

RESOLUTION NUMBER R- 306639

DATE OF FINAL PASSAGE FEB 28 2011

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO MAKING CERTAIN DETERMINATIONS RELATED TO THE USE OF TAX INCREMENT PROCEEDS FROM THE CENTRE CITY REDEVELOPMENT PROJECT AREA TO PAY FOR THE DESIGN AND CONSTRUCTION OF CERTAIN FIRST PHASE IMPROVEMENTS IN THE NORTH EMBARCADERO VISIONARY PLAN PROJECT LOCATED IN 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 Area (Project Area); and

WHEREAS, in order to carry out and implement the Redevelopment Plan, on June 19, 2009, the Agency approved the Fourth Implementation Plan for the period of July 2009 thru June 2014 for the Centre City and Horton Plaza Redevelopment Projects (Implementation Plan); and

WHEREAS, the Implementation Plan identifies the need to create an enhanced pedestrian and vehicular connection to an expanding and comprehensive open-space system that provides a diverse range of outdoor opportunities for residents, visitors and workers with the Project Area; and

WHEREAS, the Centre City Development Corporation, Inc. (CCDC) is responsible for implementing redevelopment projects in the Project Area; and

WHEREAS, the Agency, acting through CCDC, the City of San Diego (City), and the San Diego Unified Port District (Port) entered into a Joint Exercise of Powers Agreement (JPA Agreement) dated April 9, 2007, which established the North Embarcadero Alliance Joint Powers Authority (JPA) with the power to direct work as necessary to facilitate the completion of design, construction and development of a financing and phase plan necessary to implement

the North Embarcadero Visionary Plan (NEVP); a copy of the JPA Agreement is filed in the office of the Agency Secretary as Document No. D-04108; and

WHEREAS, the Agency, acting through CCDC, the City, and the Port now propose to enter into that certain First Amendment (First Amendment) to the JPA Agreement in order to memorialize the construction and maintenance funding arrangements among the City, the Port, and the Agency, acting through CCDC, for certain NEVP Phase I improvements in the Project Area, which include improvements to West Broadway, extension of the Esplanade improvements south to the former Navy Pier 11A, and inclusion of the Setback Park/Plaza, an approximately two-acre public park/plaza to be designed and constructed within a 150-foot setback from North Harbor Drive along the Lane Field development between West Broadway and B Street (collectively, Phase I Improvements); and

WHEREAS, the First Amendment provides that the Port will be solely responsible for the administration of construction the Phase I Improvements, except that design and construction of Setback Park/Plaza is the primary responsibility of the adjacent Lane Field development; and

WHEREAS, the First Amendment provides that the Port and the Agency shall equally share the total cost of construction of the Phase I Improvements estimated at \$28,600,000, provided that the Agency will advance the construction costs and the Port will receive certain credits for previous capital contributions and offsets for the Port's assumption of maintenance responsibility for the Phase I Improvements; and

WHEREAS, the First Amendment requires the Port to repay Agency's advances of the Port's share of construction costs for the Phase I Improvements, with interest, in accordance with the First Phase Advance Repayment Agreement in substantially the form attached as Attachment C to the First Amendment; and

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WHEREAS, the First Amendment provides that the Agency will contribute additional funding of up to \$1,000,000 for the design and construction of the Broadway Pier surface improvements, of which amount up to \$150,000 may be used for design work; and

WHEREAS, the First Amendment states that the Port shall be responsible for maintenance of the Phase I Improvements for 30 years and shall create a maintenance reserve and shall deposit an annual amount of \$550,000 commencing upon the completion of the Phase I Improvements, adjusted for inflation annually, to cover both the current and incremental maintenance costs; and

WHEREAS, the City anticipates accepting certain Phase I Improvements, upon completion of construction, to the extent that they are located within City right-of-way or easements; and

WHEREAS, the Agency desires to expend tax increment proceeds generated from the Project Area in an amount up to \$29,600,000 toward the Phase I Improvements and the Broadway Pier surface improvements (collectively, Improvements); and

WHEREAS, pursuant to California Health and Safety Code Section 33445, which is part of the California Community Redevelopment Law, the Agency may, with the consent of the City Council of the City of San Diego (Council), pay for all or part of the land for, and the installation and construction of, any building, facility, or other improvement that is publicly owned either within or contiguous to the Project Area so long as certain determinations set forth in Health and Safety Code Section 33445 (33445 Determinations) are made; and

WHEREAS, during a meeting held on February 8, 2011, the Port made one relevant 33445 Determination to the effect that, absent the Agency's contribution of funds toward the Improvements, the Port has no other reasonable means of financing the Improvements; and

WHEREAS, pursuant to Health and Safety Code Section 33679, the Agency and Council held a joint public hearing on February 28, 2011, regarding the Agency's proposed expenditure of tax increment proceeds to pay for the Improvements, after publishing notice of the public hearing for at least two successive weeks prior to the public hearing, and after making available, for public inspection and copying, that certain "Summary Pertaining to the Use of Tax Increment for the North Embarcadero Visionary Plan" (Summary), on file in the office of the Agency Secretary as Document No. R-306639, and incorporated fully into this Resolution by this reference; and

