

RESOLUTION NUMBER R- 309602

DATE OF FINAL PASSAGE APR 22 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING VARIOUS ACTIONS RELATED TO
THE FIRST AMENDMENT TO THE OWNER PARTICIPATION
AGREEMENT FOR THE PROPOSED HOTEL CHURCHILL
AFFORDABLE HOUSING PROJECT WITHIN THE CENTRE CITY
REDEVELOPMENT PROJECT AREA

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 there are presently fourteen such project areas; 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 *California Redevelopment Assn. v. Matosantos*, 53 Cal.4th 231 (2011); and

WHEREAS, before the Former RDA's dissolution, the City Council adopted Resolution No. R-307238 effective January 12, 2012, designating the City to serve as the successor agency to the Former RDA (Successor Agency) pursuant to California Health and Safety Code (Code) section 34173(d)(1), and further designating the City to serve as the Housing Successor to the Former RDA (Housing Successor) for purposes of performing the Former RDA's housing functions pursuant to Code section 34176(a)(1); and

WHEREAS, upon 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 Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, Assembly Bill 1484 (AB 1484), enacted on June 27, 2012, and subsequent legislation; and

WHEREAS, pursuant to Code section 34181(c), the seven-member Oversight Board directed the Successor Agency to transfer the Former RDA's affordable housing assets (Housing Assets) to the City as Housing Successor, and the California Department of Finance approved the Oversight Board's decision; and

WHEREAS, the Successor Agency transferred the Housing Assets to the Housing Successor on or about January 28, 2013; and

WHEREAS, pursuant to Code section 34176(d), the Housing Successor has created a new, separate fund, known as the Low and Moderate Income Housing Asset Fund (Housing Asset Fund), for purposes of depositing any encumbered funds related to the Housing Assets and retaining any revenues generated from the Housing Assets in the future; and

WHEREAS, Code section 34176.1 requires all monies in the Housing Asset Fund to be used for specified affordable housing purposes; and

WHEREAS, Civic San Diego administers affordable housing projects and implements housing functions on behalf of the Housing Successor pursuant to a written consultant agreement, as amended; and

WHEREAS, pursuant to Resolution No. R-309311, the City Council approved an Owner Participation Agreement, on file in the Office of the City Clerk as Document No. RR-309311 (Agreement), with HDP Churchill, LLC, a California limited liability corporation (Developer), wherein Developer has agreed to construct a 73-unit multi-family housing project (Project) within the Hotel Churchill, a vacant 94-unit Single Room Occupancy hotel owned by the San Diego Housing Commission (Housing Commission) and located at 827 C Street between Ninth and Tenth streets in the East Village neighborhood of the Centre City Redevelopment Project Area (Property); and

WHEREAS, the Agreement requires the Developer to operate the Project, upon completion of rehabilitation and with the exception of one manager's unit, as rental housing that is affordable to Extremely Low Income, Very Low Income, and Low Income households, as defined and provided for in the Agreement; and

WHEREAS, pursuant to the Agreement, the City will issue to Developer a residual receipts loan in an amount not to exceed \$3,000,000 (City Loan), including \$769,484.34 derived from excess housing bond proceeds issued before 2011 (Housing Bond Proceeds) and \$2,230,515.66 derived from the Housing Asset Fund; and

WHEREAS, after the Agreement was approved, the Developer solicited construction bids for the Project and those bids came back much higher than the cost estimates used as the basis for the budget in the Agreement, resulting in a \$4,560,000 shortfall (Budgetary Shortfall).

WHEREAS, in order to address the Budgetary Shortfall, the Developer has proposed a first amendment to the Agreement (First Amendment) that would include: (a) reducing the developer fee from \$1,400,000 to \$400,000; (b) increasing the deferred developer fee from \$140,000 to \$400,000; and (c) increasing the Housing Commission funding for the Project from \$12,100,000 to \$15,400,000; and

WHEREAS, all additional Housing Commission funding for the Project will be subordinate to the City Loan; and


WHEREAS, the \$260,000 increase in the deferred developer fee is intended to be paid out of Project revenue, which will likely result in a delay in loan payments to the City and could constitute a material adverse effect on the City's interest, and therefore, the First Amendment must be approved by the City Council; NOW, THEREFORE,

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

1. The Mayor, or designee, is authorized and directed to negotiate and execute a First Amendment that includes the following elements: (a) a reduction of the developer fee from \$1,400,000 to \$400,000; (b) an increase to the deferred developer fee from \$140,000 to \$400,000; and (c) an increase in the Housing Commission funding for the Project from \$12,100,000 to \$15,400,000. A copy of the First Amendment, when fully executed, shall be placed on file with the City Clerk as Document No. RR- 309602.

2. The Mayor, or designee, is authorized and directed to sign all documents necessary and appropriate to carry out and implement the First Amendment and to administer the City's obligations, responsibilities, and duties to be performed under the First Amendment, including all attachments and exhibits thereto.


APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Adam R. Wander
Deputy City Attorney

ARW:mm
3/25/2015
Or.Dept: Civic San Diego
Doc. No. 983377

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 07 2015.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 4/21/15
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on APR 7 2015, 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"/>
Lorie Zapf	<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"/>
Chris Cate	<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 APR 22 2015

(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 Fernandez*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 309602