

RESOLUTION NUMBER R- 295851

ADOPTED ON OCT 29 2001

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 [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 all parties thereto; and

WHEREAS, the MOU was set to expire on March 31, 2000, unless extended in writing by the parties; and

WHEREAS, in accordance with the implementation provisions of the MOU, the parties previously agreed that the MOU should be extended to and including September 30, 2000; and

WHEREAS, in further accordance with the implementation provisions of the MOU, the parties previously agreed that the MOU should be extended to and including March 31, 2001;

and

WHEREAS, in further accordance with the implementation provisions of the MOU, the parties previously agreed that the MOU should be extended to and including September 30, 2001; and

WHEREAS, in further accordance with the implementation provisions of the MOU, the parties previously agreed that the MOU should be extended to and including October 31, 2001; and

WHEREAS, the City is proceeding forward to obtain the permanent financing contemplated by the MOU to fund its investment in the Project, and a fifth extension of the MOU is necessary and appropriate to allow sufficient time for the City to obtain its permanent financing; and

WHEREAS, nothing herein 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 cap; and

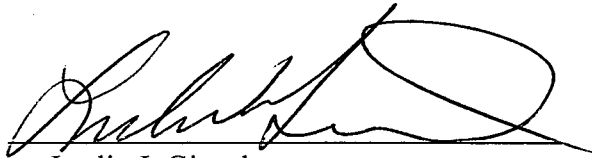
WHEREAS, the action authorized by this resolution is fully consistent with the MOU, and does not materially: 1) decrease the rights or increase the obligations of the City; 2) increase the financial commitments of the City; or 3) decrease revenue to the City; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager be and he is hereby authorized and directed to execute for and on behalf of the City the Fourth Supplement to the Ballpark and Redevelopment Project Implementation Agreement, attached hereto as Exhibit 1. When that Supplement is fully executed, it shall be kept on file in the Office of the City Clerk as Document No. RR- 295651.

BE IT FURTHER RESOLVED, that the City Manager 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 City pursuant to the Ordinance and MOU.

APPROVED: CASEY GWINN, City Attorney

By



Leslie J. Girard  
Assistant City Attorney

LJG:ljj:js  
10/17/01  
OrDept:Atty  
R-2002-583  
Form-r-t.frm

R-295651

#5404

10-29-01

Office of  
The City Attorney  
City of San Diego

MEMORANDUM

236-6220

**DATE:** October 26, 2001  
**TO:** City Clerk  
**FROM:** City Attorney  
**SUBJECT:** Council Docket of 10/30/01 - Ballpark Item's Exhibit 1

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Enclosed, please find Exhibit 1 to City's Resolution No. R-2002-583, and Redevelopment Agency's Resolution No. RA-2002-52, extending the Ballpark and Redevelopment Project Implementation Agreement. These items were continued to the docket for next Monday, October 29. Please attach this document to those resolutions.

Please call me if you have any questions.

CASEY GWINN, City Attorney

By

  
Leslie J. Girard  
Assistant City Attorney

LJG:ljk  
Enclosure

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**FOURTH SUPPLEMENT TO  
BALLPARK AND REDEVELOPMENT PROJECT  
IMPLEMENTATION AGREEMENT**

Dated October \_\_, 2001

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 Padres L.P. [Padres], the Redevelopment Agency of the City of San Diego [Agency], and the Centre City Development Corporation [CCDC] [collectively, the "Parties"] 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 [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 was set to expire on March 31, 2000, unless extended in writing by the Parties; and

WHEREAS, in accordance with the implementation provisions of the MOU, the Parties previously agreed that the MOU should be extended to and including September 30, 2000; and

WHEREAS, in further accordance with the implementation provisions of the MOU, the Parties previously agreed that the MOU should be extended to and including March 31, 2001; and

WHEREAS, in further accordance with the implementation provisions of the MOU, the Parties previously agreed that the MOU should be extended to and including September 30, 2001; and

WHEREAS, in further accordance with the implementation provisions of the MOU, the Parties previously agreed that the MOU should be extended to and including October 31, 2001; and

WHEREAS, the City is proceeding forward to obtain the permanent financing contemplated by the MOU to fund its investment in the Project, and a fifth extension of the MOU is necessary and appropriate to allow sufficient time for the City to obtain its permanent financing; and

WHEREAS, nothing herein 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 cap; and

WHEREAS, this Agreement is fully consistent with the MOU, and, as provided in Section XXXVIII of the MOU does not materially: 1) decrease the rights or increase the

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obligations of the City; 2) increase the financial commitments of the City; or 3) decrease revenue to the City; NOW, THEREFORE,

The Parties agree as follows:

**I. Definitions.**

Unless specifically set forth herein, all capitalized terms herein are defined in the MOU.

**II. Extension of MOU Term and Termination.**

Section III of the MOU provides that the MOU shall be effective until March 31, 2000, unless all the conditions subsequent set forth in Section XXXIII of the MOU have been satisfied, in which case the MOU shall continue in force and effect for the same term as any lease or other agreement between the City and the Padres for the use and occupancy of the Ballpark. By the Ballpark and Redevelopment Project Implementation Agreement, dated February 25, 2000, the Parties agreed to extend the MOU to and including September 30, 2000. The Parties further agreed to extend the MOU to and including March 31, 2001, in the First Supplement to Ballpark and Redevelopment Project Implementation Agreement, and further agreed to extend the MOU to and including September 30, 2001, in the Second Supplement to Ballpark and Redevelopment Project Implementation Agreement. Most recently, the Parties agreed to extend the MOU to and including October 31, 2001, in the Third Supplement to Ballpark and Redevelopment Project Implementation Agreement.

The Parties have continued to move forward in good faith in efforts to implement the MOU as authorized and directed by the electorate, but all conditions subsequent may still not be satisfied by October 31, 2001. The Parties therefore agree that the termination date of the MOU shall be extended to and including November 30, 2001.

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This extension is made without waiving the position of any Party with regard to the existence or effect of any Force Majeure Event, and without waiving any right or obligation of any Party pursuant to the MOU.

PADRES L.P.

CITY OF SAN DIEGO

By: \_\_\_\_\_

By: \_\_\_\_\_

Bob Vizas  
President & CEO

Michael T. Uberuaga  
City Manager

REDEVELOPMENT AGENCY OF THE  
CITY OF SAN DIEGO

CENTRE CITY DEVELOPMENT  
CORPORATION

By: \_\_\_\_\_

By: \_\_\_\_\_

Michael T. Uberuaga  
Executive Director

Peter Hall  
President

I HEREBY APPROVE the form and legality of the foregoing Agreement this \_\_\_\_ day of \_\_\_\_\_, 2001.

CASEY GWINN, City Attorney

By: \_\_\_\_\_

Leslie J. Girard  
Assistant City Attorney