

RESOLUTION NUMBER R- 297403

ADOPTED ON NOV 26 2002

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE FOURTH AMENDMENT TO SECOND AMENDED DISPOSITION AND DEVELOPMENT AGREEMENT, FOURTH AMENDMENT AND SUPPLEMENT TO PAYMENT AGREEMENT AND FIRST AMENDMENT TO GRANT DEED FOR THAT CERTAIN PROPERTY LOCATED GENERALLY ON G STREET BETWEEN SECOND AND THIRD AVENUES WITHIN THE HORTON PLAZA REDEVELOPMENT PROJECT AREA; AND MAKING CERTAIN FINDINGS WITH RESPECT THERETO.

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 [Project]; and

WHEREAS, in order to carry out and implement such Redevelopment Plan the Agency has entered into that certain Second Amended Disposition and Development Agreement, as amended by the Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth and Fourteenth Implementation Agreements and the Third Amendment to Disposition and Development Agreement [Agreement] with Ernest W. Hahn, Inc., successor in interest to Horton Land, LLC, a Delaware limited liability company [Developer] for the sale of certain property [Site] as described in said Agreement in the Project and for the construction thereon of a major regional shopping center, an office building (and/or alternate residential use), and related parking facilities; and

WHEREAS, certain changes have been negotiated with respect to said Second Amended Disposition and Development Agreement, as amended, and the Agency proposes to enter into the proposed Fourth Amendment to the Second Amended Disposition and Development Agreement [Fourth Amendment to Agreement], the proposed Fourth Amendment and Supplement to Payment Agreement [Fourth Amendment to Payment Agreement], and a proposed First Amendment to Grant Deed [First Amendment to Grant Deed] which Agreement contains a description of the Site and, together with the proposed Fourth Amendment to Agreement, Fourth Amendment to Payment Agreement and First Amendment to Grant Deed, provides for the construction on a portion of the Site [Parcel S-2 and Parcel 4] of a hotel, with related facilities and amenities; and

WHEREAS, the Developer has submitted to the Agency and this City Council of the City of San Diego copies of said proposed Fourth Amendment to Agreement, Fourth Amendment to Payment Agreement, and First Amendment to Grant Deed in a form desired by the Developer; and

WHEREAS, the Centre City Development Corporation, Inc., has reviewed and discussed said proposed Fourth Amendment to Agreement, Fourth Amendment to Payment Agreement, and First Amendment to Grant Deed, and has recommended that the City Council approve and the Agency enter into the Fourth Amendment to Agreement, Fourth Amendment to Payment Agreement, and First Amendment to Grant Deed; and

WHEREAS, pursuant to the California Community Redevelopment Law (California Health and Safety Code, sections 33000, *et seq.*) the Agency and this City Council held a joint public hearing on the proposed Fourth Amendment to Agreement, Fourth Amendment to

Payment Agreement, and First Amendment to Grant Deed; having duly published notice of such public hearing and made copies of the proposed Fourth Amendment to Agreement, Fourth Amendment to Payment Agreement, and First Amendment to Grant Deed and other reports and documents available for public inspection and comment; and

WHEREAS, the City Council has duly considered all terms and conditions of the proposed development of real property and believes that the development of the real property pursuant to the proposed Fourth Amendment to Agreement, Fourth Amendment to Payment Agreement, and First Amendment to Grant Deed 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; NOW, THEREFORE,

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

1. The City Council recognizes that it has received and heard all oral and written objections to the proposed Fourth Amendment to Agreement, a proposed Fourth Amendment to Payment Agreement, and a proposed First Amendment to Grant Deed, to the proposed development of the real property pursuant to the proposed Fourth Amendment to Agreement, Fourth Amendment to Payment Agreement, and First Amendment to Grant Deed, and to other matters pertaining to this transaction, and that all such oral and written objections are hereby overruled.

2. The City Council hereby finds and determines that the development of the real property pursuant to the proposed Fourth Amendment to Agreement, Fourth Amendment to Payment Agreement, and First Amendment to Grant Deed will assist in the elimination of blight within the Project area, and is consistent with the Implementation Plan for the Redevelopment

Plan for the Horton Plaza Redevelopment Project adopted pursuant to section 33490 of the California Community Redevelopment Law.

3. The City Council hereby finds and determines that the consideration paid and to be paid by the Developer for the purchase of the real property, including the Additional Purchase Price, as described in the Agreement, as amended, is not less than the fair reuse value and fair market price at the use and with the covenants and conditions and development costs as set forth in the Agreement.

4. The proposed Fourth Amendment to Agreement, the proposed Fourth Amendment to Payment Agreement, and the proposed First Amendment to Grant Deed which establish the terms and conditions for the revision to the use of the real property are hereby approved.

5. The City Council hereby authorizes the City Clerk to deliver a copy of this Resolution to the Executive Director and members of the Agency. A copy of the Fourth Amendment to Agreement, the Fourth Amendment to Payment Agreement, and the First Amendment to Grant Deed, when executed by the Agency, shall be placed on file in the office of the City Clerk as Documents Nos. 297403, 297403-2 and 297403-3.

APPROVED: CASEY GWINN, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:ai
11/12/02
Or.Dept:CCDC
Aud.Cert: n/a
REDV:RA-2003-70
R-2003-669
Form=r&t.frm