

RESOLUTION NUMBER R- 314077DATE OF FINAL PASSAGE MAY 03 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE TAILGATE PARK SITE IN THE DOWNTOWN SAN DIEGO COMMUNITY PLANNING AREA, MAKING CERTAIN RELATED FINDINGS AND DETERMINATIONS, AND APPROVING RELATED ACTIONS.

WHEREAS, under 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 subsequent legislation (collectively, the Dissolution Laws), the Redevelopment Agency of the City of San Diego (Former RDA) dissolved as of February 1, 2012, and the City of San Diego, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency), became responsible for fulfilling the enforceable obligations, disposing of the properties and other assets, and unwinding the affairs of the Former RDA; and

WHEREAS, the Council of the City of San Diego (City Council) approved an Exclusive Negotiation Agreement (ENA) with Tailgate Development, LLC, a Delaware limited liability company (Developer) to negotiate the terms of a Disposition and Development Agreement (Agreement), regarding the development of 5.25 acres of land located between 12th and Imperial avenues, and K and 14th streets in the East Village neighborhood of the Downtown Community Planning Area (Property); and

WHEREAS, a copy of the Agreement is included as Attachment B to the staff report accompanying this Resolution (Staff Report); and

WHEREAS, the Agreement requires Developer to develop the Property with certain uses, including: 1,800 residential dwelling units; 50,000 square feet of office/retail space; public park space; and public parking (collectively, Project); and

WHEREAS, the City and Developer executed the ENA prior to December 31, 2020, in accordance with California Government Code (Government Code) section 54234(b)(1)(A), which provides an exception whereby certain dispositions of Former RDA properties are not subject to the amendments to the Surplus Land Act established by Assembly Bill 1486; and

WHEREAS, under Government Code section 54234(b)(1)(B), complete disposition of the Property must be completed no later than December 31, 2022; and

WHEREAS, additionally, disposition of the Property is not subject to the Surplus Land Act because the City has elected to make the Property available for a legitimate governmental objective, namely an economic opportunity consistent with Government Code section 52201, and the City is carrying out a legitimate redevelopment objective consistent with California Health and Safety Code (H&S Code) section 33433; and

WHEREAS, Developer's obligation to develop the Project and rent 270 of the residential dwelling units to low-to-moderate income families at affordable rents will be included in a regulatory agreement; and

WHEREAS, the conditions, covenants, and restrictions in the regulatory agreement will be recorded against the Property for 55 years, for the benefit of the City; and

WHEREAS, Developer is required to provide 1,060 public parking spaces on the Property through December 2044, under the terms of a Declaration of Covenants, Conditions, and Restrictions, which will also be recorded against the Property; and

WHEREAS, on October 15, 2015, the California Department of Finance approved the Former RDA's Amended and Restated Long Range Property Management Plan (ARPMP); and

WHEREAS, H&S Code section 34191.5(c)(2) and the ARPMP requires the Successor Agency to dispose of the Former RDA's properties through four categories: (1) transfer to the City for governmental use; (2) liquidation or sale to a third party; (3) transfer to the City for future development in accordance with historical redevelopment objectives; and (4) fulfillment of an enforceable obligation; and

WHEREAS, the ARPMP identifies the Property in the future development category; and

WHEREAS, under H&S Code section 34180(f), in exchange for the City retaining the Property for future development, the City and other local taxing entities entered into that certain Compensation Agreement dated November 2020 (Compensation Agreement), under which the City compensates the other local taxing entities in accordance with their proportional share of base property tax revenues as determined under H&S Code section 34188 for the value of the Property; and

WHEREAS, consistent with the California Environmental Quality Act (CEQA), the environmental impacts of development within the San Diego Downtown Community Plan area have been evaluated in the Final Program Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan; Centre City Planned District Ordinance; and 10th Amendment to the Redevelopment Plan for the Centre City Redevelopment Project (SCH No. 2003041001), certified by the Former RDA and City Council on March 14, 2006 (Resolutions R-04001 and R-301265, respectively); subsequent addenda to the FEIR certified by the Former RDA and City Council on August 3, 2007 (Resolutions R-04193 and R-302931, respectively), April 13, 2010 (Resolutions R-04510 and R-305759, respectively), April 23, 2010 (Resolutions

R-04508 and R-305761, respectively), and August 3, 2010 (Resolutions R-04544 and R-306014, respectively), certified by City Council on February 12, 2014 (Resolution R-308724), July 14, 2014 (Resolution R-309115), and November 17, 2020 (Resolution R-313302); and the Final Supplemental Environmental Impact Report (SEIR) for the Downtown San Diego Mobility Plan (SCH No. 2014121002), certified by City Council on July 5, 2016 (Resolution R-310561); and

