

**RESOLUTION NO. 74652**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ APPROVING THE SALE OF CERTAIN SITES LOCATED ON AGENCY-OWNED PROPERTY GENERALLY LOCATED IN THE BLOCKS BOUNDED BY HIGHWAY 87 TO THE WEST, WEST SAINT JAMES STREET TO THE SOUTH, NORTH MARKET STREET TO THE EAST AND A UNION PACIFIC RAILROAD RIGHT OF WAY TO THE NORTH, TO BARRY SWENSON BUILDER (SWENSON), ACCEPTING THE 33433 SUMMARY REPORT AND RE-USE VALUATION AND MAKING CERTAIN FINDINGS**

**WHEREAS**, the Redevelopment Agency of the City of San José ("Agency") is presently engaged in redevelopment activities in the Julian-Stockton Redevelopment Project Area ("Project Area"); and

**WHEREAS**, in September 2003, the Agency acquired approximately 5.28 acres in the area north of Julian Street, and combined with existing Agency-owned land, City right-of-way for Julian Street and State-owned surplus property, was identified as a land assembly site for the development of housing ("Site"); and

**WHEREAS**, on August 9, 2005, the Agency Board approved an Exclusive Negotiations Agreement with the development team of Green Valley Corporation dba Barry Swenson Builder ("Swenson") and Olson Urban Housing LLC ("Olson") for the proposed sale and development of the Site; and

**WHEREAS**, on June 19, 2007, the Agency Board approved Disposition and Development Agreements ("DDAs") with Swenson and Olson, for the development of the Site; and

**WHEREAS**, Swenson was in compliance with its schedule when Olson subsequently entered into default, but the project has been delayed due to financial market troubles and the Agency's discussions with Intracorp San Francisco, the proposed assignee of Olson's DDA; and

**WHEREAS**, Agency staff is recommending that the Agency Board approve an Amended and Restated DDA with Swenson for the development of three high-rise residential towers comprising approximately 160 units per tower ("Project"); and

**WHEREAS**, Community Redevelopment Law provides in Section 33433 that (1) before any property acquired, in whole or in part, with tax increment monies is sold or leased for development pursuant to a redevelopment plan, such sale or lease shall first be approved by the City Council, after a duly noticed public hearing of the City Council, and (2) the Agency shall make available for public inspection a copy of the proposed sale or lease and a summary which describes the financial aspects of the transaction; and

**WHEREAS**, a Summary Report has been prepared pursuant to Health & Safety Code Section 33433, containing a summary of the key terms of the Project, costs, and other information required by Section 33433, and said report and copies of the proposed Amended and Restated DDA were made available to the public for inspection prior to the hearing, as required by Community Redevelopment Law; and

**WHEREAS**, the Section 33433 Summary Report concludes that the consideration for the Property is not less than the fair market value at its highest and best use; and

**WHEREAS**, the proposed disposition and development of the Site will assist in the elimination of blight by increasing the supply of Downtown housing on an underutilized site, creating public spaces, including a new one-acre park and the expansion of Pellier Park, strengthening the Project Area as a first-class residential location in San José ,

and encouraging other private investment in the area and is consistent with the goal of the Five Year Implementation Plan to eliminate conditions that negatively impact economic development of the community; and

**WHEREAS**, notice of a joint public hearing by the City Council and the Agency Board on the proposed Amended and Restated DDA has been duly published in accordance with the Community Redevelopment Law; and

**WHEREAS**, the joint public hearing of the Agency Board and the City Council was held on October 28, 2008;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ THAT:

1. The sale of certain sites located on Agency-owned property generally located in the blocks bounded by Highway 87 to the west, West St. James Street to the south, North Market Street to the east, and Union Pacific right-of-way to the north to Barry Swenson Builder is approved; and
2. The summary of costs and the findings of the Summary Report pursuant to California Health and Safety Code Section 33433 are accepted; and
3. The consideration that the Agency will receive for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement; and

4. The project will assist in the elimination of blight and is consistent with the Agency's Implementation Plan for the Julian-Stockton Redevelopment Project Area.

ADOPTED this 28th day of October, 2008, by the following vote:

AYES: CHIRCO, CHU, CONSTANT, CORTESE, LICCARDO,  
NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED.

NOES: NONE.

ABSENT: CAMPOS.

DISQUALIFIED: NONE.

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk