

RESOLUTION NUMBER R- **106723**  
DATE OF FINAL PASSAGE **APR 01 2011**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO (i) APPROVING THE PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT WITH MARK AND SHARON PETRARCA FOR THE PROPERTY LOCATED AT 33<sup>RD</sup> AND E STREETS; (ii) MAKING CERTAIN FINDINGS AND DETERMINATIONS RELATED THERETO IN ACCORDANCE WITH CALIFORNIA HEALTH AND SAFETY CODE SECTION 33433; AND (iii) CONSENTING TO THE REDEVELOPMENT AGENCY'S PAYMENT FOR THE COST OF THE CONSTRUCTION AND INSTALLATION OF THE PUBLIC IMPROVEMENTS RELATED TO THE PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT.

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 Gateway Center West Component Area of the Southeastern San Diego Merged Project Area (Project Area) in accordance with the California Community Redevelopment Law (California Health and Safety Code sections 330000 *et seq.*); and

WHEREAS, the Agency has adopted the Fourth Five-Year Implementation Plan covering the period of July 2009 through June 2014 for the Project Area (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; and

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

WHEREAS, to carry out and implement the Redevelopment Plan, the Corporation, acting on behalf of the Agency, has negotiated a proposed Disposition and Development Agreement (DDA) with Mark and Sharon Petrarca, husband and wife (Developer) for the sale of approximately .25 acre of real property located at the southwest corner of 33<sup>rd</sup> and E Streets within the Project Area (Property) for \$164,206 for development of an approximately 7,000 square foot two-story light industrial/flex office structure; and

WHEREAS, the Corporation's Board of Directors reviewed and discussed the DDA and has recommended that the Agency approve and enter into the DDA; and

WHEREAS, on or about March 16, 2011, the Agency transferred to the City of San Diego (City) fee title ownership of the Property by recorded quitclaim deed; and

WHEREAS, the fair market value of the Property is \$128,000 as appraised by a City staff qualified real estate appraiser; and

WHEREAS, through an assignment agreement executed in connection with the property transfer, the Agency assigned to the City, and the City assumed, all of the Agency's rights, title, interest and obligation under all assets, agreements, contracts, permits and entitlements, and other documents relating directly or indirectly to the use, management, repair, maintenance, development and operation of the Property; and

WHEREAS, it is the intent of Developer, the Agency, and the City (collectively, the "Parties") that by executing the proposed DDA, the Parties confirm that they are all parties to the proposed DDA; and

WHEREAS, it is the intent of the Parties that, except as otherwise specified in the proposed DDA, all references to "Agency" in the proposed DDA, shall mean either the Agency or the City, whichever of those two Parties is the fee title owner of the Property at the relevant time, as further clarified in the proposed DDA; and

WHEREAS, it is the intent of the Parties that, as between the Agency and the City, the Party that owns fee title to the Property at the relevant time shall be entitled to exercise all rights, and shall be required to fulfill all outstanding obligations, attributable to “Agency” under the proposed DDA; and

WHEREAS, it is the intent of the Parties that, if the Agency’s prior transfer of the Property to the City is nullified, rescinded or invalidated for any reason whatsoever, then fee title to the Property shall automatically re-vest in the Agency (or its applicable successor, which may include the City), and all assets, agreements, contracts, permits and entitlements, and other documents previously assigned from the Agency to the City and related to the Property shall automatically be re-assigned to the Agency (or its applicable successor, which may include the City), as further clarified in the proposed DDA; and

WHEREAS, City staff has reviewed the proposed transactions and recommends them to be in the best interests of the Project Area and the City, and benefit the public health, safety, or general welfare by promoting municipal and other public purposes because the proposed development and public improvements to be constructed for the project meet the goals and objectives of the Redevelopment Plan for the Gateway Center West Component Area of the Southeastern San Diego Merged Project Area, including: (i) providing sites for new and relocated industries that will provide employment for community residents; (ii) developing under-utilized parcels; (iii) enhancing infrastructure and other public improvements; and (iv) contributing to the elimination of blight by creating employment opportunities; alleviating crime/lack of public safety; preventing business out-migration; and utilizing unproductive land; and

WHEREAS, in accordance with California Health and Safety Code 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 proposed DDA on March 29, 2011, after publishing notice of the public hearing in accordance with California Health and Safety Code section 33433; and

WHEREAS, pursuant to California Health and Safety Code section 33433, the Corporation administered the preparation of the “Summary Report Pertaining to the Sale of Real Property 3272 E Street Parcel Pursuant to a Proposed Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and Mark Petrarca and Sharon Petrarca” (Summary Report), which is attached to the Corporation Report No. SEDC-11-006, dated March 23, 2011, as revised (Staff Report), and is incorporated fully into this Resolution by this reference; and

WHEREAS, the Agency has made copies of the proposed DDA 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 DDA 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 DDA;
- (ii) The estimated value of the interest to be conveyed, determined at the highest and best uses permitted under the Redevelopment Plan;
- (iii) The estimated value of the interest to be conveyed, determined at the use and with the conditions, covenants, and development costs required by the DDA, and an explanation as to why the sales price to Developer is more than fair market value, determined at highest and best use under the Redevelopment Plan, including an explanation of the difference;

(iv) An explanation of why conveyance of the Property to Developer in accordance with the DDA 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 California Health and Safety Code section 33433, the Council considered the information in the Summary Report and has made the findings required by California Health and Safety Code section 33433 with respect to the DDA; and

WHEREAS, the Council believes that the DDA is 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, the Council has considered any written evidence or testimony, or both, received in support of or in opposition to the proposed DDA, as well as the entire record prepared by the Corporation; and

WHEREAS, in connection with the DDA, the City proposes to implement, administer and manage the installation and construction of certain public improvements to the Property consisting of property preparation, curb, gutter, sidewalk, streetlight, parkway irrigation and trees, landscape planters, sewer and water and utility connections, and storm drains (Improvements); and

WHEREAS, determinations under California Health and Safety Code section 33445 for the Improvements were approved on February 28, 2011, as part of the Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Projects (Cooperation Agreement) (Document D-04618 and D-04630a and Resolution R-04618) and identified in the Cooperation Agreement Exhibit 1- Schedule of Projects, on page 53, Row #292; and

WHEREAS, Agency funds in the amount of \$157,560 are available from Gateway-City Loans Sales Tax Proceeds, and Agency funds in the amount of \$30,079 are available from Gateway-General Fund; and

WHEREAS, the Agency now proposes to contribute funds up to \$187,639 to pay for the cost of construction and installation of the Improvements; and

WHEREAS, although the City will own and maintain the portion of the Improvements located in the public right-of-way upon their completion, the Agency wants to pay for the cost of the construction and installation of the Improvements because the City presently has insufficient funding for the Improvements; and

WHEREAS, after having duly considered the actions described above and the Agency's proposed financial contribution for the construction and installation of the Improvements, the City Council finds that the actions and the payment by the Agency of all or part of the costs of the Improvements are of primary benefit to the Project Area and are in the best interests of the Project Area, the City and the safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law requirements; NOW, THEREFORE,

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

1. That the Council 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 recognizes that it has received and heard all oral and written objections to the proposed DDA, to the proposed sale of the real property pursuant to the proposed DDA, and to other matters pertaining to this transaction, and that all such oral and written objections are overruled.
3. That the Council has reviewed and approves the Summary Report.

4. That the Council finds and determines that the consideration to be received by the Agency or the City for the Property is not less than fair market value at its highest and best use in accordance with the Implementation Plan for, among other reasons, the reasons set forth in Sections IV and VI of the Summary Report.

5. That the Council finds and determines that the consideration to be received by the Agency or the City for the Property is not less than fair reuse value at the use and with covenants and conditions and development costs authorized by the DDA for, among other reasons, the reasons set forth in Sections V and VII of the Summary Report.

6. That the Agency finds and determines that the conveyance and development of the Property to Developer in accordance with the DDA will assist in the elimination of blight for, among other reasons, the reasons set forth in Section VIII of the Summary Report.

7. That the Council finds and determines that the conveyance of the Property and the development of the Property in accordance with the DDA are consistent with Section III of the Implementation Plan adopted pursuant to California Health and Safety Code section 33490, which states that the provision of sites for new and relocated industries that will provide employment for community residents, the development of underutilized parcels, and the enhancement of infrastructure and other public improvements are goals of the Implementation Plan.

8. That the Council approves the conveyance of the Property to Developer and the development of the Property, in accordance with the DDA.

9. That the Council consents to the Agency's payment for the cost of construction of the Improvements.

10. That the Council finds and determines that the proposed transactions are in the best interests of the Project Area and the City, and benefit the public health, safety, or general

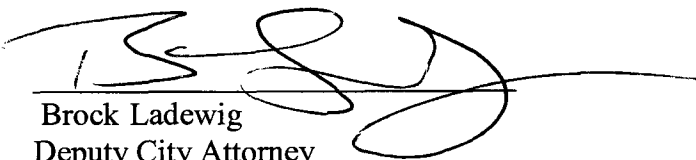
welfare by promoting municipal and other public purposes because the proposed development and public improvements to be constructed for the project meet the goals and objectives of the Redevelopment Plan for the Gateway Center West Component Area of the Southeastern San Diego Merged Project Area, including: (a) providing sites for new and relocated industries that will provide employment for community residents; (b) developing under-utilized parcels; (c) enhancing infrastructure and other public improvements; and (d) contributing to the elimination of blight by creating employment opportunities; alleviating crime/lack of public safety; preventing business out-migration; and utilizing unproductive land.

11. That after advertising for bids in accordance with law, the Mayor or his designee is authorized to execute and deliver a construction contract with the lowest responsible and reliable bidder for the construction of the Improvements, provided that the bids are within the established allocation of \$187,639 and the construction contraction does not exceed \$187,639, and upon receipt from the Agency of \$187,639.

12. That the Mayor or his designee is authorized to execute and deliver all implementing documents, and to take all further actions necessary and appropriate, and deemed by the Mayor or his designee to be in the best interests of the City, to implement the purposes set forth in this Resolution and according to its terms.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

  
Brock Ladewig  
Deputy City Attorney

CEJ: EAC:nja:mm

3/15/2011

3/25/2011 Cor. Copy

Or.Dept:SEDC

R-2011-783

PL#2011-06004,

Comp.RA-2011-118



I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 3/29/11.

ELIZABETH S. MALAND  
City Clerk

By Mary Zumaiga  
Deputy City Clerk

Approved: 4.1.11  
(date)

Jerry Sanders  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

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JERRY SANDERS, Mayor