

# 332-  
1/23/18

(R-2018-253)

RESOLUTION NUMBER R- 311518

DATE OF FINAL PASSAGE JAN 31 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING AN AMENDMENT TO THE LEASE  
FOR THE PROPERTY LOCATED AT 475 WEST BROADWAY  
TO THE UNITED STATES GOVERNMENT.

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 *California Redevelopment Assn. v. Matosantos*, 53 Cal.4th 231 (2011); and

WHEREAS, pursuant to Resolution R-307238 adopted by the City Council effective January 12, 2012, the City, 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 housing successor 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 Successor Agency is winding down the Former RDA's operations in accordance with AB 26, enacted on June 28, 2011, Assembly Bill 1484, enacted on June 27, 2012, and subsequent related legislation; and

WHEREAS, the Successor Agency transferred the Former RDA's affordable housing assets (Housing Assets) to the City as housing successor on or about January 28, 2013, based on the approval by the Oversight Board and the California Department of Finance (DOF) of the City's comprehensive list of housing assets in accordance with California Health and Safety Code (Code) section 34181(c); and

WHEREAS, one of the Housing Assets in the City's ownership is the real property located at 475 West Broadway in downtown San Diego (Property); and

WHEREAS, pursuant to California Health and Safety 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 funds transferred by the Successor Agency to the Housing Successor and retaining any revenues generated from the Housing Assets in the future; and

WHEREAS, Code sections 34176(d) and 34176.1(a) obligate the City to expend all monies in the Housing Asset Fund for specified affordable housing purposes; and

WHEREAS, Civic San Diego (Civic SD) administers affordable housing projects and implements housing functions on behalf of the City as housing successor; and

WHEREAS, the ultimate disposition of the Property is subject to the Affordable Housing Master Plan adopted by the City Council on May 13, 2013 by Resolution R-308142, and updated on January 28, 2016 by Resolution R-310183; and

WHEREAS, as an interim use, the City currently leases the Property to the General Services Department of the United States Government (U.S. Government) pursuant to that certain U.S. Government Lease for Real Property dated March 6, 2012, as amended by that certain Supplemental Agreement No. 1 dated June 11, 2012, and that certain Lease Amendment No. 2 dated January 13, 2015 (collectively, the Lease), which (i) provides for the leasing of the Property to the U.S. Government through February 12, 2018; (ii) requires payment by the U.S. Government of \$393,600 in annual rent at the rate of \$32,800 per month; and (iii) requires that rental revenue received by the City under the Lease be deposited into a separate reserve account (Reserve Account) to be used to cover any financial obligations of the City arising under the Lease; and

WHEREAS, the Property includes a building area of 9,452 square feet currently operated as a child care facility; and

WHEREAS, Civic SD, acting on behalf of the City, has negotiated a third amendment to the Lease (Third Lease Amendment) that (i) extends the term of the Lease through December 31, 2018; (ii) provides for early termination in the discretion of the U.S. Government following 45 days written notice to the City; and (iii) leaves all other material terms and conditions of the Lease in effect; and

WHEREAS, the early termination right is being provided to the U.S. Government to accommodate the timing of the planned relocation of the child care facility from the Property to a new location; and

WHEREAS, the annual rent of \$393,600 equals a monthly rent of \$3.47 per square foot, which exceeds the current market rental value for the Property of \$2.55 to \$3.25 per square foot, as determined by a market survey provided to Civic SD by Keyser Marston Associates; and

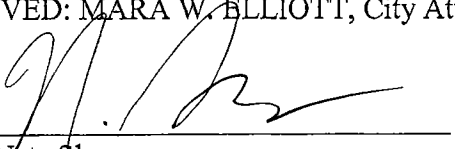
WHEREAS, all net rental proceeds from the Property held in the Reserve Account, as well as all net sales proceeds from the eventual disposition of the Property following the expiration or early termination of the Lease, as amended, will ultimately be deposited in the Housing Asset Fund to be used for future development of affordable housing in accordance with Code section 34176.1; and NOW, THEREFORE,

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

1. The Third Lease Amendment, a copy which is on file in the office of the City Clerk as Document No. RR- **311518**, is approved.
2. The Mayor or designee is authorized, on the City's behalf, to execute the Third Lease Amendment.
3. The Chief Financial Officer is authorized to accept and deposit revenues from the Lease, as amended, into GSA Lease Revenue Fund 200698, and to deposit all funds from the GSA Lease Revenue Fund 200698 into Housing Asset Fund 200708 upon expiration or earlier termination of the Lease, as amended.

APPROVED: MARA W. ELLIOTT, City Attorney

By

  
\_\_\_\_\_  
Nate Slegers  
Deputy City Attorney

NLJS:als  
12/18/2017  
Or.Dept:Civic San Diego  
Doc. No.: 1647482

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 23 2018.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 1/31/18  
(date)

  
KEVIN L. FAULCONER, Mayor

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

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

Passed by the Council of The City of San Diego on JAN 23 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 31 2018.

(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 *Hayley Beach*, Deputy

Office of the City Clerk, San Diego, California

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