

RESOLUTION NUMBER R- 269318

ADOPTED ON SEP 22 1987

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING THAT THE COUNCIL HAS REVIEWED AND CONSIDERED INFORMATION CONTAINED IN CERTAIN ENVIRONMENTAL IMPACT REPORTS AND THE SECONDARY STUDY AND NEGATIVE DECLARATION WITH RESPECT TO THE PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO AND EARL E. WYMAN, AND MAKING CERTAIN FINDINGS AND DETERMINATIONS REGARDING ENVIRONMENTAL IMPACTS OF THE DEVELOPMENT PURSUANT THERETO.

WHEREAS, the Redevelopment Agency of The City of San Diego (the "Agency") is engaged in activities necessary to carry out and implement the Redevelopment Plan for the Marina Redevelopment Project (the "Project"); and

WHEREAS, the following environmental documents (which along with environmental assessments for specific implementation activities are collectively referred to herein as the "EIR for the Project") have been prepared in connection with and subsequent to the approval and adoption of the Redevelopment Plan for the Project:

1. "Supplement to the Environmental Impact Report, Columbia and Marina Redevelopment Projects: Santa Fe Properties Development Plan," certified by the Agency and the Council of The City of San Diego (the "Council") on April 12, 1983 by Resolution No. 837 and Ordinance No. O-15954 (New Series).

2. "Supplemental Master Environmental Impact Report for the Centre City Redevelopment Projects" (the "MEIR"), certified by

the Agency and the Council on January 9, 1979 by Resolution Nos. 417 and R-222569, respectively, with respect to the Project.

3. "Final Environmental Impact Statement Prepared for the Marina/Columbia Residential Development" (EIS Identification No. 13-79-M/C-06-0542), pursuant to Title I of the Housing and Community Development Act of 1974, certified on May 3, 1979.

4. "Supplemental Environmental Impact Report on the Marina Subarea Redevelopment Plan" (EQD. No. 76-09-37C), prepared by the Planning Department of The City of San Diego, October 1976; certified by the Council on December 10, 1976.

WHEREAS, the Council proposes to approve a Disposition and Development Agreement (the "Agreement") between the Agency and Earl E. Wyman (the "Developer") for the sale of certain property in the Project area to the Developer for the construction and development of a residential rental apartment development with ancillary commercial use; and

WHEREAS, the sale of real property and the development of the residential rental development thereon, pursuant to the provisions of the proposed Agreement between the Agency and Developer is a redevelopment implementation activity whose environmental impacts are assessed in the MEIR, a Secondary Study and Negative Declaration prepared by the Agency and other previous environmental documents; and

WHEREAS, the Council has considered the environmental effects of the proposed development as shown in the MEIR, the Secondary Study and other previous environmental documents; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. The Council hereby certifies that the Environmental Impact Secondary Study and Negative Declaration pertaining to the Agreement have been prepared and completed in compliance with the California Environmental Quality Act of 1970 (CEQA) and State and local regulations and guidelines adopted pursuant thereto, and the Agency has certified said Secondary Study and Negative Declaration.

2. The Council hereby further certifies that the information contained in said Secondary Study and Negative Declaration and the environmental assessment documents referenced therein has been reviewed and considered by the members of the Council.

3. The Council hereby finds and determines that:

a. New information specific to the development under the proposed Agreement, as described in the Secondary Study, shows that the development may cause potentially significant effects with respect to contaminated soil and water but (a) revisions to the proposed Agreement as set forth in Exhibit A (attached hereto and incorporated herein by this reference) will avoid the effects or mitigate the effects to a point where no significant effects would occur; and (b) there is no substantial evidence that the development under the proposed Agreement as revised may have a significant effect on the environment.

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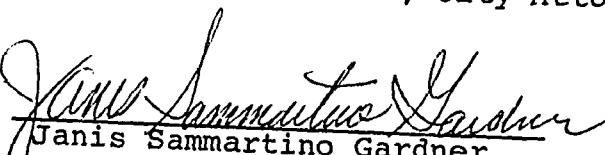
b. The Final Mitigated Negative Declaration with respect to the proposed Agreement is hereby approved and adopted.

c. Except as set forth in Paragraph a. above, no substantial changes are proposed in the Project, or with respect to the circumstances under which the Project is to be undertaken, as a result of the proposed Agreement which will require important revisions in the previous EIR for the Project and, no new information of substantial importance to the Project has become available, due to the involvement of new significant environmental impacts not covered in said previous EIR for the Project.

d. The proposed Agreement will have no significant effect on the environment, except as identified and considered in the previous EIR for the Project.

4. Based upon the Secondary Study and Negative Declaration and other documents and information in the record, the Agency hereby approves and adopts the Secondary Study and Negative Declaration and the environmental assessment documents referenced therein for the proposed Agreement for the Project.

