

RESOLUTION NUMBER R- 305466

DATE OF FINAL PASSAGE DEC 10 2009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO (i) CERTIFYING THAT THE COUNCIL HAS REVIEWED AND CONSIDERED THE FINAL ENVIRONMENTAL SECONDARY STUDY RELATING TO THE PROPOSED NINTH AND BROADWAY AFFORDABLE HOUSING DEVELOPMENT PROJECT [PROJECT] WITHIN THE CENTRE CITY REDEVELOPMENT PROJECT AREA, (ii) APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT [AGREEMENT] AND THE GROUND LEASE RELATED TO THE PROJECT, AND (iii) MAKING CERTAIN FINDINGS WITH RESPECT TO THE AGREEMENT AND THE GROUND LEASE.

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 Centre City Redevelopment Project [Redevelopment Plan]; and

WHEREAS, the Agency has adopted the five-year Implementation Plan covering the period of July 2009 through June 2014 for the Centre City Redevelopment Project and the adjacent Horton Plaza Redevelopment Project [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 [CRL], California Health and Safety Code sections 33000-34160; and

WHEREAS, the Centre City Development Corporation [CCDC], acting on behalf of the Agency, has negotiated a Disposition and Development Agreement [Agreement] with Broadway Tower Associates, L.P., a California limited partnership [Developer], wherein the Developer has agreed to develop and construct a 250-unit multi-family housing project [Project] on an

approximately 25,000 square-foot site owned by the Agency and generally located near the intersection of Ninth Avenue and Broadway within the East Village Sub Area of the Centre City Redevelopment Project Area [Property]; and

WHEREAS, the Agreement requires the Developer to operate the Project, upon completion of construction, as rental housing that is affordable to very low-income households and low-income households, as more specifically defined and provided for in the Agreement; and

WHEREAS, the Agreement provides for the Agency's ground leasing of the Property to the Developer for seventy years, with an option that may be exercised by Developer to extend the leasehold estate for an additional twenty years [collectively, Lease Term], subject to the terms of the Agreement and the proposed Ground Lease between the Agency and the Developer [Ground Lease], which is Attachment No. 18 to the Agreement; and

WHEREAS, in accordance with CRL 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 Agreement and the Ground Lease on DEC 07 2009, after publishing notice of the public hearing in accordance with CRL section 33433; and

WHEREAS, pursuant to CRL section 33433, CCDC administered the preparation of the "Summary Pertaining to the Ground Lease of Certain Property within the Centre City Project Area" dated October 2009 [Summary Report], which is attached to CCDC Report No. CCDC-09-13 for this action [Staff Report], and is incorporated fully into this Resolution by this reference; and

WHEREAS, the Agency has made copies of the Agreement, the Ground Lease, 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 Agreement and the Ground Lease 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 Agreement and the Ground Lease;

(ii) The estimated value of the interest to be leased, determined at the highest and best uses permitted under the Redevelopment Plan;

(iii) The estimated value of the interest to be leased, determined at the use and with the conditions, covenants, and development costs required by the Agreement and the Ground Lease;

(iv) The present value of the lease payments which the Developer will be required to make during the Lease Term along with an explanation as to why the rental amount is less than the fair market value of the interest to be leased, determined at the highest and best use consistent with the Redevelopment Plan; and

(v) An explanation of why leasing of the Property in accordance with the Agreement and the Ground Lease 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 CRL section 33433, the Council considered the information in the Summary Report; and

WHEREAS, the Council believes that the Agreement and the Ground Lease are 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, pursuant to Resolution No. R-04001 adopted effective March 14, 2006, the Agency, acting as the designated "lead agency" for purposes of the California Environmental Quality Act [CEQA], has previously certified the Final Environmental Impact Report for the San Diego Downtown Community Plan, Centre City Planned District Ordinance and Tenth Amendment to the Redevelopment Plan for the Centre City Redevelopment Project [2006 Final EIR], on file with the secretary of the Agency as Document No. D-04001a; and

WHEREAS, pursuant to Resolution No. R-301265 adopted effective March 14, 2006, the Council, acting as a "responsible agency" for purposes of CEQA, has previously reviewed and considered the information contained in the 2006 Final EIR; and

WHEREAS, pursuant to Resolution No. R-04193 adopted effective August 3, 2007, the Agency has certified the Addendum to the 2006 Final EIR in connection with the Eleventh Amendment to the Redevelopment Plan [2007 Addendum], related to certain amendments to the San Diego Downtown Community Plan, Centre City Planned District Ordinance, Marina Planned District Ordinance, and Mitigation, Monitoring and Reporting Program of the 2006 Final EIR; and

WHEREAS, pursuant to Resolution No. R-302932 adopted effective August 3, 2007, the Council has certified the 2007 Addendum; and

WHEREAS, CCDC, on behalf of the Agency, has administered the preparation of the Final Environmental Secondary Study for the Project dated June 2009 [Secondary Study], which

is attached to the Staff Report, in accordance with CEQA and state and local guidelines adopted pursuant thereto; and

WHEREAS, the Secondary Study, at pages 24 and 25, sets forth certain findings, to the effect that the Project is within the scope of the development program analyzed in the 2006 Final EIR and the 2007 Addendum and will not result in new or increased environmental effects compared to what already has been evaluated under such CEQA documents; and

WHEREAS, the Council has considered any written evidence and/or testimony received in support of or in opposition to the Agreement and the Ground Lease, as well as the entire record prepared by City and Agency staff; NOW, THEREFORE,

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

1. That the Council hereby 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 Council has previously reviewed and considered the information contained in the 2006 Final EIR and the 2007 Addendum.
3. That the Council, acting as a "responsible agency" for purposes of CEQA, has reviewed and considered the information contained in the Secondary Study.
4. That the Council received and heard any and all oral and written objections relating to the proposed Agreement and the proposed Ground Lease, and that all such oral and written objections are overruled.
5. That the Council finds and determines that the consideration to be received by the Agency for the ground leasing of the Property for the Lease Term is not less than fair reuse value at the use and with covenants and conditions and development costs authorized by the

Agreement and the Ground Lease for, among other reasons, the reasons set forth in Sections IV, V and VI of the Summary Report.

6. That the Council finds and determines that the ground leasing of the Property for the Lease Term and the development of the Property in accordance with the Agreement and the Ground Lease will assist in the elimination of blight or provide housing for low-income or moderate-income persons, for, among other reasons, the reasons set forth in Sections IV and VII of the Summary Report.

7. That the Council finds and determines that the ground leasing of the Property for the Lease Term and the development of the Property in accordance with the Agreement and the Ground Lease are consistent with Section III of the Implementation Plan adopted pursuant to CRL section 33490, which states that the production of affordable housing in the Project Area is a goal of the Implementation Plan.

8. That the Council hereby approves the ground leasing of the Property to the Developer for the Lease Term and the development of the Property, in accordance with the Agreement and the Ground Lease.

9. That the Agreement and the Ground Lease, and all exhibits attached to such documents, are hereby approved.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Elisa A. Cusato
Elisa A. Cusato
Deputy City Attorney

EAC:cw
11/17/09
Or.Dept:CCDC
R-2010-373
MMS #8182
Companion to: RA-2010-41

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of DEC 07 2009

ELIZABETH S. MALAND
City Clerk

By Sara Richards
Deputy City Clerk

Approved: 12/10/09
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor