

A RESOLUTION 2003-43-35

AMENDING RESOLUTION 2000-44-41 AS REQUIRED BY 379B OF THE TEXAS LOCAL GOVERNMENT CODE BY: (1) INCREASING THE MAXIMUM AMOUNT OF MONEY THAT THE GREATER KELLY DEVELOPMENT AUTHORITY ("GKDA") CAN BORROW FROM \$65,900,000.00 TO \$124,600,000.00; AND (2) EXPANDING THE AUTHORIZED CATEGORIES OF DEBT INSTRUMENTS TO INCLUDE BONDS APPROVED BY CITY COUNCIL AND OTHER DEBT INSTRUMENTS AS APPROVED BY THE GKDA BOARD OF DIRECTORS, SUCH AS BANK LOANS AND INSTITUTIONAL LOANS; AND CLARIFYING SECTION III.E.2 OF THE HUD SECTION 108 COMMITMENT LETTER AND LOAN AGREEMENT BETWEEN THE CITY AND GKDA TO ALLOW FOR THE PLEDGING OF GKDA ASSETS WITHOUT CITY APPROVAL PROVIDED SUCH ASSETS ARE NOT ALREADY COLLATERALIZED UNDER ANY PRIOR AGREEMENTS WITH THE CITY.

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WHEREAS, the Greater Kelly Development Authority ("GKDA"), is a political subdivision of the State of Texas, formed by the City Council of the City of San Antonio, Texas under Chapter 379B of the Texas Local Government Code (the "Act"), as amended; and

WHEREAS, the Act authorizes GKDA to borrow money or issue bonds in an amount not to exceed the maximum amount set by the governing body of the municipality which created it; and

WHEREAS, the maximum amount was set by City Council by the adoption of Resolution No. 2000-44-41 on December 14, 2000 which established the maximum borrowing capacity of GKDA at \$65,900,000.00 and limited that available debt capacity in the following specific categories of debt instruments that included the HUD Section 108 Loan (\$38,700,000.00), bonds (\$7,000,000.00), private bank loans (\$10,000,000.00), a revolving private bank loan line of credit (\$5,000,000.00) and promissory notes to the United States Air Force (\$5,200,000.00); and

WHEREAS, GKDA is requesting that the borrowing capacity be increased from \$65,900,000.00 to \$124,600,000.00 and the ability to borrow these funds through a variety of potential debt instruments to include bonds and HUD Section 108 loans approved by City Council, as well as other debt instruments as approved by the GKDA Board of Directors, for the purpose of increasing the efficiency of meeting market demand for facilities and infrastructure from both new and existing tenants; and

WHEREAS, the City and GKDA (then Greater Kelly Development Corporation) entered into a Commitment Letter and Loan Agreement ("Agreement") dated July 21, 1998, authorizing the City to loan in the aggregate principal amount of \$38,700,000.00 ("Loan") to GKDA in order to fund major facility renovations at KellyUSA, and said Agreement denied GKDA the ability to sell, convey, dispose of, alienate, assign, mortgage, pledge, transfer or encumber all or any part of the collateral or interest in KellyUSA without prior approval of the City through its City Council; and

WHEREAS, the Act imposes the responsibility for the management, operation and control of KellyUSA upon the Board of Directors of GKDA, including the ability to acquire, lease, lease-purchase, convey, grant a mortgage on, or otherwise dispose of a property right, including a right regarding GKDA property; and

WHEREAS, the City and GKDA believe it was the intent of the legislature in its enactment of the Act to allow Defense Base Development Authorities such as GKDA to govern the property within the boundaries coterminous with the property description in the Resolution of the municipality which created it; and

WHEREAS, the City and GKDA have agreed to only limit GKDA in its ability to sell, convey, dispose of, alienate, assign, mortgage, pledge, transfer or encumber all or any part of any property pledged as collateral on any agreement between City and GKDA, but not limit its ability to sell, convey, dispose of, alienate, assign, mortgage, pledge, transfer or encumber all or any part of the facilities at KellyUSA not collateralized under any City agreements; and

WHEREAS, GKDA through the passage of a Resolution of its Board of Directors has requested and endorsed the amendments and changes as described above; **NOW THEREFORE:**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. As required by Section 379B.004 of Chapter 379B of the Texas Local Government Code (the "Act"), as amended, the maximum amount of money which the Greater Kelly Development Authority ("GKDA") may borrow under the Act is hereby set by the City Council at the combined maximum amount of \$124,600,000.00 subject to the respective terms and conditions of the respective loans as contained in the respective loan instruments. GKDA may borrow funds up to this maximum amount using a variety of debt instruments to include bonds and HUD Section 108 loans approved by City Council, as well as other debt instruments as approved by the GKDA Board of Directors

SECTION 2. Under the Commitment Letter and Loan Agreement dated July 21, 1998, authorizing the City to loan in the aggregate principal amount of \$38,700,000.00 ("Loan"), the City hereby interprets Section III.E.2. to only limit GKDA in its ability to sell, convey, dispose of, alienate, assign, mortgage, pledge, transfer or encumber all or any part of the property used as collateral in any agreements with the City, but not to limit its ability to sell, convey, dispose of, alienate, assign, mortgage, pledge, transfer or encumber all or any part of the facilities at KellyUSA not collateralized as part of any agreements with the City. Therefore, approval from the City Council shall not be required for any property not collateralized under any agreements with the City.

SECTION 3. The City hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the City hereby incorporates such recitals as a part of this Resolution.

SECTION 4. This Resolution shall become effective ten (10) days following its passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS AT A REGULAR MEETING ON THIS 18th DAY OF DECEMBER, 2003.



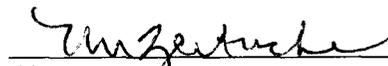
M A Y O R

EDWARD D. GARZA

ATTEST:


Acting City Clerk

APPROVED AS TO FORM:

By: 
for City Attorney