

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO
RESOLUTION NUMBER R-03408

ADOPTED ON NOVEMBER 20, 2001

WHEREAS, on November 3, 1998, the electorate of the City of San Diego [City] approved Ordinance No. O-18613 [Ordinance] which authorized and directed the City to enter into a Memorandum of Understanding [MOU] with the San Diego Padres [Padres], the Redevelopment Agency of the City of San Diego [Agency], and the Centre City Development Corporation [CCDC] Concerning a Ballpark District, Construction of a Baseball Park, and a Redevelopment Project within the Centre City East (East Village) Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project; and

WHEREAS, the Ordinance provided that it was the intent of the electorate that the Ordinance and the MOU constitute the legislative acts establishing policy for the City on those matters, and provided for the ways and means for the implementation of that policy by such administrative and non-legislative acts as may be necessary and appropriate to carry out the purpose and intent of the Ordinance; and

WHEREAS, the MOU has been executed by the City, the Agency, CCDC and Padres [collectively "Parties"]; and

WHEREAS, pursuant to section XV of the MOU, the City shall provide not more than \$225 million towards the construction of the Ballpark Project, based upon its financing of choice and from sources of revenue in the City's general fund and other non-general fund sources as it may determine in its sole discretion; and

WHEREAS, pursuant to section XVII of the MOU, the Agency shall provide not more

than \$50 million towards the Ballpark Project, based upon a combination of equity and tax increment financing, to be used solely for infrastructure and land acquisition; and

WHEREAS, pursuant to section XXXIII.A.1 of the MOU, the Parties' performance under the MOU was conditioned upon the City's ability to obtain its financing of choice on terms reasonably acceptable to the City and on a fully tax-exempt basis unless the Parties waive such requirement; and

WHEREAS, on January 31, 2000, in accordance with the implementation provisions of the MOU, the Board of Directors of the Agency [Board] authorized and directed the Executive Director to execute the Ballpark and Redevelopment Project Implementation Agreement [Implementation Agreement] which modified certain rights and responsibilities of the Parties as set forth in the MOU by, in part, providing for additional funding on the part of the Padres and Agency; and

WHEREAS, the Implementation Agreement was executed by all the Parties; and

WHEREAS, pursuant to the Implementation Agreement, the Agency is obligated to provide an additional \$11 million toward the Ballpark Project plus an additional \$10 million solely to cover costs overruns, if any, in land acquisition costs between \$110 million and \$130 million [Contingent Excess Land Acquisition Costs], for a total investment in the Ballpark Project of \$61 million plus Contingent Excess Land Acquisition Costs; and

WHEREAS, the Parties have further determined that additional Agency funds are necessary and appropriate for the payment of additional land acquisition costs and related expenses associated with the Ballpark Project; and

WHEREAS, pursuant to the MOU the Padres have provided to the City a \$50 million first priority lien on and security interest in the Padres' Major League Baseball [MLB] franchise,

which was to be released upon the Padres providing its first \$50 million into the construction fund for the ballpark; and

WHEREAS, pursuant to the Design Build Procurement Consultant Agreement between the Parties, the Padres agreed that the lien and security interest would remain in place to secure the Padres' obligation to pay for ballpark costs in excess of the original ballpark estimate of \$267.5 million; and

WHEREAS, the City has determined to obtain municipal bond insurance for its bonds, and in order to obtain such insurance it is necessary for MLB to provide an unconditional guaranty of a significant portion of the Padres' obligation to deposit its required investment in the Ballpark Project into the construction fund for the ballpark [MLB Guaranty]; and

WHEREAS, the MLB Guaranty may be provided only if the City's first priority lien and security interest are subordinate to the MLB Guaranty; and

WHEREAS, the terms and conditions of the MLB Guaranty, and the commitments made by Major League Baseball in connection therewith, will not materially affect, and may in fact improve, the protection to the City as compared to the City Lien; and

WHEREAS, the Padres have already provided in excess of \$50 million towards construction of the ballpark; and

WHEREAS, in order that the City may obtain municipal bond insurance for its bonds, it is therefore necessary and appropriate for the City to agree that its first priority lien and security interest may be subordinate to the MLB Guaranty but only for so long as the MLB Guaranty remains effective; and

WHEREAS, it is now timely and appropriate to consider such further actions as may be necessary and appropriate to implement the purpose and intent of the Ordinance, MOU and Implementation Agreement, consistent with the City's and Agency's obligations under California

law, and the discretion lawfully vested in the City Council acting on behalf of the City; and

WHEREAS, nothing heretofore has occurred, nor is there any action herein, that modifies the \$225 million cap on the City's investment in the Project specified in Section XV of the MOU, or causes or obligates the City to spend any funds in excess of that amount; and

WHEREAS, modifications to the rights and obligations of the Parties as set forth in the MOU may be authorized without a vote of the City's electorate if such modifications do not materially: 1) decrease the rights or increase the obligations of the City; 2) increase the financial commitments of the City; or 3) decrease revenue to the City; and

WHEREAS, to the extent that any action authorized and directed by this resolution, or heretofore approved by this Council, is deemed to modify the rights and obligations of the Parties as set forth in the MOU, the same were intended as such, and such actions did not, and do not, individually or in the aggregate, materially: 1) decrease the rights or increase the obligations of the City; 2) increase the financial commitments of the City; or 3) decrease revenue to the City; NOW, THEREFORE,

BE IT RESOLVED, by the Board of the Agency, that the foregoing recitals are true and correct, and the Board so finds and determines as being in the best interests of the Agency.

BE IT FURTHER RESOLVED, that the Executive Director be and he is hereby authorized and directed to negotiate, prepare and execute for and on behalf of the Agency the Second Ballpark and Redevelopment Project Implementation Agreement [Second Implementation Agreement], attached hereto as Exhibit 1. When that agreement is fully executed, it shall be kept on file in the Office of the City Clerk as Document No. RR-295763, and in the Office of the Redevelopment Agency as Document No. D03408.

BE IT FURTHER RESOLVED, that the Executive Director be and he is hereby authorized and directed to execute such further and necessary extensions of the MOU as may be

required prior to the receipt of the City's bond proceeds.

BE IT FURTHER RESOLVED, that the Executive Director be and he is hereby authorized and directed to take such other and further actions, and execute such documents, as may be necessary or appropriate to implement the intent and purposes of this resolution, the Ordinance, the MOU, the Implementation Agreement, or the Second Implementation Agreement, consistent with the rights and obligations of the Agency pursuant to the Ordinance, MOU, Implementation Agreement and Second Implementation Agreement, and their authorizing ordinances and resolutions.

APPROVED: CASEY GWINN, General Counsel

By

Leslie J. Girard
Assistant General Counsel

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