WHEREAS, the environmental impacts of development within the San Diego Downtown Community Plan area have also been evaluated in the FEIR for the City of San Diego Climate Action Plan (CAP FEIR) (Project No. 416603/SCH No. 2015021053), certified by City Council on January 4, 2016 (Resolution R-310176), and the Addendum to the CAP FEIR, certified by City Council on July 19, 2016 (Resolution R-310595); and

WHEREAS, approval of the DDA is a subsequent discretionary action within the scope of the development program evaluated in the FEIR and CAP FEIR and is not a separate project for the purposes of CEQA review under CEQA Guidelines sections 15378(c) and 15060(c)(3); and

WHEREAS, there is no change in circumstance, additional information, or project changes that require additional environmental review under California Public Resources Code section 21166 and CEQA Guidelines section 15162; and

WHEREAS, in accordance with H&S Code section 33433(a)(1) and Government Code section 52201, the City Council held a public hearing on April 19, 2022, to consider the approval of the Agreement after publishing notice of the public hearing as specified in Government Code section 6066; and

WHEREAS, in accordance with H&S Code section 33433(a)(2) and Government Code section 52201(a)(2)(B), a consultant retained by the City prepared a "Summary Report" dated March 2, 2022, related to the Agreement (Summary Report), and a copy of the Summary Report is included as Attachment E to the Staff Report and incorporated fully into this Resolution; and

WHEREAS, the City has made copies of the Agreement and the Summary Report available for public inspection and copying no later than the time of the first publication of the notice of the public hearing; and

WHEREAS, the City Council has considered the information in the Summary Report, which contains a summary describing and specifying all of the following:

- (i) The cost of the Agreement to the City; and
- (ii) The estimated fair market value of the interest to be conveyed, determined at the highest and best use permitted under the Centre City Redevelopment Plan, as amended (Redevelopment Plan); and
- (iii) The estimated value of the interest to be conveyed, determined at the use and with the conditions, covenants, and development costs required by the Agreement; and
- (iv) The fair market value of the interest to be conveyed, along with an explanation as to why the compensation is less than the fair market value, if any, determined at the highest and best use consistent with the Redevelopment Plan; and
- (v) An explanation of why the conveyance of the Property in accordance with the Agreement will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation; and

WHEREAS, under H&S Code section 33433 and Government Code section 52201, the City Council considered the information in the Summary Report; and

WHEREAS, the City Council believes that the Agreement is in the best interests of the City and the health, safety, morals, and welfare of its residents, and in accordance with the public purposes and provisions of applicable state and local law and requirements; and

WHEREAS, the City Council has considered any written evidence and testimony received in support of or in opposition to the Agreement, as well as the entire record prepared by City staff related to the matters addressed in this Resolution; NOW, THEREFORE,

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

1. The City Council finds and determines that all recitals set forth in this Resolution are true and correct and fully incorporated in this Resolution.

2. The City Council finds that the consideration to be received by the City for the sale of the Property under the Agreement exceeds the fair market value of the Property at the use and with the covenants, conditions, and development costs required by the Agreement.

3. The City Council finds that the development of the Property under the Agreement will assist in the elimination of blight and create an economic opportunity in the Centre City Project Area and is consistent with the Redevelopment Plan and the most recent five-year implementation plan adopted under H&S Code section 33490.

4. The City Council approves the Agreement and all other attachments and exhibits to the Agreement.

5. The Mayor, or designee, is authorized and directed to sign the Agreement, including all attachments and exhibits requiring the City's signature. A copy of the signed Agreement shall be placed on file with the City Clerk as Document No. RR- 314077 .

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

7. The Chief Financial Officer, as delegated, is authorized to accept the purchase price payment of \$35.1 million and deposit the funds into the Successor Agency Property Management Fund No. 200723 and to appropriate and expend such funds in accordance with the Agreement and the Compensation Agreement.

8. The City Council requests the Chief Financial Officer, as delegated, transfer and appropriate the City's net proceeds of the \$35.1 million into the Bridge to Housing Fund for future affordable housing expenditures consistent with applicable law.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Katherine A. Malcolm
Katherine A. Malcolm
Deputy City Attorney

KAM:cc:cm
03/07/22
04/20/22 COR. COPY
Or. Dept: Economic Dev't
Doc. No.: 2899866_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 19 2022.

ELIZABETH S. MALAND

City Clerk

By 

Deputy City Clerk

Approved: 5/3/22

(date)


TODD GLORIA, Mayor

Vetoed: _____

(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on APR 19 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 03 2022.

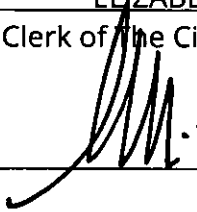
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
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

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