

RESOLUTION NUMBER R- 307031

DATE OF FINAL PASSAGE OCT 11 2011

A RESOLUTION OF THE CITY OF SAN DIEGO
AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO
EXECUTE AN AMENDMENT TO THE EXCLUSIVE
NEGOTIATION AGREEMENT WITH BROWN FIELD
INTERNATIONAL BUSINESS PARK LLC, dba DPC BROWN
FIELD, AMENDING THE INITIAL TERM OF THE
AGREEMENT.

WHEREAS, pursuant to Document No. RR-305157, filed with the City Clerk on July 28, 2009, the City Council authorized the Mayor to enter into an Exclusive Negotiation Agreement (ENA) with Brown Field International Business Park, LLC, dba DPC Brown Field (DPC), concerning a proposed four-phased project at Brown Field Airport; and

WHEREAS, DPC's proposed project is comprised of: the construction of aircraft hangars, office space, fixed based operations, restaurants, hotels, commercial space, industrial space, a solar farm, and an aviation museum; and at build-out is projected to cover an approximate 2.9 million square feet, at an estimated cost of \$699 million dollars; and it is estimated that phase one of the proposed project will created 1,300 jobs, and will revitalize Brown Field Airport and encourage further development in the Otay Mesa area; and

WHEREAS, the ENA has an initial term of two (2) years (which will terminate on October 1, 2011), and has one additional twelve (12) month extension term which may be granted only upon a showing of good cause and payment of a non-refundable \$50,000 payment to the City's Airport Enterprise Fund; and

WHEREAS, upon commencement of the initial term of the ENA, DPC was required to and did pay a non-refundable sum of \$100,000 into the City's Airport Enterprise Fund to offset

consulting costs and other administrative costs which may be incurred by the City to process the proposed project; and

WHEREAS, since the ENA was authorized, DPC's ability to process its proposed project was completely stopped and /or delayed for a period of approximately 18 months due to two circumstances that have been largely beyond both DPC's and the City's control: (1) a Federal Court Injunction (commonly referred to as the "Brewster Injunction") precluded the City from processing any applications for development of properties within the City's jurisdiction, including Brown Field Airport, which contained vernal pools - - the Brewster Injunction was in effect for over a year after the effective date of the ENA; and, (2) DPC suffered additional delays in receiving traffic modeling information required for DPC's Traffic Impact Analysis due to factors involving the Otay Mesa Community Plan Update; and

WHEREAS, because it is uncontested that DPC is not responsible for the delays it has suffered since commencement of the ENA's initial term, and in order to avoid penalizing DPC for the delays it has suffered, it is recommended that the ENA be amended to add 18 months onto the ENA's initial term; and

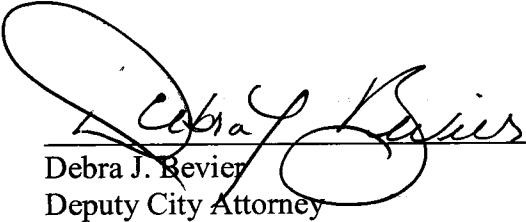
WHEREAS, the requested amendment of the ENA's initial term will allow DPC to continue to perform under the ENA without having to seek permission to exercise the one extension term option built into the ENA; which option was intended as a protection to DPC for delays caused by normal activities associated with processing a project application; NOW, THEREFORE,

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

1. That the Mayor, or his designee, is authorized to execute an Amendment to the Exclusive Negotiation Agreement with Brown Field International Business Park, LLC, dba DPC

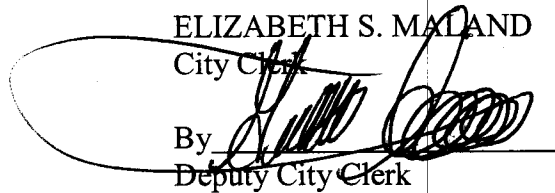
Brown Field, to add 18 months onto the ENA's initial term, as set forth in the Amendment which is on file in the Office of the City Clerk as Document No RR 307031.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Debra J. Revier
Deputy City Attorney

DJB:mm
9/14/2011
Or.Dept:READ/Airport
PL#2010-04554

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of ~~OCT 04 2011~~

ELIZABETH S. MALAND
City Clerk
By 
Deputy City Clerk

Approved: 10-11-11
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor