

RESOLUTION NUMBER R- 293552
ADOPTED ON JUL 24 2000

WHEREAS, on November 3, 1998, the voters of the City of San Diego approved Ordinance No. O-18613, which directed the City Manager to execute for and on behalf of the City of San Diego that certain Memorandum of Understanding [MOU] between the City of San Diego [City], Redevelopment Agency of the City of San Diego [Agency], Centre City Development Corporation and San Diego Padres [collectively "Parties"] regarding a ballpark and redevelopment project [Project]; and

WHEREAS, the MOU has been signed by the Parties; and

WHEREAS, in the MOU the City agreed, subject to certain conditions, to provide interim funding of certain Project related expenses until such time as permanent financing could be obtained; and

WHEREAS, by the adoption of Resolution No. R-291197 on January 19, 1999, the City Council authorized the amount of \$3.5 million in interim funding for the Project; and

WHEREAS, by the adoption of Resolution No. R-291450 on March 31, 1999, the City Council authorized the additional amount of \$11.5 million in interim funding for the Project; and

WHEREAS, on June 27, 2000, the City Council adopted Resolution No. R-293420 providing an additional amount not to exceed \$10 million in interim funding for the Project; and

WHEREAS, an allegation has been made that the adoption of R-293420 was not lawful pursuant to the California Brown Act, Government Code section 54950 et seq., in that proper notice of the action was not provided in the City Council agenda for that City Council meeting;

and

WHEREAS, as a predicate to the filing of another lawsuit regarding the Project, a demand has been made to cure or correct the defective action pursuant to Government Code section 54960.1; and

WHEREAS, any litigation filed with regard to the matter will be meritless and only serve to delay the implementation of Ordinance No. O-18613, the MOU and the Project; and

WHEREAS, the action of the Council in adopting Resolution No. R-293420 was lawful and proper in that appropriate notice for the action was provided as set forth in Government Code section 54954.2 but the City Council wishes to avoid further needless and meritless litigation that will delay the implementation of the Project; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that contingent upon the adoption of the Fiscal Year 2001 budget, the expenditure of an amount not to exceed \$10 million in interim funding for Project related expenses is hereby authorized on the following basis: \$3.8 million for SVERDRUP Civil, Inc. for continued design and construction services as set forth in Attachment A; and, \$6.2 for other Project related expenses as set forth in the MOU and the Design-Build Consultant Procurement Agreement, approved by the Council on February 1, 2000.

BE IT FURTHER RESOLVED, that the City Manager and the City Auditor and Comptroller are hereby directed to create a comprehensive interim funding plan to keep this project on track but that will not affect any capital improvement project scheduled within the City of San Diego in the next 12 months, and will not affect any levels of service to the public.

BE IT FURTHER RESOLVED, that this authorization is specifically contingent upon

the Padres' agreement and commitment to provide \$20 million in interim funds for Project related expenses, said funds to be expended concurrently with the authorized City funds.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller is authorized to expend the authorized funds from available sources as identified in his discretion, and after providing the necessary certification that the funds are available to be spent, for the purpose set forth above, said sources of funds to be reimbursed upon the City obtaining permanent financing for the Project.

BE IT FURTHER RESOLVED, that the City Manager and City Auditor and Comptroller are authorized to take such other actions as are necessary and appropriate to implement the purposes and intent of this resolution provided that such actions are otherwise consistent with the MOU, and do not commit the City to any expenditure of funds in excess of expenditures previously authorized and authorized by this resolution.

BE IT FURTHER RESOLVED, that, consistent with Section XXXIII.A of the MOU, the City Council reaffirms and reserves to the City the right to determine that the terms of any City or Agency funding or financing, whether interim or permanent, must be reasonably acceptable to the City, which terms include, but are not limited to, the status of sources of revenue to pay for the funding or financing, and any other matter which may affect the City's financing not only of the Project but of any other current or future City project.

BE IT FURTHER RESOLVED, that this action supersedes in its entirety Resolution No.

R-293420, adopted by the City Council on June 27, 2000.

APPROVED: CASEY GWINN, City Attorney

By


Leslie J. Girard
Assistant City Attorney

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ATTACHMENT A

These funds would be used in order to continue progress on the Ballpark Infrastructure Project and specifically for the following purposes:

- (1) Demolition and site remediation of the East Village Square (Park in the Park) properties - building and street demolition to prepare site, including the Park in the Park area;
- (2) Demolition and site remediation of the Ed Plant property - between 8th and 9th and south of Imperial, this block is north of Harbor Drive and would become part of the southern alignment of the new Park Boulevard. The northwest portion of the block is within the Ballpark footprint;
- (3) Design of the new Park Boulevard - includes the new diagonal from 12th to Harbor Drive, as well as construction of the traffic circle, and realignment and design of the existing railroad tracks at 8th and Harbor;
- (4) Purchase of younger trees to allow for a growing period, which is more cost effective than purchasing mature trees; and
- (5) Demolition and remediation of the SDG&E warehouse property - at the northeast corner of 10th and L, the southern third of this block is in the northern portion of the new Park Boulevard and part of 10th Avenue. The southwest portion of the block is within the Ballpark footprint.