WHEREAS, the Summary includes all of the following elements: (a) estimates of the amount of tax increment proposed to be used to pay for the Improvements; (b) the facts supporting the 33445 Determinations; and (c) the redevelopment purpose for which tax increment proceeds are being used to pay for the Improvements; and

WHEREAS, the Summary was made available to the public no later than the time of the first publication of the notice of the public hearing; and

WHEREAS, pursuant to Health and Safety Code Section 33445, the Council considered the information in the Summary and in the administrative record regarding: (1) the manner in which the Improvements will benefit the Project Area by helping to eliminate blight, including the information contained in Section III of the Summary; (2) the unavailability of other reasonable means of financing the Improvements by the City and the Port, including the information contained in Section IV of the Summary; and (3) the consistency of the Improvements with the Implementation Plan adopted pursuant to Health and Safety Code Section 33490, including the information contained in Section V of the Summary; NOW, THEREFORE,

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

1. That the Council received and heard any and all oral and written objections relating to the proposed expenditure of the Agency Funds, and to other matters pertaining to this transaction, and that all such oral and written objections are overruled.

2. That the Council hereby adopts the determinations and recommendations set forth in the Summary and more specifically determines as follows:

a. The Improvements for which the Agency proposes to pay will benefit the Project Area in which the Improvements are located by helping to eliminate blight within the Project Area, in that:

(1) The Improvements will be located within the Project Area, and specifically within the Columbia neighborhood;

(2) The Improvements are the first phase in the implementation of public improvements that are the product of 14 years of planning efforts by an alliance of government agencies (see Downtown Community Plan (DCP) Goal 5.5-G-5).

(3) The Improvements will assist in developing a waterfront that is an active, pedestrian-oriented zone, and as a regionwide and downtown-wide destination (DCP Goal 5.5-G-1).

(4) The Improvements will assist in promoting a diversity of land uses and activities to generate vitality and 24-hour activity (DCP Goal 5.5-G-2).

(5) The Improvements will assist in promoting a diversity of land uses and activities to generate vitality and 24-hour activity (DCP Goal 5.5-G-2).

(6) The Improvements will emphasize views to the Bay and strong connections to neighboring districts (DCP Goal 5.5-G-3).

(7) The Improvements will be a “people place” that will draw residents and visitors, and maritime related activities that emphasize the waterfront’s unique setting (DCP Goal 5.5-G-4).

(8) The Improvements will be consistent with and reinforce the Waterfront Urban Design Policies contained with the DCP.

(9) The Improvements will add over 5 acres of high-quality open space to the downtown public park/plaza inventory. The addition of the park and plaza spaces contained within Phase I of the NEVP would be applied to the DCP goal of developing 52 acres of new open space for the growing population of downtown. The Esplanade will provide 1.8 acres, the Setback Park/Plaza will provide 1.7 acres, and the publicly accessible areas of Broadway Pier will contribute 1.8 acres.

(10) The Improvements contain a public restroom that will benefit both the users of the waterfront and the immediate neighborhoods. Benefits of a public restroom are:

(a) Improved cleanliness and sanitary conditions of sidewalks used to access property on and around the Columbia neighborhood;

(b) Enhanced cleanliness and desirability of the area, including reduced use of public areas for toileting needs for the direct advantage of property in and adjacent to the Columbia neighborhood;

(c) Increased economic opportunity, creation of jobs and enhanced business and commercial activity on property on Port Tidelands and adjacent Centre City neighborhoods by making the area more attractive to tourists and visitors to the area;

(d) Preservation of permanent public facilities in and adjacent to the Columbia neighborhood; and

(e) Improved access to property in the Columbia neighborhood due to cleaner, safer and more usable sidewalks.

(11) The installation of the Improvements will reduce the frequency of historical flooding of the intersection of Pacific Coast Highway and W. Broadway associated with large rain events.

(12) The Improvements will act as a catalyst providing an incentive for private investment in the redevelopment of adjacent, underutilized private development parcels.

(13) The Improvements will create a completely accessible pedestrian path of travel to and within the waterfront.

(14) The “Improvements to existing water and sewer lines, streets, sidewalks, parkways, and lighting in the public right-of-way; continued participation in the enhancement of the public transit system” are specific means to contribute to blight removal as identified on page 4 of the work program of the Implementation Plan adopted pursuant to Health and Safety Code Section 33490.

(15) The Improvements will enhance the neighborhood and replace inadequate public improvements. The Improvements will remove and replace these adverse conditions, upgrading to match the improvements on nearby streets.

b. In addition to the Port’s independent determination that there are no other reasonable means available to the Port for financing the Improvements, there are no other reasonable means available to the City for financing the Improvements, in that:

(1) The City’s General Fund is dependent on the financial health of the local economy in addition to the state and nationwide economy. Some economic indicators are currently still lagging and could possibly restrain economic stabilization or expansion in the

economy in Fiscal Year 2011. The improvement in municipal budgets appears to be also lagging the overall economy. Overall, the economic outlook remains very uncertain in the upcoming fiscal year.

