

(RA-2000-90)

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO
RESOLUTION NO. R-03094
ADOPTED ON FEBRUARY 1, 2000

WHEREAS, on November 3, 1998, the electorate of the City of San Diego [City] approved Ordinance No. O-18613 [Ordinance] which authorized 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, and the Centre City Development Corporation 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 all parties thereto; and

WHEREAS, the MOU reflects the basic business deal between the parties, and contains certain general terms for the planning and construction of the proposed new ballpark [Ballpark], including a general timeline for the completion of the Ballpark; the obligation of Padres to design and construct the Ballpark; and a limitation of the maximum amount of City funds that may be used for the design and construction of the Ballpark, all subject to all the other terms of

the MOU; and

WHEREAS, the development of the Ballpark is an integral part of the redevelopment project that is the subject of the MOU; and

WHEREAS, the MOU provides that the planning and construction of the Ballpark shall be subject to the terms of more definitive agreements, encompassing issues not addressed in the MOU; and

WHEREAS, the San Diego City Charter was amended in 1998 to contain Section 94.2 authorizing the use of design-build contracts for public works construction; and

WHEREAS, the San Diego Municipal Code was similarly amended to add Divisions 33 and 34 to provide implementing guidelines for the award, use and evaluation of design-build contracts; and

WHEREAS, Division 34 of the Municipal Code provides for the use of a Procurement Consultant to obtain and administer design-build contracts for the construction of public works; and

WHEREAS, pursuant to the provisions mentioned above, the City Charter and Municipal Code now authorize the Agency to enter into agreements such as the design-build procurement consultant agreement that is the subject of this resolution; and

WHEREAS, the anticipated unique operational, aesthetic and other attributes of the Ballpark make the use of the provisions of Division 34 of the Municipal Code necessary and appropriate to enhance the design and construction of the Ballpark; and

WHEREAS, the City requires financing to fully fund its investment in the cost of constructing the Ballpark, and the persons or entities providing such financing may require that a construction contract and design-build procurement consultant contract for the Ballpark be fully effective as a condition to providing such financing; and

WHEREAS, the Agency finds that Padres Construction L.P. [PCL] is uniquely situated to provide the services required of a Procurement Consultant for the Ballpark pursuant to Division 34 of the Municipal Code because its affiliate, Padres L.P., owns the San Diego Padres, the only Major League Baseball Team in the County of San Diego, which, pursuant to the MOU, is committed to play its home games at the Ballpark; and

WHEREAS, the construction contract [Contract] for the Ballpark shall be procured through a process of competitive negotiation consistent with the City Charter and Municipal Code; and

WHEREAS, it is now fitting to consider such actions as may be necessary and appropriate to implement the purpose and intent of the Ordinance and MOU, consistent with the Agency's obligations under California law, and the discretion lawfully vested in the Agency; and

WHEREAS, the action authorized by this resolution is fully consistent with the MOU;
NOW, THEREFORE,

BE IT RESOLVED, by the Redevelopment Agency of The City of San Diego [Agency], that the Executive Director of the Agency be and he is hereby authorized and directed to execute for and on behalf of the Agency the Design Build Procurement Consultant Agreement for the Ballpark between the City, Agency, Centre City Development Corporation, Padres and Padres Construction, L.P., attached hereto as Exhibit 1. When that agreement is fully executed, it shall be kept on file in the Office of the Secretary to the Agency as Document No. D-03094.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller must provide the appropriate certification as to the availability of funds prior to the time that the Agency becomes obligated to expend any funds pursuant to either the Agreement or Contract, or out of any fund controlled by the City.

BE IT FURTHER RESOLVED, that the Executive Director of the Agency be and he is

hereby authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this resolution, consistent with the rights and obligations of the Agency pursuant to the Ordinance and MOU.

APPROVED: CASEY GWINN, General Counsel

By
Douglas K. Humphreys
Deputy Counsel

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