

RESOLUTION NUMBER R- 307831

DATE OF FINAL PASSAGE NOV 16 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO, ACTING IN ITS CAPACITY AS THE BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, (i) APPROVING, AND AUTHORIZING EXECUTION OF, THE FIRST AMENDMENT TO THE OWNER PARTICIPATION AGREEMENT (AMENDMENT) FOR THE MARKET CREEK PLAZA PROJECT IN SOUTHEASTERN SAN DIEGO, AND (ii) AUTHORIZING THE APPROPRIATION AND EXPENDITURE OF UP TO \$2,400,000 OF THE SUCCESSOR AGENCY’S FUNDS PURSUANT TO THE AMENDMENT.

WHEREAS, from its formation in 1958 until its elimination on February 1, 2012, the Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated redevelopment project areas throughout the City of San Diego (City); and

WHEREAS, the Former RDA dissolved as of February 1, 2012, in accordance with a deadline for elimination of all redevelopment agencies throughout California set forth in Assembly Bill x1 26 (AB 26), as modified by the California Supreme Court in a final opinion issued on December 29, 2011, in litigation designated as Case No. S194861; and

WHEREAS, pursuant to Resolution No. R-307238 adopted by the City Council effective January 12, 2012, the City of San Diego, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency), elected to serve as the successor agency to the Former RDA, and the City also elected to serve as the successor housing entity to the Former RDA in order to retain housing assets and assume housing responsibilities; and

WHEREAS, at the time of the Former RDA’s dissolution on February 1, 2012, the Successor Agency became vested with all of the Former RDA’s authority, rights, powers, duties,

and obligations under the California Community Redevelopment Law and, by operation of law, received all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former RDA; and

WHEREAS, the Former RDA and Market Creek Partners, LLC, a California limited liability company (Developer), entered into that certain Owner Participation Agreement (OPA) in or about December 2000 regarding development of the 19-acre Market Creek Plaza site (Site), presently located within the Central Imperial Component Area of the Southeastern San Diego Merged Redevelopment Project Area; and

WHEREAS, the OPA included the Former RDA's obligation to reimburse the Developer for the construction of certain public improvements needed for development of the Site, in an amount up to \$3,800,000, as well as the Developer's obligation to construct a 300,000-square-foot commercial retail center on the Site; and

WHEREAS, the Developer has completed the public improvements envisioned by the OPA, as well as a portion of the private improvements envisioned by the OPA; and

WHEREAS, in light of the present circumstances, the Successor Agency and the Developer have negotiated the proposed First Amendment to the OPA, which will, among other things: (i) reduce the amount of the Successor Agency's reimbursement obligation for the completed public improvements from \$3,800,000 to \$2,400,000; (ii) reduce the original Site from 19 acres to approximately 6.5 acres (Reduced Site); (iii) reduce the scope of development to reflect the completed shopping center on the Reduced Site; (iv) release certain community benefit covenants from the undeveloped parcels, but retain such covenants as to the developed parcels, within the Site; and (v) retain the Jacobs Community Center building on the property tax rolls through June 30, 2014; and

WHEREAS, the approved second Recognized Obligation Payment Schedule, covering the six-month period from July through December 2012, contemplates the Successor Agency's payment of up to \$3,800,000 to the Developer under the OPA; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, acting in its capacity as the board of the Successor Agency, as follows:

1. The First Amendment to the OPA, including all attachments thereto, is approved.
2. The Mayor or designee is authorized, on the Successor Agency's behalf, to execute the First Amendment to the OPA. A copy of the fully-executed First Amendment to the OPA shall be placed on file in the office of the City Clerk as Document No. RR- 307831.
3. The Chief Financial Officer is authorized to appropriate and expend the Successor Agency's funds in an amount up to \$2,400,000 to reimburse the Developer for the cost of completed public improvements, as required by the First Amendment to the OPA.
4. The Mayor or designee is authorized to take all actions necessary and appropriate to carry out and implement the purposes set forth in this Resolution and to administer the Successor Agency's obligations, responsibilities, and duties under the OPA, as amended by the First Amendment thereto.

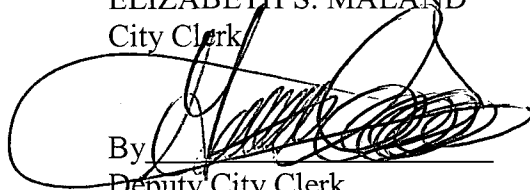
APPROVED: JAN I. GOLDSMITH, City Attorney

By Kevin Reisch
Kevin Reisch
Deputy City Attorney

KR:nja
10/30/12
Or.Dept:Civic SD
Comp. Cert. No. 3000005655
Document No. 463810

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 13 2012.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 11/16/12
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

**The City of San Diego
COMPTROLLER'S CERTIFICATE**

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING CC 3000005655
DEPT. NO. _____

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____
COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
TOTAL AMOUNT									

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: _____ \$2,400,000.00

Vendor: Market Creek Partners, LLC

Purpose: e1472 - 1st Amendment to Owner Participation Agreement D-03266 with Developer to reduce the term of the original agreement including a \$2,400,000 payment for completed public improvements to the Market Creek Plaza project located in Central Imperial sub area of Southeastern SD Merged RDA. The ROPS1 & 2 Item for this is #217.

Date: October 22, 2012 By: Francisco J Lopez
COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
001	400323	915500108000	915500108101	OTHR-10-NS	512025	2215	2215500011		\$2,400,000.00
TOTAL AMOUNT									\$2,400,000.00

CC:361 (REV 7-09)

FUND OVERRIDE

CC 3000005655