(2) The City's General Fund Budget is funded from various sources, but the four largest revenue sources are property tax, sales tax, transient occupancy tax (TOT), and franchise fees, and account for approximately \$710.8 million or 64.8 percent of the total General Fund revenues. The decline in these four major revenues in the Fiscal Year 2011 Adopted Budget accounts for approximately \$31.6 million or 94.3 percent of the total General Fund decline of \$33.5 million compared to the Fiscal Year 2010 Adopted Budget.

(3) In Fiscal Year 2011 sales tax is budgeted at \$187.5 million, which represents a decrease of \$22.7 million or 10.8 percent from the Fiscal Year 2010 Adopted Budget due to the decline in per capita income and consumer spending, and the high unemployment rate in the City. TOT is budgeted at \$66.1 million, a decrease of \$9.8 million or 12.9 percent from the Fiscal Year 2010 Adopted Budget due to the decline in local tourism. Franchise fees are budgeted at \$67.2 million, a decrease of \$6.5 million or 8.9 percent from the Fiscal Year 2010 Annual Budget due to a decline in refuse haulers tonnage.

(4) The City's Fiscal Year 2011 Adopted Budget reflects General Fund revenues and expenditures of \$1.10 billion, representing a decline of \$33.5 million or 3.0 percent over the Fiscal Year 2010 Adopted Budget. The Fiscal Year 2011 Adopted Budget includes 7,067.98 budgeted full time equivalent (FTE) positions, a decrease of 328.94 FTE positions over the Fiscal Year 2010 Budget. The net decrease in General Fund positions is primarily due to the reduction of 485.16 FTE positions as part of the revised Fiscal Year 2010 Budget approved by the City Council that has been incorporated in the Fiscal Year 2011

Adopted Budget. These reductions were to City's critical services including brownouts in the Fire Department, reductions in lifeguard positions, and reductions in library hours. If the City's revenues improve, then the City's first priority would be to restore those critical services funded by General Fund that have been reduced this year due to the loss of revenue in fiscal year 2011.

(5) The City's Fiscal Year 2011 Adopted Budget, approved by City Council in June 2010, includes reduced revenue projections adjusted for a continuation of slow economic growth and a continued constriction of economic activity. Growth in revenues is anticipated to be negative in most major revenue categories such as property tax, sales tax, TOT, and franchisee fees.

(6) The City's Capital Improvements Program (CIP) budget allocates existing funds and anticipated revenues to rehabilitate, restore, improve, enhance, and increase the City's capital facilities. This budget supports the design and construction of a wide range of infrastructure improvement projects and other significant capital infrastructure investments. The Fiscal Year 2011 CIP Adopted Budget totals \$299.6 million. This is a reduction of \$153.6 million or 33.9 percent from the Fiscal Year 2010 CIP Adopted Budget of \$453.2 million.

(7) Deferred capital projects remain one of the eight significant areas identified in the Five-Year Financial Outlook. Since Fiscal Year 2008, approximately \$142 million has been appropriated for facilities, streets, storm drain and other deferred capital projects, funded by proceeds from land sales, bond financing, and Proposition 1B funding. Another proposal for bond financing is anticipated to come before City Council in Fiscal Year 2012. Fiscal Year 2012 to continue efforts to address the City's approximately \$900 million backlog of deferred projects.

(8) The cost of the Improvements is approximately \$29,600,000.

There are currently no funds allocated in the Fiscal Year 2011 Adopted CIP Budget to fund the Improvements.

c. The payment of Agency Funds toward the cost of the Improvements is consistent with the Implementation Plan adopted pursuant to Health and Safety Code Section 33490, in that:

(1) The Improvements address the specific goals and objectives of the Implementation Plan, as identified on page nine of the work program, which states in pertinent part as follows: "Encourage economically-viable development; increase economic and social vitality of bay front; provide uses and amenities that celebrate the community; provide public access and open space; create a signature expression that draws attention to the area; serve local community and tourists; and preserve and maximize bay views." A copy of the Implementation Plan is on file with the Agency Secretary as Document No. D-04405e.

(2) By furthering the specific goals and objectives of the Implementation Plan, the Improvements and the Agency's payment of the cost thereof are a means to eliminate blight within the Project Area and to facilitate the objectives of the Implementation Plan.

3. That the Council hereby consents to the Agency's payment for the cost of the Improvements using tax increment proceeds generated from the Project Area.

APPROVED: JAN I. GOLDSMITH, City Attorney

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

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Or.Dept:CCDC
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R-2011-695
RA-2011-74
RA-2011-75
RA-2011-76

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of FEB 28 2011.

ELIZABETH S. MALAND
City Clerk

By [Signature]
Deputy City Clerk

Approved: 2-28-11
(date)

[Signature]
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor