

RESOLUTION NUMBER R- 306544
DATE OF FINAL PASSAGE JAN 16 2011

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE EXECUTION OF A COOPERATION AGREEMENT BETWEEN THE CITY AND THE AGENCY FOR THE PURPOSE OF IMPROVING HORTON PARK AND A PORTION OF HORTON PLAZA, TRANSFERRING A PORTION OF HORTON PLAZA TO THE CITY AS A PARK AND PROVIDING FOR THE MAINTENANCE, OPERATION AND PROGRAMMING OF THE AREA.

WHEREAS, in November 1981, the Redevelopment Agency (Agency) entered into a Second Disposition and Development Agreement (DDA) with Ernest W. Hahn, Inc. ("Hahn") for the Development of the Horton Plaza Retail Center; and

WHEREAS, since that time various amendments to the DDA were made during construction and after the completion of the Retail Center; and

WHEREAS, in November 1998, the Retail Center was sold to the current owner (Developer) and the development and construction of the Retail Center is complete with exception of the parking garage frontage on G Street ("Parcel S-2"); and

WHEREAS, in accordance with the Fourth Amendment to the DDA, Parcel S-2 was to be completed by the Developer with the development of a 30-story hotel structure by January 1, 2006; and

WHEREAS, the hotel uses never developed and Parcel S-2 remains undeveloped at this time and Mervyns, a major department store has vacated the Retail Center and the Developer has subsequently acquired and remodeled a portion of the Mervyn's improvements for lease to individual retail stores; and

WHEREAS, the reconciliation of these items has been the subject of ongoing discussions between the Developer and Agency staff and is addressed in a proposed Owner Participation Agreement (OPA) between the Developer and the Agency; and

WHEREAS, the purpose of the proposed OPA is to provide for: (i) the prepayment of the Payment Agreement entered into as part of the original purchase price; (ii) the transfer from the Developer to the Agency of a portion of the Retail Center site of approximately 37,000 square feet (Sales Parcel); (iii) the construction by the Agency of a new public plaza and open space on the Sales Parcel, including the rehabilitation of the existing historic Horton Plaza Park (collectively, "Plaza Improvements"); (iv) the conveyance of the Sales Parcel with the Plaza improvements by the Agency to the City; (v) the revitalization of Parcel S-2; (vi) the enhancement of the Project Area with additional public and private amenities; and (vii) the maintenance and programming of the Plaza Improvements by the Developer for twenty-five years; NOW, THEREFORE,

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

- 1) The Cooperation Agreement between the Agency and City of San Diego is approved and the Mayor or his designee is authorized to execute a Cooperation Agreement and associated attachments including Maintenance and Operation Agreement and Programming Agreement substantially in the form of those contained in the OPA presented to the Agency.
- 2) To authorize the Mayor, or his designee, to take all actions necessary to facilitate the acceptance and recordation of certain grant deed which conveys from the Agency to the City the Sales Parcel improved with a public urban plaza pursuant to the OPA.

3) The Chief Financial Officer (CFO) or his designee is authorized to create new interest bearing funds for the \$1 million Developer's contribution per the terms of the OPA.

4) The Mayor or his designee is authorized to accept the \$1 million Developer's contribution.

5) The CFO or his designee is authorized to budget and expend the \$1 million in the new fund per the terms of the OPA.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon Thomas
Shannon Thomas
Deputy City Attorney

ST:als
12/29/10
Or.Dept: Park & Rec.
R-2011-599
PL#2010-01410

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 11 2011.

ELIZABETH S. MALAND
City Clerk

By Mary Zuman
Deputy City Clerk

Approved: 1-16-11
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

R 306544