

RESOLUTION NUMBER R- 309140DATE OF FINAL PASSAGE JUL 17 2014

A RESOLUTION OF THE 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, AUTHORIZING AN INCREASE IN FUNDING FOR CONSTRUCTION COSTS, THE AWARD OF A CONSTRUCTION CONTRACT WITH AN INCREASED BUDGET, AND THE EXPENDITURE OF FUNDS FOR A CAPITAL RESERVE ACCOUNT, IN CONNECTION WITH THE HORTON PLAZA IMPROVEMENT PROJECT AS REQUIRED BY THE EXISTING OWNER PARTICIPATION AGREEMENT FOR THE HORTON PLAZA RETAIL CENTER.

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; and

WHEREAS, at the time of the Former RDA's dissolution, the City, in its capacity as the successor agency to the Former RDA (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 Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, and subsequent legislation (collectively, the Dissolution Laws); and

WHEREAS, the Oversight Board has been formed to oversee certain actions and decisions of the Successor Agency in accordance with the Dissolution Laws; and

WHEREAS, the San Diego County Auditor-Controller (County Auditor), the State Controller, and the State Department of Finance (DOF) also possess certain rights and obligations under the Dissolution Laws with respect to the Successor Agency's administration of the Former RDA's operations; and

WHEREAS, the Dissolution Laws require the Successor Agency to prepare on a forward-looking basis, and to submit for approval by the Oversight Board and the DOF, a Recognized Obligation Payment Schedule (ROPS) identifying payments owed by the Successor Agency to third parties toward enforceable obligations during each upcoming six-month period; and

WHEREAS, under the Dissolution Laws, the County Auditor administers and makes semi-annual distributions of monies from the Redevelopment Property Tax Trust Fund (RPTTF), which is comprised of incremental property taxes generated in the City's redevelopment project areas; and

WHEREAS, in January 2011, Horton Land, LLC, Horton Plaza Venture, LLC, and Horton Plaza LP (collectively, Original Developer), on the one hand, and the Former RDA, on the other hand, executed an Owner Participation Agreement (OPA) with respect to the Horton Plaza Retail Center (Retail Center) in downtown San Diego; and

WHEREAS, Horton Plaza LLC (Developer) has assumed the Original Developer's rights and obligations under the OPA, and the Successor Agency has assumed the Former RDA's rights and obligations under the OPA; and

WHEREAS, in accordance with the OPA, the Developer has demolished the Robinsons-May building located on a parcel at the north end of the Retail Center (Sales Parcel), completed

preliminary grading work on the Sales Parcel, and transferred ownership of the Sales Parcel to the Successor Agency; and

WHEREAS, the OPA requires the Successor Agency to complete the construction of a new urban plaza and related improvements on the Sales Parcel and the adjacent historic park property owned by the City (Project) and to pay the design and construction costs of the Project, with an originally-estimated minimum of \$8 million in hard construction costs; and

WHEREAS, the OPA also requires the Successor Agency to make five annual deposits of \$150,000 each into the Plaza Capital Reserve Account, beginning in Fiscal Year 2015 and continuing in the next four fiscal years, for a total contribution of \$750,000 toward the Project's future capital repairs and replacements; and

WHEREAS, Civic San Diego (CivicSD), formerly known as Centre City Development Corporation, engaged the urban design and landscape architecture firm of Walker Macy and sub-consultants to gather public and stakeholder input and develop more specific designs for the Project, consistent with the high-caliber design standards outlined in the OPA; and

WHEREAS, based on the nearly-completed design of the Project in late 2012, the total remaining costs for design and construction of the Project were estimated to be \$12,734,083, including \$11,708,912 in hard construction costs; and

WHEREAS, in Resolution No. R-307841 adopted effective November 16, 2012 (2012 Resolution), the City Council authorized the advertisement, bidding, and award of the construction contract for the Project to the lowest responsible bidder, with a construction contract budget not to exceed \$11,708,912, and further authorized the Successor Agency's expenditure of an amount not to exceed \$12,734,083 for the total remaining design and construction costs of the Project, including \$12,007,312 of project funds identified in the ROPS and \$726,771 in additional funds not presently identified in the ROPS; and

WHEREAS, in accordance with the 2012 Resolution, CivicSD has explored the availability of non-ROPS funding sources (such as grants or philanthropic donations) to offset the initial budget shortfall of \$726,771, but it is presently uncertain whether any solid financial commitments will be secured to offset the initial budget shortfall; and

WHEREAS, the Project was advertised through a competitive bidding process on March 12, 2014, and bids were received and opened on May 14, 2014; and

WHEREAS, City staff has determined that the lowest responsible, qualified bidder is Echo Pacific Construction, Inc. (Echo Pacific), with a submitted bid of \$14,456,555 that substantially exceeds the construction contract budget previously approved in the 2012 Resolution; and

WHEREAS, CivicSD staff has recommended including an increased contingency in the construction contract budget of 10 percent (instead of the previously required 8 percent) to reflect the upward trend in construction industry costs; and

WHEREAS, the recent outcome of the competitive bidding process and the escalation of the contingency amount have increased the total estimated design and construction costs for the Project to \$16,927,382, including \$15,902,211 for the modified construction contract budget (i.e., the bid of \$14,456,555, plus a 10 percent contingency of \$1,445,656); and

WHEREAS, as a result of the substantial increase in estimated construction costs and the present uncertainty regarding financial commitments from non-ROPS funding sources to offset the initial budget shortfall of \$726,771, the total current budget shortfall for the Project is \$4,920,070; and

WHEREAS, the Successor Agency will ask the Oversight Board and the DOF to approve an increase in the expenditure amount for the Project and to approve additional RPTTF monies through future ROPS to cover the current budget shortfall; 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 Chief Financial Officer is authorized, on behalf of the Successor Agency, to appropriate and expend an additional amount not to exceed \$4,920,070 toward the construction costs for the Project, as identified in the ROPS, bringing the total design and construction costs for the Project to an amount not to exceed \$16,927,382.

2. The Mayor or designee is authorized, on behalf of the Successor Agency, to award the construction contract for the Project to Echo Pacific, the lowest responsible, qualified bidder, within a modified budget of \$15,902,211, which includes the bid of \$14,456,555, plus a 10% contingency of \$1,445,656.

3. The Chief Financial Officer is authorized, on behalf of the Successor Agency, to appropriate and expend an amount not to exceed \$750,000, consisting of five annual deposits of \$150,000 each into the Plaza Capital Reserve Account beginning in Fiscal Year 2015, toward the Project's future capital repairs and replacements, as identified in the ROPS.

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.

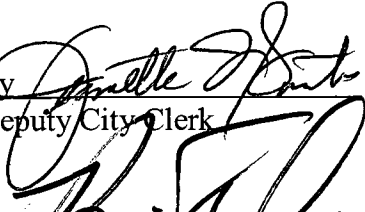
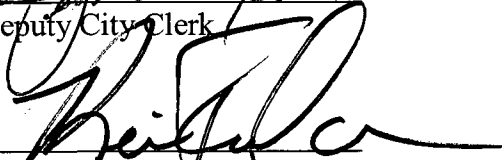
APPROVED: JAN I. GOLDSMITH, City Attorney

By Kevin Reisch
Kevin Reisch
Chief Deputy City Attorney

KR:nja
07/09/14
Or.Dept:CivicSD
Comp. Cert. No. 3000005685
Document No. 818564

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 15 2014

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

KEVIN L. FAULCONER, Mayor

Approved: 7/16/14
(date)

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING CC 3000005685
 DEPT. NO.: 2255

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: \$5,670,070.00 Fund: 400669 and 200700

Purpose: e1472 for Horton Plaza Improvement Project request additional funding of \$4,920,070 to bring the total project cost to \$17,677,382. \$12,007,312 was previously encumbered under CC3000005685, CC3000006348 and CC3000006660. This certificate encumbers the remaining \$5,670,070 for this project on Line 7 & 8 of the existing CC 3000005685 for this project. This is a Successor Agency project under ROPS #198 and the additional encumbrances is pending the review and approval of the Oversight Board and the DOF of the State of California.

Date: July 8, 2014 By: Francisco 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
007	400669	955500102000	955500102101	OTHR-00000010-NS	512025	2255	225550011		\$750,000.00
008	200700	955500102000	955500102101	OTHR-00000010-NS	512025	2255	225550011		\$4,920,070.00
TOTAL AMOUNT									\$5,670,070.00

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: _____

Vendor: _____

Purpose: _____

Date: _____ By: Francisco 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
TOTAL AMOUNT									

Passed by the Council of The City of San Diego on JUL 15 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Harris	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 17 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.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

(Seal)

By *Mary Stranahan*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **309140**