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RESOLUTION NUMBER 306399

DATE OF FINAL PASSAGE DEC 07 2010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO AND MONARCH SCHOOL PROJECT PROVIDING FOR A GROUND LEASE OF A FACILITY WITH AN OPTION TO PURCHASE, THE ACQUISITION OF MONARCH'S EXISTING FACILITY BY THE AGENCY, AND LEASEBACK OF MONARCH'S EXISTING FACILITY, WHICH TOGETHER ALLOW FOR THE MOVE AND TRANSFER OF OPERATIONS OF A SCHOOL FOR DISADVANTAGED CHILDREN FROM 808 WEST CEDAR STREET TO 1625 NEWTON AVENUE IN THE EAST VILLAGE REDEVELOPMENT DISTRICT OF THE EXPANSION SUB AREA OF THE CENTRE CITY REDEVELOPMENT PROJECT.

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 an Implementation Plan for the Centre City Redevelopment Project (Implementation 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 33000 et seq.; and

WHEREAS, in order to carry out and implement the Redevelopment Plan, the Agency and Monarch School Project, a California non-profit corporation (Developer), entered into that certain Disposition Agreement dated December 8, 2006, filed December 12, 2006 as Agency Document No. D-04095 and R-04095 (Disposition Agreement), in which the Agency assisted

Developer in the acquisition of 808 West Cedar Street (Cedar Property) as a school facility for disadvantaged children to assist Developer in development of the Cedar Property; and

WHEREAS, the Agency and Developer now desire to enter into an Amended and Restated Disposition and Development Agreement (Amended Agreement) that amends, modifies and fully restates the terms of the Disposition Agreement; and

WHEREAS, the Amended Agreement provides for the move and transfer of operations of the school facility for disadvantaged children from the Cedar Property to 1625 Newton Avenue (Newton Property) into an existing building that Monarch will purchase, maintain and rehabilitate to provide a larger school facility for disadvantaged children as more specifically defined and provided for in the Amended Agreement; and

WHEREAS, the Amended Agreement provides for the Agency's ground leasing of the Agency-owned Newton Property to Developer for annual ground lease payments of \$300,000 for 30 years with typical rent escalations and an option to purchase the land within five years of the commencement of the lease (Ground Lease); provided, however, should Monarch exercise its option to purchase, the Agency has reserved a Right of Reverter and Right of First Refusal to Repurchase the fee interest in the Newton Property through May 11, 2043 from Monarch should Monarch face a change in circumstances in their school operations and require a sale, as more specifically set forth and provided for in the Amended Agreement and the Ground Lease by and between the Agency and Developer; the Ground Lease is Attachment No. 11 to the Amended Agreement; and

WHEREAS the Amended Agreement and the Ground Lease provide for Monarch to purchase the existing building and improvements on the Newton Property for \$1.00 and agree to maintain and rehabilitate the building and improvements located on the Newton Property as

more specifically defined and provided for in the Amended Agreement; the Agency has reviewed Basic Concept/Schematic Drawings for the phased rehabilitation of the building and improvements located on the Newton Property, which are included within Attachment No. 4 to the Amended Agreement; and

WHEREAS, the Amended Agreement provides that the Agency would reacquire the fee interest in Cedar Property from the Developer for \$1,250,000, the identical purchase price Developer paid for the Cedar Property on or about May 17, 2007 (Acquisition), subject to the terms of the Amended Agreement and the Acquisition Agreement, which is Attachment No. 8 to the Amended Agreement; and

WHEREAS, the Amended Agreement provides that following the Agency's acquisition of the fee interest in Cedar Property, the Developer would leaseback the Cedar Property from the Agency for up to one year for the amount of \$1.00 in annual rent (Leaseback) or such earlier period until the Newton Property is ready for occupancy, subject to the terms of the Amended Agreement and the Leaseback of the Cedar Property, which is Attachment No. 10 to the Amended Agreement; and

WHEREAS, the Developer has submitted to the Agency and the City Council of the City of San Diego (Council) copies of the proposed Amended Agreement in a form acceptable to the Developer; and

WHEREAS, the Board of Directors of the Centre City Development Corporation, Inc. (CCDC) has reviewed and discussed the proposed Amended Agreement, and has recommended that the Agency approve the Amended Agreement; and

WHEREAS, the Agency and Council held a joint public hearing to consider the approval of the Amended Agreement, which includes the Ground Lease with an option to purchase the

Newton Property, and the Acquisition and Leaseback of the Cedar Property, on November 30, 2010, in Council Chambers of the City Administration Building, at 202 "C" Street, 12th floor, San Diego, CA 92101, after publishing notice of the public hearing in accordance with CRL section 33433 and Government Code section 6066; and