APPROVED: John W. Witt, City Attorney

By   
Janis Sammartino Gardner  
Deputy City Attorney

JSG:ta  
09/08/87  
Or.Dept:CCDC  
R-88-474  
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## EXHIBIT A

### REMOVAL AND/OR REMEDY OF SOIL AND/OR WATER CONTAMINATION

The Developer shall (at its own cost and expense) remove and/or otherwise remedy as provided by law and implementing rules and regulations, and sufficiently to adequately protect the public health and safety (including the health and safety of occupants of the Site and adjacent properties), any contaminated or hazardous soil and/or water (but see the penultimate paragraph of this Section H.) conditions on the Site. Such work shall include without limitation the following:

1. Remove (and dispose of) and/or treat any contaminated soil and/or water on the Site (and adjacent public rights of way which the Developer is required to improve) as necessary to comply with applicable governmental standards and requirements.
2. Design and construct the improvements on the Site in a manner which will assure protection of occupants and the improvements from any contamination, whether in vapor or other form, and/or from the direct and indirect effects thereof. This shall include (without limitation) a special protective vapor barrier.
3. Prepare a site safety plan and submit it to the appropriate governmental and other authorities for approval in connection with obtaining a building permit for the construction of improvements on the Site. Such site safety plan shall assure workers and other visitors to the Site of protection from any health and safety hazards during development and construction of the improvements. Such site safety plan shall include monitoring and appropriate protective action against vapors and/or the effect thereof.
4. Obtain from the County of San Diego and/or California Regional Water Quality Control Board and/or any other authorities required by law any permits or other approvals required in connection with the removal and/or remedy of soil and/or water contamination, in connection with the development and construction on the Site.
5. Cooperate with the applicable governmental authorities and/or property owners and occupants as necessary or appropriate to cure the soil and/or water contamination condition existing on adjacent and nearby properties in the Marina Redevelopment Project area. To facilitate such curing, Developer shall construct on the Site (at its own cost and expense) a vapor and water recovery well from specifications provided by the Agency, or others than Developer. The Agency, or others than Developer, shall have the right to enter the Site and improvements as necessary to use such well, and install and use related equipment, for the cleanup program.

The Developer agrees that the Agency, and its consultants and agents, shall have the right (but not the obligation) to enter upon the Site at any time to monitor the excavation and construction on the Site, to test the soils and/or water on the Site, and to take such other actions as may be reasonably necessary to assure compliance with Section 212 of the Agreement, and this Section H. of the Scope of Development (Attachment No. 4). Nothing herein (including without limitation the Agency's right

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to inspect) shall be construed to make the Agency, the City, the Centre City Development Corporation or their respective officers, employees, contractors and agents liable for the responsibilities under said Section 212 and this Section H., and the provisions and requirements of Section 309 of the Agreement shall apply with respect thereto.

The Developer hereby acknowledges receipt of a copy of (1) that certain "Final Report, Subsurface Hydrocarbon Plume Investigation near Martin Luther King Way and First Avenue" prepared by Applied Hydrogeologic Consultants and dated May, 1987; and (2) that certain "Draft Final Report, Evaluation of a Subsurface Hydrocarbon Plume near Martin Luther King Way and Third Avenue" prepared by Applied Hydrogeologic Consultants and dated June, 1987. Except for the work described above in paragraphs 1. through 5., of this Section H., the Agency agrees (as between the Agency and Developer) to bear the cost, if any, allocated to the Site in connection with any cleanup of the hydrocarbon plume referred to in said reports, if an as required by any governmental authority. By way of clarification, with respect to water conditions, the Developer shall be responsible for any remedy of conditions made necessary or appropriate due to development of the Site, and (pursuant to this paragraph) the Agency shall (as between the Agency and Developer) bear the cost of any general water cleanup program to which the owner of the Site would otherwise be required to contribute, provided that such clean-up is not made necessary or appropriate due to development of the Site. Nothing herein shall be construed as an agreement by the Agency or Developer to undertake any such general cleanup program. By way of further clarification, the Agency shall indemnify and hold Developer harmless from any or all liabilities, claims, demands and expenses (including court costs and reasonable attorneys' fees) constituting the costs to be borne by the Agency as specifically described above in this paragraph (and only such costs).

In the event that any soil and/or water contamination condition in the Marina Redevelopment Project area is determined by the Agency or Developer at the time scheduled herein for conveyance of the Site, to be such as to reasonably require approvals or other actions which would prevent commencement and/or completion of construction of the development on the Site within the time established therefor by this Agreement, including if Developer is unable to obtain and close required financing due to such soil and/or water contamination condition, then either the Developer or the Agency may extend the date for conveyance of the Site from time to time for up to eight (8) months, and then if the determination is still applicable, either party may terminate this Agreement upon written notice to the other party. In the event of such termination the Developer's good faith deposit shall be returned to the Developer and neither the Agency nor the Developer shall have any further rights against or liability to the other under this Agreement with respect to the Site.

SEP 22 1987

Passed and adopted by the Council of The City of San Diego on.....  
by the following vote:

| Council Members        | Yeas                                | Nays                     | Not Present                         | Ineligible                      |
|------------------------|-------------------------------------|--------------------------|-------------------------------------|---------------------------------|
| Abbe Wolfsheimer       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>        |
| Bill Cleator           | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>        |
| Gloria McColl          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>        |
| District 4             | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> VACANT |
| Ed Struiksma           | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>        |
| Mike Gotch             | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>        |
| Judy McCarty           | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>        |
| Celia Ballesteros      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>        |
| Mayor Maureen O'Connor | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>        |

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By *June H. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-269318 Adopted SEP 22 1987