

RESOLUTION NUMBER R- 307628

DATE OF FINAL PASSAGE AUG 13 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE CHIEF FINANCIAL OFFICER TO TRANSFER APPROPRIATIONS FOR THE AZTEC BREWERY HISTORIC RATHSKELLER RESTORATION PROJECT FROM THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO TO THE CITY OF SAN DIEGO AND THE WAIVER OF COUNCIL POLICY 700-02 TO ALLOW THESE FUNDS TO BE USED FOR SUCH PURPOSE UNTIL SEPTEMBER 30, 2013 TO COMPLETE THE PROJECT.

WHEREAS, on March 21, 2011, the Council of the City of San Diego (Council) adopted Resolution No. R-306706, which approved the allocation of Fiscal Year 2012 Community Development Block Grant (CDBG) funds in the amount of \$414,763 to the Redevelopment Agency of the City of San Diego (Redevelopment Agency) for the Aztec Brewery Historic Rathskeller Restoration Project (Project); and

WHEREAS, on September 28, 2011, the Redevelopment Agency and the City of San Diego's Economic Development Division/CDBG Program (CDBG Program) entered into a Memorandum of Understanding (MOU) relating to the allocation of FY 2012 CDBG funds for the Project; and

WHEREAS, as of February 1, 2012, based on a December 2011 ruling of the California Supreme Court on the constitutionality of Assembly Bill x1 26 (AB 26) affecting all redevelopment agencies in California, the Redevelopment Agency was dissolved and its rights, powers, duties, and obligations vested in the City of San Diego as the Successor Agency pursuant to the City Council's adoption of Resolution No. R-307328; and

WHEREAS, with the dissolution of the Redevelopment Agency, the responsibility for the administration of the Project is proposed to be assumed by the staff of the City of San Diego Commission for Arts and Culture (Commission); and

WHEREAS, the restrictions imposed on the ability of the Successor Agency to enter into new agreements or to modify existing agreements under AB 26 make it difficult to amend the MOU; and

WHEREAS, as a result, City staff is requesting authorization to reallocate the FY 2012 CDBG funding for the Project from the Redevelopment Agency to the City of San Diego as a municipal corporation; and

WHEREAS, upon reallocation of such funds by the Council, the CDBG Program will enter into a separate Service Level Agreement (SLA) with the Commission for such funding to be available for the Project; and

WHEREAS, the terms of the current MOU between the Redevelopment Agency and the CDBG Program require the Project to be completed by September 20, 2012; and

WHEREAS, the developer of the Project has experienced delays in moving forward with the Project due in large part to the need to ensure that a suitable retail restaurant space for long-term public display of the restored artifacts had been identified within the new Mercado mixed-use development project; and

WHEREAS, the developer will not meet the MOU's time frame for completion of the Project, but is now on track to commence and complete the Project within the next twelve months by September 30, 2013; and

WHEREAS, a waiver of paragraph 15 of Council Policy 700-02, Community Development Block Grant Program, is being requested so that the reallocated FY 2012 CDBG funds can be used until September 30, 2013; and

WHEREAS, CDBG Program staff does not anticipate that this additional time to allow completion of the Project using FY 2012 CDBG funds will pose any material concerns with the ability of the City to comply with the requirement of the U.S. Department of Housing and Urban Development (HUD) regarding timely expenditure of CDBG funds; NOW, THEREFORE,


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

1. Authorize the Chief Financial Officer to transfer appropriations in the amount of \$414,763 from the Redevelopment Agency to the City of San Diego (City) from REDEV-AZTEC-12 sponsored program to AZTEC RATHSKELLER-12 sponsored program for the Aztec Brewery Historic Rathskeller Restoration Project.

2. Authorize the Chief Financial Officer to expend FY2012 CDBG funds in the amount of \$414,763 for the City for the Aztec Brewery Historic Rathskeller Restoration Project (AZTEC RATHSKELLER-12 sponsored program), contingent upon the Chief Financial Officer certifying that funds are available.

3. Waive paragraph 15 of Council Policy 700-02 to allow these FY 2012 CDBG funds reprogrammed to the City to be used for the Aztec Brewery Historic Rathskeller Restoration Project until September 30, 2013.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Kenneth So  
Deputy City Attorney

KS:nja  
07/12/12  
Or.Dept:Econ. Devel. Division  
Doc. No. 396732\_3

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 31 2012.

ELIZABETH S. MALAND /  
City Clerk

By Mary Zamora  
Deputy City Clerk

Approved: 8.13.12  
(date)

Jerry Sanders  
JERRY SANDERS, Mayor

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

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JERRY SANDERS, Mayor