

(348) (A)
(R-2009-698)
(a-b) 12/02

RESOLUTION NUMBER R- 304524

DATE OF FINAL PASSAGE DEC 15 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO (i) APPROVING THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ENTERING INTO A SECOND IMPLEMENTATION AGREEMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT [DDA] BY AND BETWEEN THE REDEVELOPMENT AGENCY AND CITY HEIGHTS REALTY, LLC (AS ASSIGNEE OF THE DDA) FOR THE PROPOSED CITY HEIGHTS SQUARE MIXED-USE COMMERCIAL/RESIDENTIAL PROJECT [PROJECT] LOCATED WITHIN THE CITY HEIGHTS REDEVELOPMENT PROJECT AREA; AND (ii) APPROVING THE SALE OF CERTAIN REAL PROPERTY TO CITY HEIGHTS REALTY, LLC SUBJECT TO AND ONLY UPON THE SATISFACTION OF ALL CONDITIONS PRECEDENT SET FORTH IN THE SECOND IMPLEMENTATION AGREEMENT AND MAKING CERTAIN FINDINGS WITH RESPECT THERETO IN ACCORDANCE WITH CALIFORNIA HEALTH AND SAFETY CODE SECTION 33433.

WHEREAS, the Redevelopment Agency of the City of San Diego [Agency] is engaged in activities necessary to carry out and implement the Redevelopment Plan [Redevelopment Plan] for the City Heights Redevelopment Project Area [Project Area]; and

WHEREAS, in order to carry out and implement the objectives of the Redevelopment Plan for the Project Area, the Agency entered into, and the Council of the City of San Diego [Council] approved, a Disposition and Development Agreement [DDA] with San Diego Revitalization Corporation, a California non-profit public benefit corporation, on or about May 3, 2005, for the development of an office and retail project; a copy of the DDA is on file in the office of the City Clerk as Document No. RR-300383; and

WHEREAS, San Diego Revitalization Corporation subsequently changed its name to Price Charities and the Agency thereafter entered into a First Implementation Agreement to the

DDA with Price Charities, a California non-profit public benefit corporation, on or about December 3, 2007, to primarily extend certain performance deadlines and make other necessary changes to the DDA; a copy of the First Implementation Agreement to the DDA is on file in the office of the secretary of the Agency as Document No. D-04225 / R-04225; and

WHEREAS, Price Charities assigned all of its rights and obligations under the DDA, as amended, the DDA Attachments, and other documents executed pursuant to the DDA including, without limitation, the Loan Agreement dated May 10, 2005, the Promissory Note dated May 10, 2005, and the Pledge Agreement dated May 10, 2005, to City Heights Realty, LLC, a California limited liability company [Developer], which accepted the assignment and assumed all rights and obligations thereunder pursuant to an Assignment and Assumption Agreement dated November 20, 2008; and

WHEREAS, pursuant to and in accordance with the terms and conditions of the DDA, as amended, the Agency acquired the Acquisition Parcel [as defined in the DDA], and has agreed to relocate the existing business located thereon, to demolish the existing improvements located thereon, and to thereafter sell the Acquisition Parcel to the Developer subject to and upon the satisfaction of certain conditions precedent; and

WHEREAS, due to changes in market conditions, the Developer proposes to revise the description of the project from office and retail to a mixed-use residential/commercial project that will provide ninety-two (92) residential apartments, of which 14 apartments will be designated by the Developer for not less than fifty-five (55) years as affordable to very low and low income households earning 50% to 65% of the Area Median Income, with retail and office space, and two (2) levels of subterranean parking [Project]; and

WHEREAS, in light of the above, the Agency and the Developer desire to further amend the DDA, as amended, and associated documents, through the Second Implementation Agreement to the DDA, to re-allocate certain remediation responsibilities related to the Acquisition Parcel, to modify the purchase price of the Acquisition Parcel, and to change the development of the Site to the revised Project as described above; and

WHEREAS, pursuant to the California Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*) the Agency and the Council held a joint public hearing on the Second Implementation Agreement to the DDA and the proposed sale of the Acquisition Parcel, having duly published notice of such public hearing and having made copies of the DDA, as amended, the proposed Second Implementation Agreement to the DDA and other reports and documents (including the Summary Report prepared in accordance with California Health and Safety Code Section 33433 [33433 Report]) available for public inspection and copying; and

WHEREAS, the Council has duly considered all of the terms and conditions of the proposed transaction and believes that the transaction is in the best interests of the City of San Diego, the Project Area and the health, safety, morals and welfare of City 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 Council of the City of San Diego, as follows:

1. That the Council hereby finds and determines that all recitals set forth in this Resolution are true and correct and incorporated herein by this reference.
2. That the Council has reviewed and approves the Summary Report prepared in accordance with California Health and Safety Code Section 33433 [33433 Report].

3. That the Council finds and determines, based on information received and reviewed including without limitation the information contained in the 33433 Report, that the consideration to be received by the Agency for the sale of the Acquisition Parcel pursuant to the DDA, as amended by the Second Implementation Agreement, is not less than the fair market value at its highest and best use in accordance with the Redevelopment Plan for the City Heights Redevelopment Project adopted by the Council and the Agency on April 28, 1992, as amended by that certain First Amendment to the Redevelopment Plan adopted by the Council and the Agency on November 28, 1994, by that certain Second Amendment to the Redevelopment Plan adopted by the Council and the Agency on March 5, 1996, and by that certain Third Amendment to the Redevelopment Plan adopted by the Council and Agency on November 14, 2000, and in accordance with the Third 5-Year Implementation Plan for the City Heights Redevelopment Project adopted by the Agency on June 15, 2004.

4. That the Council finds and determines that, based on information received including without limitation the information contained in the 33433 Report, the sale of the Acquisition Parcel to the Developer pursuant to the DDA, as amended by the Second Implementation Agreement, will assist in the elimination of blight in the City Heights Redevelopment Project Area and will provide housing for low income persons.

5. That the Council finds and determines that, based on information received including without limitation the information contained in the 33433 Report, the sale of the Acquisition Parcel to the Developer pursuant to the DDA, as amended by the Second Implementation Agreement, is consistent with the Third 5-Year Implementation Plan for the City Heights Redevelopment Project adopted by the Agency on June 15, 2004, pursuant to California Health and Safety Code Section 33490.

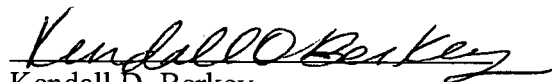
6. That the Council has reviewed and approves the sale of the Acquisition Parcel to the Developer as set forth in the DDA, as amended by the Second Implementation Agreement, subject to and only upon the satisfaction of all conditions precedent set forth in the Second Implementation Agreement to the DDA.

7. That the Council hereby approves and consents to the Redevelopment Agency of the City of San Diego entering into the Second Implementation Agreement to the DDA with the Developer for the proposed City Heights Square mixed-use residential/commercial project; a copy of the Second Implementation Agreement to the DDA, when executed by the Agency, shall be placed on file in the office of the City Clerk as Document No. D- 04358.

8. That the Council finds and determines that the City of San Diego has certified and approved for this Project the information contained in that Subsequent Addendum to Mitigated Negative Declaration [MND] LDR No. 146605, that the City of San Diego previously certified for the original project that MND No. 40960 and Addendum to MND No. 40960 (Project No. 95232), that this Project is adequately addressed in said MND and Subsequent Addendum to the MND, and that there is no substantial change in circumstance, additional information or project changes to warrant additional environmental review.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Kendall D. Berkey
Deputy City Attorney

KDB:nda
11/20/08
Or.Dept:Redev.Agency
R-2009-698
MMS#7098
Comp. R-2009-704
RA-2009-50
RA-2009-51
RA-2009-52

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of DEC 02 2008.

ELIZABETH S. MALAND
City Clerk

By *Mary Sumaya*
Deputy City Clerk

Approved: 12-15-08
(date)

JS
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor