

RESOLUTION NUMBER R- 295766

ADOPTED ON NOV 20 2001, 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; 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, pursuant to section XV of the MOU, the City shall provide not more than \$225 million towards the construction of the Ballpark and Redevelopment Project [Project], based upon its financing of choice and from sources of revenue in the City's general fund and other non-general fund sources as it may determine in its sole discretion; 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 and the Ballpark and Redevelopment Project Implementation Agreement [Implementation Agreement], consistent with the City's and Agency's obligations under California law, and the discretion lawfully vested in the City Council acting on behalf of the City; 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 any action authorized and directed by this resolution, or heretofore approved by this Council, is deemed to modify the rights and obligations of the Parties as set forth in the MOU, the same were intended as such, and 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 Council of the City of San Diego, that the foregoing recitals are true and correct, and the City Council so finds and determines as being in the best interests of the City.

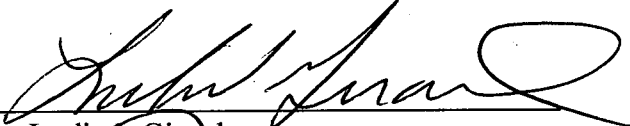
BE IT FURTHER RESOLVED, that CIP no. 39.228.0 be and it is hereby revised as set forth in Attachment A to City Manager's Report No. 01-239, attached hereto as Exhibit 1, and

the funds set forth therein are hereby appropriated for the purpose of funding expenses associated with the City's contribution to the Project.

BE IT FURTHER RESOLVED, that the City Manager and City Auditor & Comptroller be and they are hereby authorized and directed, on a temporary basis, to utilize available funds as necessary for the purposes set forth herein until such time as appropriated funds anticipated to come into the treasury for such purposes are on deposit in the treasury and available for those purposes.

BE IT FURTHER RESOLVED, that the City Manager 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 Implementation Agreement, or the Second Ballpark and Redevelopment Project Implementation Agreement [Second Implementation Agreement], consistent with the rights and obligations of the City pursuant to the Ordinance, MOU, Implementation Agreement and Second Implementation Agreement, and their authorizing ordinances and resolutions.

APPROVED: CASEY GWINN, City Attorney

By 
Leslie J. Girard
Assistant City Attorney

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Revision to CIP No. 39-228.0, Ballpark and Redevelopment Project

The information contained in this report reflects the current estimated budget for the Ballpark Project and the current proposed financing plan for the City's contribution to the project. To reflect this current information, it is necessary to revise CIP No. 39-228.0 – Ballpark and Redevelopment Project as follows:

Expenditures by Revenue Source:

	<u>Existing Budget</u>	<u>Proposed Revised Budget</u>	<u>Change</u>
Lease Rev. Bonds (City)	\$178,630,000	\$130,419,705	-\$48,210,295
Capital Outlay (City)	6,535,000	46,083,297	+39,548,297 ¹
TOT (City)	23,370,000	27,049,352	+3,679,352 ^{1,2}
Gas Tax (City)	0	2,306,546	+2,306,546 ¹
Agency	73,953,900 ³	76,430,000	+2,476,100
Padres L.P./Private	149,084,333	146,100,000	-2,984,333
Other (Port)	21,000,000	21,000,000	0
TOTAL	\$452,573,233	\$449,388,900⁴	-\$3,184,333

- 1 The acceptance of certain loan repayments from the Agency totaling \$40,200,000, which are covered by the issues presented for City Council consideration, could provide funds totaling \$32,678,297, \$5,215,157, and \$2,306,546 in the Capital Outlay Fund, the Transient Occupancy Tax (TOT) Fund, and the Gas Tax Fund, respectively, for the purpose of funding expenses associated with the City's contribution to the Ballpark Project.
- 2 The \$3,679,352 change is the net result of a \$1,535,805 decrease in the project related use of the Ballpark TOT allocations, and an increase of \$5,215,157 (see footnote #2, above) to reflect the appropriation of Agency loan repayments to the TOT Fund.
- 3 The Agency is currently obligated to contribute to the Ballpark Project not more than \$61 million. This amount reflects budget numbers, not authorized numbers.
- 4 Please see the POS at "**THE BALLPARK PROJECT- Ballpark Facility Design/Build Contract**" for information regarding possible cost increases in the cost of construction for the Ballpark Facility due to delays in recommencement of construction.

City - Revisions

Under the revised budget, the Agency assumes responsibility for \$1.8 million worth of land expenses, and \$900,000 worth of infrastructure expenses that were previously part of the City's contribution to the project. As a result, the City's contribution to construction of the project is reduced from \$208.5 million to \$205.9 million. In addition, the City intends to contribute an additional \$39,500,000 from the Capital Outlay Fund and an additional \$3,700,000 from Transient Occupancy Tax (TOT) to fund its contribution to the Project. The City also intends to contribute \$2,300,000 in Gas Tax funds to the project. These changes result in a \$48,200,000 reduction in the amount of proceeds needed from the Ballpark Bonds.

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Agency - Revisions

The Agency's contribution is increased by \$2.5 million to \$76.4 million (the Agency is currently authorized to contribute \$61.0 million to the Ballpark Project pursuant to the MOU and Implementation Agreement. The First Amendment to the Ballpark Cooperation Agreement by and between the Agency and City amended the Agency budget to allow for an additional authorization that would result in a total net Agency expenditure of approximately \$74.0 million, provided the MOU and Implementation Agreement were amended. Upon the execution of the Second Implementation Agreement, the Agency would be authorized to contribute \$76.4 million). As described above, the Agency would assume responsibility for acquiring \$1.8 million worth of land and \$900,000 worth of infrastructure expenses that were previously part of the City's contribution to the project. In addition, the Agency's responsibility for costs pursuant to the Implementation Agreement is decreased by \$200,000 to reflect the addition of \$1.0 million for soil remediation costs and a decrease of \$1.2 million for a land acquisition insurance policy that will not be acquired.

Padres L.P. – Revisions

Changes to the contribution from Padres L.P. reflects a \$9.1 million increase to the cost of the construction of the Ballpark Facility, which, pursuant to the MOU, is to be paid for entirely by Padres L.P. The Padres L.P. contribution is also reduced by \$10.3 million to reflect the removal of the construction of the P1 Parking Garage from the Ballpark Project (Padres L.P. will continue to be responsible for the construction of the garage, but such responsibility will be outside the scope of the Ballpark Project), and a decrease of \$1.8 million for a land acquisition insurance policy that will not be acquired. This budget does not reflect possible increases in costs due to delays in recommencement of construction.

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EXHIBIT 1