

(RA-2004-20)  
(COR. COPY)

REDEVELOPMENT AGENCY OF  
THE CITY OF SAN DIEGO  
RESOLUTION NUMBER R-03668  
ADOPTED ON AUGUST 5, 2003

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, on March 31, 1999, the Parties entered into an Interim Financing Agreement by which, in part, the Padres agreed to advance to the Agency the sum of \$8.7 million towards the eventual purchase by Padres of those properties then commonly known as the "outfield park

retail parcels” for the purpose of redevelopment, and an additional \$3.5 million advance in consideration of the conveyance of additional acreage as part of the “outfield park retail parcels.” The “outfield park retail parcels” are now commonly known as East Village Square [EVS]; and

WHEREAS, on August 27, 2001, the City adopted Resolution No. R-295395 which approved Parcel Map 18855, which defined the boundaries of the Ballpark, including the “outfield park” and EVS; and

WHEREAS, Parcel Map 18855 has been recorded in the office of the San Diego County Recorder; and

WHEREAS, on January 31, 2000, in accordance with the implementation provisions of the MOU, the Board of Directors [Board] of the Agency 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; and

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

WHEREAS, on November 30, 2001, in further accordance with the implementation provisions of the MOU, the Board authorized and directed the Executive Director to execute the Second Ballpark and Redevelopment Project Implementation Agreement [Second Implementation Agreement] which further modified certain rights and responsibilities of the Parties as set forth in the MOU; and

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

WHEREAS, on July 18, 2002, in further accordance with the implementation provisions of the MOU, the Board authorized and directed the Executive Director to execute the Third Ballpark and Redevelopment Project Implementation Agreement [Third Implementation

Agreement] which further modified certain rights and responsibilities of the Parties as set forth in the MOU; and

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

WHEREAS, the Implementation Agreement, Second Implementation Agreement and Third Implementation Agreement were each supplemented from time to time by mutual agreement of the Parties; and

WHEREAS, the Parties have been negotiating for the program of redevelopment for EVS, as contemplated by Section XXXI of the MOU; and

WHEREAS, the Parties desire to reconfigure the size of the outfield park from the footprint approved by Parcel Map 18855; eliminate proposed encroachments into the former public rights of way within EVS and the outfield park; limit the height of any building proposed to be developed in the “center field” parcel of EVS (Parcel 3 of Parcel Map 18855) and address the total square footage to be redeveloped as part of EVS and other issues related to the redevelopment of EVS; and

WHEREAS, the Parties desire to address certain other matters necessary and appropriate for the implementation of the MOU and the redevelopment of EVS; 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, Implementation Agreement, Second Implementation Agreement and Third Implementation Agreement, consistent with the City's and Agency's obligations under California law, and the discretion lawfully vested in the Board acting on behalf of the Agency; 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 the rights and obligations of the Parties as set forth set forth herein, or as previously set forth in the Implementation Agreement, Second Implementation Agreement, Third Implementation Agreement, or any of their Supplements, are deemed to modify the rights and obligations of the Parties as set forth in the MOU, the same were intended as such, and the Parties agree that 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 Directors of the Redevelopment Agency of The City of San Diego, 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 execute for and on behalf of the Agency the Fourth Ballpark and Redevelopment Project Implementation Agreement [Fourth 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-298312 and in the Office of the Redevelopment Agency as Document No. D-03668.

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

BE IT FURTHER RESOLVED, that the Fiscal Year 2004 program and project budgets administered by CCDC as contained in the Agency Fiscal Year 2004 budget is hereby amended increasing the project budget fund "Ballpark Other" Fund No. 99070 by \$1.0 million.

BE IT FURTHER RESOLVED, that the City Auditor & Comptroller is hereby authorized to (a) establish the necessary accounts, (b) appropriate all monies available in each project fund up to the amounts budgeted herein, and (c) record the expenditures of funds subject to the amount of revenues available in each project fund.

BE IT FURTHER RESOLVED, that the City Auditor & Comptroller is hereby authorized and directed to expend the sum of \$4 million, together with interest, all as more specifically set forth in the Fourth Implementation Agreement from the source described above, and such other sources as may be identified by the City Auditor & Comptroller, and the Vice-President and Chief Financial Officer of the CCDC, on the condition that the City Auditor & Comptroller first provide the necessary certification of the availability of funds.

APPROVED: CASEY GWINN, General Counsel

By \_\_\_\_\_  
Leslie J. Girard  
Assistant General Counsel

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