WHEREAS, pursuant to CRL section 33433, the Agency prepared a summary report (Summary Report) affixed to the staff report as Attachment E and on file in the office of the Agency Secretary, and made copies of the Amended Agreement, with all attachments, including the Ground Lease with an option to purchase of the Newton Property, the Acquisition Agreement, the Leaseback of the Cedar Property 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 Agency's cost of the Amended Agreement, Ground Lease with an option to purchase the Newton Property, and the Acquisition and Leaseback of the Cedar Property, 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 Amended Agreement, including the Ground Lease with an option to purchase the Newton Property, and the Acquisition and Leaseback of the Cedar Property;
- (ii) The estimated value of the interests to be leased and potentially conveyed, determined at the highest and best uses permitted under the Redevelopment Plan;
- (iii) The estimated value of the interests to be leased and potentially conveyed, determined at the use and with the conditions, covenants, and development costs required by the

Amended Agreement, the Ground Lease with an option to purchase the Newton Property, and the Acquisition and Leaseback of the Cedar Property;

(iv) The present value of the lease payments and potential purchase price which the Developer will be required to pay the Agency during the term of the Ground Lease with an option to purchase the Newton Property, along with an explanation as to why the amount is less than the fair market value of the interest to be leased and potentially conveyed, determined at the highest and best use consistent with the Redevelopment Plan; and

(v) An explanation of why the Ground Lease with an option to purchase the Newton Property, and the Acquisition and Leaseback of the Cedar Property in accordance with the Amended Agreement 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 the CRL section 33433, Council considered the information in the Summary Report; and

WHEREAS, the Council, acting as a "responsible agency" for purposes of California Environmental Quality Act (CEQA) has previously reviewed and considered information contained in the Final Environmental Impact Report (FEIR) for the Redevelopment Plan certified by the Agency on March 14, 2006 (Agency Resolution R-04001), and subsequent addenda to the FEIR certified by the Agency on August 3, 2007 (Agency Resolution R-04193) and April 21, 2010 (Agency Resolutions R-04508 and R-04510), in compliance with CEQA; and

WHEREAS, CCDC, on behalf of the Agency, has caused the preparation of an Environmental Secondary Study (ESS) dated October 2010 in accordance with CEQA and state and local guidelines adopted pursuant thereto, which concludes, among other things, that: (i) the environmental impacts of the proposed project were adequately addressed in the FEIR, (ii) the

proposed project is within the scope of the development program described in the FEIR, and (iii) no further environmental documentation is required under CEQA; NOW, THEREFORE,

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

1. That the foregoing recitals are true and correct and incorporated herein in full by this reference.

2. That the Council received and heard any and all oral and written objections relating to the Amended Agreement and the Ground Lease and rehabilitation of the building and improvements on the Newton Property, and the Acquisition and Leaseback of the Cedar Property, and that all such oral and written objections are overruled.

3. That the Council finds and determines that the consideration to be received by the Agency under the terms of the Amended Agreement, including, but not limited to the Ground Lease with purchase option, is not less than fair reuse value at the use and with covenants and conditions and development costs authorized by the Amended Agreement for, among other reasons, the reasons set forth in Sections IV, V and VII of the Summary Report.

4. That the Council finds and determines that the ground leasing of the Newton Property in accordance with the Amended Agreement and the Ground Lease and rehabilitation of the building and improvements on the Newton Property, and the Acquisition and Leaseback of the Cedar Property in accordance with the Amended Agreement, the Acquisition Agreement and the Leaseback of the Cedar Property will assist in the elimination of blight for, among other reasons, the reasons set forth in Section VII of the Summary Report.

5. That the Council finds and determines that the ground leasing of the Newton Property in accordance with the Amended Agreement and the Ground Lease and rehabilitation of the building and improvements on the Newton Property, and the Acquisition and Leaseback of


the Cedar Property in accordance with the Amended Agreement, the Ground Lease, the Acquisition Agreement and the Leaseback of the Cedar Property is consistent with Section III of the Implementation Plan adopted pursuant to CRL Section 33490, which specifically provides for the elimination of blight as a goal of the Implementation Plan.

6. That the Council approves the ground leasing of the Newton Property in accordance with the Amended Agreement and the Ground Lease and rehabilitation of the building and improvements on the Newton Property, and the Acquisition and Leaseback of the Cedar Property in accordance with the Amended Agreement, the Ground Lease, the Acquisition Agreement and the Leaseback of the Cedar Property.

7. That in making the findings and recommendations herein, the Council has considered all testimony presented at the noticed public hearing, all written evidence presented, and the entire record prepared by Agency and City staff.

8. That the Amended Agreement, which includes forms of the Ground Lease with an option to purchase, the Acquisition Agreement and the Leaseback of the Cedar Property, is approved.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Elisa A. Cusato
Deputy City Attorney

EAC:mm/nja
11/12/2010
11/15/10 Cor.Copy
Or.Dept:CCDC
R-2011-506
PL#2010-01852
Comp. RA-2011-47

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 30 2010.

ELIZABETH S. MALAND
City Clerk

By *Mary Zumaya*
Deputy City Clerk

Approved: 12-7-10
(date)

JS
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor