

(R-2001-833 COR.COPY2)

RESOLUTION NUMBER R-**294355**

ADOPTED ON **DEC 05 2000**

WHEREAS, Western Pacific Housing, Inc.; Greystone Homes, Inc.; D.R. Horton San Diego Holding Co., Inc.; and McMillan Companies, L.L.C. , own or have an interest in various tracts or parcels of real property located within the City in the area known as "Torrey Highlands," in the vicinity of State Route 56 [SR-56] and Camino Ruiz; and

WHEREAS, the City will be considering the adoption of the FY 2001 update to the Torrey Highlands Public Facilities Financing Plan [PFFP or Financing Plan] and Facilities Benefit Assessment [FBA] for the proposed development of public facilities in the Torrey Highlands community as provided in Camino Ruiz Interchange Funding and Reimbursement Agreement, as described below; and

WHEREAS, the Financing Plan includes the right of way acquisition, design, construction and appurtenant public improvements of the Camino Ruiz interchange at SR-56, as shown on Exhibit C to the Camino Ruiz Interchange Funding and Reimbursement Agreement; and

WHEREAS, it has been determined that the design and construction of the Camino Ruiz interchange will benefit the Torrey Highlands Sub-Area IV of the Torrey Highlands Community as a whole, only Sub-Area IV is paying the assessment so we should not imply that other communities benefit and that reimbursement credits should be made to Developers. Payments by Developers satisfy the criteria set forth in Municipal Code Section 61.2213; and

WHEREAS, Developers are willing to deposit all funds necessary for the right of way acquisition, design and construction of the Project and to accept credits and reimbursements from the FBA, as defined in the Financing Plan, as compensation for such deposits, NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of said City, a Camino Ruiz Interchange Funding and Reimbursement Agreement with Western Pacific Housing, Inc.; Greystone Homes, Inc.; D.R. Horton San Diego Holding Co., Inc.; and McMillan Companies, L.L.C.; for the purpose of extending the SR-56 Phase 1 Project westerly to the SR-56/Camino Ruiz interchange and constructing half of the SR-56/Camino Ruiz Interchange [the Project], under the terms and conditions set forth in the Agreement on file in the office of the City Clerk as Document No. RR- 294355 -1, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement; and

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller is hereby authorized to accept and appropriate an amount not to exceed \$9,404,340 from Western Pacific Housing, Inc.; Greystone Homes, Inc.; D.R. Horton San Diego Holding Co., Inc.; and McMillan Companies, L.L.C.; Fund 39225; Interest Bearing Account, to CIP 52-643.0, for the design, acquisition of property, construction and other costs related to the Project; and

BE IT FURTHER RESOLVED that the City Auditor and Comptroller is hereby authorized to increase the Capital Improvements Program to increase the appropriation of

\$9,404,340 to the FYI 2001 Capital Improvements Program, to be utilized for the design, acquisition of property, construction and other costs related to the Project CIP 52-463.0; and

BE IT FURTHER RESOLVED that the City Manager be and he is hereby authorized and empowered to negotiate and execute a Supplemental Agreement with E.L. Yeager Construction, under the terms and conditions set forth in the Supplemental Agreement for an amount not to exceed \$5,390,000 for purposes of constructing the Project, CIP 52-463.0, upon certification by the Auditor and Comptroller of funds being available; and

BE IT FURTHER RESOLVED that the City Manager be and he is hereby authorized and empowered to execute a Seventh Amendment to Agreement with Boyle Engineering Corporation for professional engineering services for the Project, CIP 52.463.0, on file in the office of the City Clerk as Document No. RR- 294355 -2, upon certification by the Auditor and Comptroller of funds being available; and

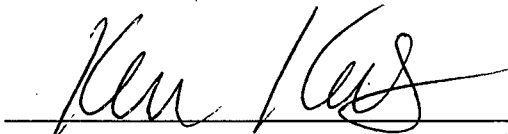
BE IT FURTHER RESOLVED the expenditure of \$714,840 is authorized from Fund 39225 for the Seventh Amendment to Agreement with Boyle Engineering Corporation for the Project, CIP 52-463.0, upon certification by the Auditor and Comptroller of funds being available; and

BE IT FURTHER RESOLVED the expenditure not to exceed \$2,250,000 is authorized from Fund 39225 for the acquisition of property rights, appraisals, litigation, condemnation, labor, title, escrow and miscellaneous costs for the Project, CIP 52-463.0, upon certification by the Auditor and Comptroller of funds being available; and

BE IT FURTHER RESOLVED the expenditure not to exceed \$6,439,500 from Fund 39225 for construction of the Project, CIP 52-643.0, upon certification by the Auditor and Comptroller of funds being available; and

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller, upon advice from the administering department is hereby authorized to transfer excess funds, if any, to the appropriate reserves.

APPROVED: CASEY GWINN, City Attorney

By 
Keri Katz,
Deputy City Attorney

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