

PUBLIC FACILITIES FINANCING AUTHORITY
OF THE CITY OF SAN DIEGO

RESOLUTION NUMBER FA-2002-6

ADOPTED ON DECEMBER 14, 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 [Ballpark 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 on behalf of the City (by the City Manager pursuant to the Ordinance), the Agency, CCDC and Padres [collectively, the Parties]; and

WHEREAS, subsequent to the execution of the MOU by the Parties, the Public Facilities financing Authority of the City of San Diego [Authority], in reliance thereon and in furtherance thereof, executed and delivered a series of agreements and amendments to agreements [the Listed Agreements], including but not limited to the following: Guaranty Agreement Concerning Design Build Procurement Agreement; Site Lease; Ballpark Facility Lease; Assignment Agreement; Indenture; Contract of Purchase, Amended and Restated Contract of Purchase, and Continuing Disclosure Agreement; and

WHEREAS, it has become known to the City and the Authority that one Director of CCDC [the Director] has engaged in certain purchase transactions with the Padres; and

WHEREAS, a review of the nature and scope of such business activities has been conducted; and

WHEREAS, in a Report dated December 12, 2001 [the Report], the staff of the City has advised that the Director and the Padres have entered into a letter agreement to the effect that from and through the date thereof neither the Director, nor any related enterprise, will engage in any business activity with the Padres or any related Padres' business enterprise; and

WHEREAS, the General Counsel of CCDC has advised the Board of Directors of CCDC that, based upon information previously provided and now contained in the Report, the Director's activities described therein did not violate certain California conflicts of interest laws, and that it is her view that the actions set forth below to reaffirm actions heretofore taken in furtherance of the MOU and the Ordinance, if undertaken by CCDC, would be curative of any alleged or perceived conflict, and the City Attorney of the City of San Diego, General Counsel to the Agency, and General Counsel Authority concur in that view as to the City, the Agency and the Authority; and

WHEREAS, since execution of the MOU, actions have been authorized by the Parties to be taken under the MOU, or in furtherance thereof, or in reliance thereon, including extensions of the MOU, and to the extent that the same have modified the rights and obligations of any of the Parties under the MOU, none of such actions (1) decreased the rights or increased the obligations of the City under the MOU; (2) increased the financial commitments of the City; or (3) decreased revenue to the City; and

WHEREAS, each of the Parties to the MOU reaffirmed its intent to be bound by the MOU and acts or actions taken thereunder, or in furtherance thereof, or in reliance thereon; and

WHEREAS, it is deemed in the best interests of the Authority to so reaffirm its actions related to the Ballpark Project and the Public Facilities Financing Authority of the City of San Diego Lease Revenue Bonds, Series 2001 (Ballpark Project) [2001 Bonds]; NOW, THEREFORE,

BE IT RESOLVED by the Board as follows:

1. That all of the foregoing Recitals are true and correct and the Board so finds and determines; and
2. This Board hereby declares that it continues to be in the best interest of the Board to proceed in accordance with and in furtherance of the Ballpark Project and the MOU.
3. All actions of the Board heretofore taken [collectively, Board Actions], which were implemented by and or authorized under the MOU and in connection with the issuance of the 2001 Bonds, or in furtherance or effectuation thereof or in reliance thereon, and pursuant to which agreements, or amendments to agreements were authorized, including but not limited to the Listed Agreements, to the maximum extent required and allowed by law, are hereby ratified so as to reaffirm their efficacy from their respective times of adoption or approval and to effectuate their continuous efficacy now and hereafter.
4. All acts or actions taken by or on behalf of the Authority, by its officers, designees, agents, representatives or others, under or in furtherance or effectuation of the MOU and the 2001 Bonds, or in reliance thereon, or in furtherance or effectuation of Board Actions or in reliance thereon, to the maximum extent required and allowed by law, are hereby reaffirmed, so as

to declare their continuous efficacy since the respective times of such acts or actions and the continuing efficacy now and hereafter.

5. This action of the Board is in furtherance of and implements the mandate of both the Ordinance and the MOU.

6. The Chair and the Vice Chair of the Authority, or their authorized designees, are hereby authorized and directed to take any such further actions, and negotiate, prepare and execute any such documents as may be necessary or appropriate to implement the intent and purposes of this Resolution, consistent with the rights and obligations of the City pursuant to the MOU and all documents executed and delivered in reliance thereon.

APPROVED: CASEY GWINN, General Counsel

By

Kelly J. Salt
Deputy General Counsel

KJS:pev
12/13/01
Dept:Fin.Svcs
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