

RESOLUTION NUMBER R- 286245

ADOPTED ON AUG 14 1995

WHEREAS, as a result of a default in the payment of certain Assessment District No. 4007 bonds in the First San Diego River Improvement Project ("FSDRIP"), it has become necessary and appropriate for the City of San Diego ("City") to propose to acquire title to a certain property within FSDRIP ("Park In The Valley Property"); and

WHEREAS, the City acquired a \$4,870,682.73 Note and First Deed of Trust ("The May Company Deed of Trust") recorded against the Park In The Valley Property from The May Department Stores Company, a New York corporation, ("May Company") to enable the City to take title by nonjudicial foreclosure to the Park In The Valley Property; and

WHEREAS, the City, pursuant to its covenant with the owners of the Assessment District No. 4007 bonds for FSDRIP ("FSDRIP Bonds"), initiated judicial foreclosure proceedings against the Park In The Valley Property; and

WHEREAS, the City as beneficiary under The May Company Deed of Trust, instituted a non-judicial foreclosure sale under The May Company Deed of Trust ("The May Company Sale"); and

WHEREAS, if the City takes title to the Park In The Valley Property at The May Company Sale and prior to the sale of the Park In The Valley Property, all liens senior to the May Company Deed of Trust, including the portion of the FSDRIP Bonds which encumber the Park In The Valley Property and delinquent property

taxes, must be removed or otherwise satisfied prior to the sale of the Park In The Valley Property by the City to a third party; and

WHEREAS, a "due diligence" review has been undertaken on the Park In The Valley Property, generally described as four parcels including Lots 1107 and 1173 of the Pueblo Lands, portions of Lot 2 of Mission Valley Shopping Center and Lot 9, Unit 2, of the Mission Valley Shopping Center, and more particularly described in Attachment 1, hereby incorporated by this reference to this Resolution; and

WHEREAS, the Metropolitan Transit Development Board ("MTDB") approved the purchase for \$5.575 million of a portion of the Park In The Valley Property ("Take Parcel") generally described as a portion of Pueblo Lot 1107 of the Pueblo Lands of San Diego and a portion of Lot 2 of the Mission Valley Shopping Center, and more particularly described in Attachment 2, hereby incorporated by this reference to this Resolution; and

WHEREAS, the MTDB advanced to the City \$975,000 of the purchase price for the Take Parcel; and

WHEREAS, Sunbelt Management Company ("Sunbelt") has agreed to purchase, subject to certain conditions, that portion of Park In The Valley Property remaining after the MTDB acquisition ("Remainder Parcel") for \$8.9 million; and

WHEREAS, the immediate purchase of no more than \$8.4 million of FSDRIP Bonds will terminate the accrual of additional interest on those bonds; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of The City of San Diego, that the City Manager take such action as necessary to

cause the City to take title to the Park In The Valley Property pursuant to The May Company Sale.

BE IT FURTHER RESOLVED, that when the City takes title to the Park In The Valley Property:

1. That the City Manager is authorized to make the September 2, 1995 principal and interest payment in the amount of \$1,953,922.66 to the Redemption Fund.

2. That the City Manager is authorized to sell the Park In The Valley Take Parcel to the MTDB for \$5.575 million, less the seller's reasonable closing costs incurred with the transaction, and concurrently, or thereafter:

(a) That the City Auditor and Controller transfer not more than \$4.619 million from CIP 39-202.0, Eastgate Technology Park, Capital Outlay Industrial Development Fund No. 30248, to partially fund the purchase of not more than \$8.4 million of FSDRIP Bonds and to make scheduled principal and interest payments on the remaining FSDRIP Bonds. This transfer is to be reimbursed to Capital Outlay Industrial Development Fund No. 30248 when the sale of the Remainder Parcel is consummated.

(b) That the City Manager cause the purchase of no more than \$8.4 million of FSDRIP Bonds by the City by utilizing allocated funds in the Capital Outlay Fund and the sale proceeds received from MTDB.

(c) That the City Manager is authorized to tender said \$8.4 million of FSDRIP Bonds for cancellation in order to prepay, satisfy and discharge the outstanding Assessment District No. 4007 lien on the Park In The Valley Property.

(d) That the City Manager is authorized to request that the San Diego County Board of Supervisors cancel, pursuant to California Revenue and Taxation Code § 4986.3, the delinquent property taxes, penalties and interest due to the San Diego County Tax Collector in the approximate amount of \$161,900, or, in the alternative, to pay the approximate amount of \$161,900 which is due.

3. That the City Manager is authorized to sell the Park In The Valley Remainder Parcel to Sunbelt for an amount not less than \$8.9 million, less the seller's reasonable closing costs incurred with the transaction, and concurrently, or thereafter:

(a) That the City Auditor and Comptroller deposit approximately \$1.342 million in the FSDRIP Assessment District No. 4007 Special Reserve Fund ("Reserve Fund") in order to fully fund the Reserve Fund and deposit approximately \$32,600 to the FSDRP Administrative Fund No. 79365.

(b) That the City Auditor and Comptroller cause the repayment to the MTDB of \$975,000 previously advanced.

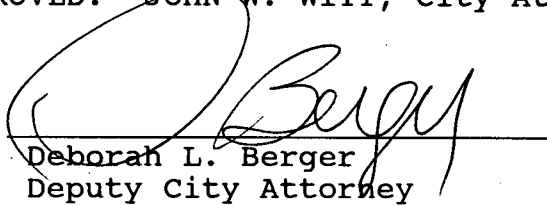
(c) That the City Auditor and Comptroller deposit \$4.619 million in the CIP 39-202.0, Eastgate Technology Park, Capital Outlay Industrial Development Fund No. 30248; deposit \$570,000.00 in the Environmental Growth Fund No. 105051; deposit \$190,000.00 in the Public Liability Trust Fund No. 81140; and deposit the balance of proceeds received, if any, in the Special Assessment District Delinquency Fund No. 79900.

(d) That the City Manager pay all attorney and receiver fees incurred to effectuate these transactions.

(e) That the City Manager is authorized to take such actions as necessary to provide for the City's contribution for the Park In The Valley Property's allocable share to the Offsite Transportation Project No. 22.

APPROVED: JOHN W. WITT, City Attorney

By

  
Deborah L. Berger  
Deputy City Attorney

DLB:cdk:404.3.1  
08/01/95  
Or.Dept:Atty  
Aud.Cert:  
R-96-120  
Form=r-t

**The City of San Diego  
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

**CERTIFICATE OF UNALLOTTED BALANCE**      AC 9600122

ORIGINATING DEPT. NO.: 544

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 \$ 4,619,000.00 Fund 30244

Purpose Advance to partially fund the acquisition of no more than \$8,400,000.00 of Assessment District No. 4007 bonds and to make scheduled principal and interest payments.

Date 08/02/95 By: Chuck Wilcox *C. Wilcox*

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
01	0	30244	30244	106	4279	392020		3248		\$4,619,000.00
TOTAL AMOUNT										\$4,619,000.00

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: \_\_\_\_\_

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE

*R-286245*

AUG 14 1995