

RESOLUTION NUMBER R-308857

DATE OF FINAL PASSAGE APR 10 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE AGREEMENT WITH 500 WEST  
BROADWAY, L.P., GRANTING A CONDITIONAL EXEMPTION  
FROM THE REPLACEMENT REQUIREMENTS OF THE CITY'S  
SRO HOTEL REGULATIONS AND MAKING RELATED FINDINGS

WHEREAS, the former Redevelopment Agency of the City of San Diego (Former RDA) provided a rehabilitation loan in the amount of \$1,630,000 (Agency Loan) to 500 West Broadway, L.P. (Borrower), pursuant to a Rehabilitation Loan Agreement dated October 31, 2001, as amended by that certain First Implementation Agreement dated August 6, 2002, and a Promissory Note dated December 30, 2002 (Note), to finance a portion of the cost of rehabilitating the property located at 500 West Broadway, in the City of San Diego, California (Property). The actual amount of the Agency Loan funded and disbursed by the Former RDA is approximately \$1,513,000. The outstanding balance of the Agency Loan, including accrued interest, is \$2,099,917 as of March 25, 2014; and

WHEREAS, the Agency Loan is secured by a Deed of Trust dated April 30, 2003, and recorded in the Official Records of the San Diego County Recorder's Office (Official Records) as Document No. 2003-0502652 (Agency Deed of Trust) encumbering Borrower's leasehold interest in the Property. The Agency Deed of Trust is subordinate to a Deed of Trust securing performance of a Promissory Note between Borrower, as Trustor, and Bank of Coronado, as Beneficiary, in the principal balance of \$4,664,400; and

WHEREAS, Borrower leases the Property from the Armed Services YMCA of the USA (Owner) pursuant to a ground lease dated September 1, 1999, as amended by the First

Amendment to Ground Lease dated March 30, 2001, and the Second Amendment to Ground Lease dated September 24, 2003, and the Third Amendment to Ground Lease dated November 7, 2003 (collectively, the Lease). The Lease includes an option to purchase the fee interest in Property (Option) at a price equal to the greater of \$10,000,000 or ten (10) times the annual rent (Option Price). Pursuant to section 2 of the Second Amendment to the Lease, Borrower may exercise the Option by providing written advance notice to Owner before February 28, 2014 (Option Notice). Following provision of Option Notice to Owner, Borrower has 60 days within which to complete its Purchase of the Property; and

WHEREAS, as a condition of the Rehabilitation Loan, Borrower entered into an Agreement Affecting Real Property (AARP) dated April 30, 2003, recorded in the Official Records as Document No. 2003-0502649, which provides that use of the Property shall include two hundred and sixty (260) single room occupancy rental units. The AARP also sets forth long-term affordability covenants requiring that fifty-two (52) of these units shall be used to provide affordable housing exclusively for occupancy by persons of Low Income and Very Low Income, as defined in the AARP, for a period of 30 years (Affordability Covenants); and

WHEREAS, following the dissolution of the Former RDA on February 1, 2012, the Former RDA's rights and obligations under the Rehabilitation Loan Agreement, Note, Deed of Trust, and AARP (collectively, the Project Loan Documents) were transferred from the Former RDA to the City of San Diego, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency). On January 28, 2013, the Successor Agency transferred its rights and obligations under the Project Loan Documents to the City as the successor housing entity pursuant to that certain Agreement Regarding Assignment and Assumption Agreement of Affordable Housing Assets between the Successor Agency and the City. Thus, the City has

succeeded to all of the rights and obligations of the Former RDA under the Project Loan Documents; and

WHEREAS, Borrower has experienced operational difficulties with the Property resulting in financial losses for several years and has filed Chapter 11 Bankruptcy, first in 2005 and again in 2010. The second filing is Bankruptcy Case No. 10-03532-LA11, filed on March 4, 2010 (Bankruptcy Case), in the United States District Court, Southern District of California (Bankruptcy Court). The Bankruptcy Case is still pending and no reorganization plan has been approved by the Bankruptcy Court; and

WHEREAS, Borrower submitted an Option Notice to Owner on February 28, 2014, and now has until April 28, 2014 to complete its purchase of the Property pursuant to its option rights set forth in the Lease; and

WHEREAS, Borrower has proposed a transaction involving Borrower's exercise of the Option, termination of the AARP, the granting of an exemption from the replacement requirements of the City's SRO Hotel Regulations codified at San Diego Municipal Code sections 143.0540 and 143.0550 (SRO Replacement Requirements), sale of the Property to a third party purchaser (Purchaser), and distribution of the sale proceeds remaining after payment of the Option Price to repay the outstanding balance of the Agency Loan and make certain other payments (collectively, the Transaction). The details of the Transaction are set forth in a proposed agreement between the City and Borrower, a copy of which is on file in the office of the City Clerk as Document No. RR 308857 ; and

WHEREAS, the City Council finds that demolition or conversion of SRO hotel rooms on the Property are necessary to implement the City's redevelopment efforts and Affordable

