- 04662