

RESOLUTION NUMBER R- 295767

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.

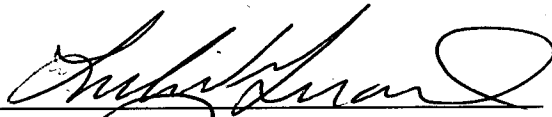
BE IT FURTHER RESOLVED, that the City Manager and City Auditor & Comptroller be and they are hereby authorized and directed, in the event that the City is unable to purchase a

surety bond to fund one-half of the debt service reserve fund for the City's bonds for the Project, to appropriate and expend additional funds from sources identified at their discretion, subject to the City Auditor & Comptroller certifying the availability of funds as required by the City Charter, and further subject to the \$225 million limit on the City's contribution to the Project, for the purpose of satisfying the City's obligation to deposit funds into the Design and Construction Fund for the Project.

BE IT FURTHER RESOLVED, that the City Manager and City Auditor & Comptroller be and they are hereby authorized and directed to reallocate or amend the funding sources within the Project CIP, no. 39-228.0, as may be required to reflect such discretionary action as may be taken pursuant to this resolution.

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   
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Assistant City Attorney

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