Housing Master Plan, that the proposed project will contribute to the public health, safety, and welfare, and that the contribution exceeds the negative impact on the supply of SRO hotels and SRO hotel rooms that will result from the demolition or conversion, based on the following facts:

(a) the Transaction would result in full repayment of the outstanding balance of the Agency Loan. All funds received by the City from the Transaction would be placed in the Low and Moderate Income Housing Asset Fund and used for production of affordable housing in accordance with California Health and Safety Code sections 34176 and 34176.1; and

(b) the Transaction and the subsequent planned rehabilitation, historic restoration, and redevelopment of the Property by the Purchaser into a hotel is feasible only if future redevelopment of the Property is exempted from the SRO Replacement Requirements; and

(c) if the Transaction is not completed and the Property become subject to foreclosure or termination of the leasehold interest, current residents at the Property might be forced to move without any relocation benefits being made available to them; and

(d) the terms of the Transaction set forth in the Agreement provide that the Purchaser, in coordination with the Housing Commission, shall provide relocation benefits for existing tenants in accordance with Municipal Code sections 143.0560, 143.0570, and 143.0580, and Purchaser has already begun working with the Housing Commission to provide those benefits; and

(e) the Property is located in a commercial district in downtown San Diego, a significant distance from services provided for low and moderate income households and special needs populations, including senior citizens, the homeless, those at risk of becoming homeless, and the mentally ill; and

(f) given its location in a waterfront commercial district and key economic corridor, the Property is currently underutilized, and the Transaction would facilitate its development to its highest and best use; and

(g) the current use of the Property is an impediment to the revitalization of the Broadway corridor as a ceremonial street and the Columbia Neighborhood as a mixed-use district with an energetic waterfront that serves both local needs and has a regional draw, relating to both the San Diego Bay and the Columbia Neighborhood; and

(h) while the Property is restricted to SRO hotel and affordable housing uses, it has been underutilized for that purpose due to the operational difficulties that Borrower has experienced, resulting in most of the SRO rooms on the Property being unable to be utilized for their intended purposes; and

(i) the floor areas of individual units in the Property range from 90 to 100 square feet, with shared bathroom facilities on each floor, and only one common kitchen facility in the entire building. At this size and configuration, the units do not meet minimum standards for critical housing assistance programs; and

(j) funds received by the City from the Transaction could be effectively utilized by the City to produce new affordable housing units in San Diego, consistent with the goals and objectives of the Affordable Housing Master Plan approved by the Council in May 2013. The new units would be constructed in accordance with current size and configuration standards. Furthermore, the new units could be located in closer proximity to services benefiting low and moderate income households and special needs populations; and

(k) it is expected that the proposed rehabilitation and restoration of the Property into a boutique hotel will (i) preserve and activate an important historic resource, maintain public access to it, and ensure that it will not create a significant public nuisance by falling vacant, (ii) result in increased receipt of transient occupancy tax and property tax revenues by the City, (iii) and create additional jobs.

NOW, THEREFORE,

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


1. 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. The Council approves the Agreement, a copy of which is on file in the office of the City Clerk as Document No. RR-308857.

3. The Council conditionally exempts the Transaction and future redevelopment of the Property following the completion of the Transaction, from the SRO Replacement Requirements based on the findings set forth herein. This exemption is conditioned on Borrower's satisfaction of all its obligations under the Agreement. If the Transaction is not completed, or if the Agreement is otherwise terminated, this exemption shall automatically become null and void, and Civic San Diego shall immediately notify the San Diego Housing Commission that the Property shall remain on the Housing Commission's list of SRO hotel properties.

4. The Council authorizes the Mayor, or designee, to execute the Agreement, and take all necessary actions and execute all necessary documents, to complete the Transaction.

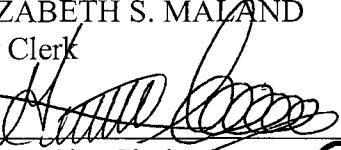
APPROVED: JAN I. GOLDSMITH, City Attorney

By   
\_\_\_\_\_  
Nathan Slegers  
Deputy City Attorney

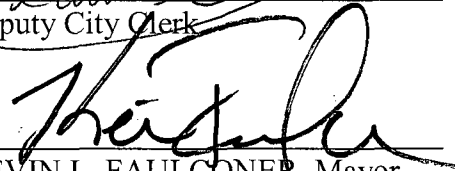
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3/21/2014  
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Doc. No. 751118\_2

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 25 2014.

ELIZABETH S. MALAND  
City Clerk

By   
\_\_\_\_\_  
Deputy City Clerk

Approved: 4/10/14  
\_\_\_\_\_  
(date)

  
\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

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

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAR 25 2014, by the following vote:

| Councilmembers      | Yeas                                | Nays                     | Not Present                         | Recused                  |
|---------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Sherr Lightner      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| District 2 (Vacant) | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Todd Gloria         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Myrtle Cole         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Mark Kersey         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Lorie Zapf          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Scott Sherman       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| David Alvarez       | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Marti Emerald       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |

Date of final passage APR 10 2014

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By  Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- 308857