

RESOLUTION NUMBER R- 314405DATE OF FINAL PASSAGE OCT 20 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CORRECTING A CERTAIN FINDING FOR APPROVAL OF THE DISPOSITION AND DEVELOPMENT OF THE TAILGATE PARK SITE IN THE DOWNTOWN SAN DIEGO COMMUNITY PLANNING AREA AND AUTHORIZING AN ADMINISTRATIVE EXTENSION OF THE ESCROW CLOSING DATE.

WHEREAS, the Council of the City of San Diego (City Council) adopted Resolution R-314077 effective May 3, 2022 (Prior Resolution), approving a Disposition and Development Agreement (Agreement), between the City of San Diego (City) and Tailgate Development, LLC, a Delaware limited liability company (Developer), 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, after the City Council's adoption of the Prior Resolution, the City and Developer signed the Agreement, dated May 12, 2022; and

WHEREAS, the City elected to sell the Property in accordance with the Agreement to create an economic opportunity consistent with Government Code section 52201; and

WHEREAS, as required by 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 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 B to the Staff Report accompanying this Resolution and incorporated fully into this Resolution; and

WHEREAS, through inadvertence, Paragraph 2 in the Prior Resolution contained language that did not correspond in its entirety to the intended finding of Government Code section 52201(b)(2) and the language in the staff report accompanying the Prior Resolution and the Summary Report included in the backup materials accompanying the Prior Resolution; and

WHEREAS, Sections 2.37 and 8.8 of the Agreement contemplate that the City and Developer will close escrow on the Property no later than December 23, 2022 (Escrow Closing Date), consistent with section 54234(b)(1)(B); and

WHEREAS, in accordance with Government Code section 54234(b)(2), the date of disposition shall be extended if the City's right or ability to dispose of the property, or a development project for which such property is proposed to be transferred, is the subject of a judicial challenge to a date that is six (6) months following final conclusion of litigation; and

WHEREAS, the Project for Open Government filed a verified complaint for declaratory and injunctive relief and petition for writ of mandate under the California Environmental Quality Act, and other laws, San Diego Superior Court Case No. 37-2022-0018873-CU-00101-CTL, against the City, Developer, and Padres Next Fifty, LLC, on May 18, 2022; and

WHEREAS, in light of the pending litigation, this Resolution will authorize the Mayor or designee to extend the Escrow Closing Date under the Agreement beyond December 23, 2022, as permitted by and consistent with Government Code section 54234(b)(2); and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete, true, and accurate; 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 is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale.

3. The Mayor or designee is authorized and directed, in light of the pending litigation, to sign all appropriate documents, including an amendment to the Agreement, to confirm an extension of the Escrow Closing Date, and all other relevant deadlines or performance milestones under the Agreement, consistent with Government Code section 54234(b)(2).

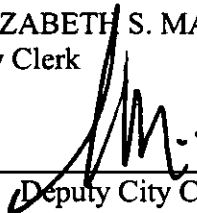
APPROVED: MARA W. ELLIOTT, City Attorney

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

KAM:cc
8/3/2022
Or. Dept: Economic Dev't
Doc. No.: 3049330

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 18 2022.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10/20/22
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on October 18, 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 type="checkbox"/>	<input checked="" 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 OCT 20 2022.

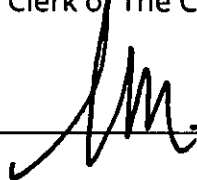
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

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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