

GARDEN GROVE CITY COUNCIL

RESOLUTION NO. 9160-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE  
APPROVING A PURCHASE AND SALE AGREEMENT AND JOINT ESCROW  
INSTRUCTIONS FOR THE PURCHASE OF CERTAIN PROPERTY LOCATED AT 12291  
AND 12311 HARBOR BLVD. AND 12292 AND 12312 THACKERY DRIVE AND  
AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City of Garden Grove, Acting as Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency") is acting as Successor Agency to the Garden Grove Agency for Community Development ("Former Agency") pursuant to ABx1 26, which added Parts 1.8 and 1.85 to Division 24 of the Health & Safety Code ("Dissolution Act"); and

WHEREAS, the Former Agency entered into that certain Disposition and Development Agreement ("DDA") with Palm Court Lodging, LLC ("Previous Developer") and subsequently assigned to Kam Sang Company ("Developer") on April 27, 2004, relating to a proposed redevelopment project in the Project Area on a site ("Proposed Project Site") that includes certain property located at 12291 and 12311 Harbor Blvd. and 12292 and 12312 Thackery Drive (collectively, "Property"); and

WHEREAS, the project proposed for the Proposed Project Site includes development of an approximately 185-room hotel ("Proposed Project"); and

WHEREAS, the Successor Agency, is responsible for administering the enforceable obligations of the Former Agency; and

WHEREAS, the DDA has been included as an enforceable obligation under a recognized obligation payment schedule as filed by the Successor Agency and approved by the oversight board for the Successor Agency ("Oversight Board"); and

WHEREAS, acquisition of the Property by the Successor Agency is essential in order for the Successor Agency to discharge its responsibilities with respect to the implementation of the DDA; and

WHEREAS, the City of Garden Grove, a municipal corporation (in such capacity, "City") is the current fee owner of the Property; and

WHEREAS, the City has agreed to sell the Property to the Successor Agency for the sum of Two Million Five Hundred Fifty-Five Thousand Dollars (\$2,555,000.00), which sum (the "Purchase Price") represents an amount equal to the cost expended to acquire the Property from the previous owner of the Property, all as more fully set forth in an agreement between the Successor Agency and the City entitled "Purchase and Sale Agreement and Joint Escrow Instructions" substantially in the form submitted herewith ("Purchase Agreement"); and

WHEREAS, Health & Safety Code Section 34189(a), added by the Dissolution Act, provides that, “[c]ommencing on the effective date of [the Dissolution Act], all provisions of the Community Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies, including, but not limited to, Sections 33445, 33640, 33641, 33645, and subdivision (b) of Section 33670, shall be inoperative”; and

WHEREAS, Health & Safety Code Section 34173(b), added by the Dissolution Act, provides that, “[e]xcept for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to [the Dissolution Act], *all authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law, are hereby vested in the successor agencies.*” (emphasis added); and

WHEREAS, Health & Safety Code Sections 34167(d)(5) and 34171(d)(1)(E), added by ABx1 26, define “enforceable obligation” to include “[a]ny legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy”; and

WHEREAS, Health & Safety Code Section 34177(c), added by ABx1 26, requires the Successor Agency to “[p]erform obligations required pursuant to any enforceable obligation”; and

WHEREAS, the DDA was duly approved and fully executed prior to the effective date of the Dissolution Act; and

WHEREAS, the DDA is a legally binding and enforceable agreement that does not violate the debt limit or public policy; and

WHEREAS, the implementation of the DDA is in the best interests of the Successor Agency and the Oversight Board by promoting compliance with the terms of an enforceable obligation and by facilitating the consummation of the project described in the DDA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GARDEN GROVE:

Section 1. The foregoing recitals are true and correct and constitute a substantive part of this Resolution.

Section 2. The City Council hereby approves the Purchase Agreement and authorizes and directs the City Manager to execute the Purchase Agreement on behalf of the City, subject to money for the purchase being released from the tax increment trust fund. The City Manager and his designees are further authorized to take such actions as are necessary and convenient to implement the Purchase Agreement.

Section 3. This Resolution shall be effective immediately upon adoption.

Section 4. The City Clerk shall certify to the adoption of this Resolution.

Adopted this 11<sup>th</sup> day of December 2012.

ATTEST:

/s/ BRUCE A. BROADWATER  
MAYOR

/s/ KATHLEEN BAILOR, CMC  
CITY CLERK

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) SS:  
CITY OF GARDEN GROVE )

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Garden Grove, California, at a meeting held on the 11<sup>th</sup> day of December 2012, by the following vote:

AYES:     COUNCIL MEMBERS:   (5) BEARD, JONES, NGUYEN, PHAN, BROADWATER  
NOES:     COUNCIL MEMBERS:   (0) NONE  
ABSENT:   COUNCIL MEMBERS:   (0) NONE

/s/ KATHLEEN BAILOR, CMC  
CITY CLERK