

RESOLUTION NUMBER R- 300607

ADOPTED ON JUN 27 2005

AUTHORIZING REIMBURSEMENT AGREEMENT AND CO-
OP FOR CLAIREMONT MESA BOULEVARD/SR-163
INTERCHANGE

WHEREAS, the City and General Dynamics Properties, Inc. entered into a Development Agreement and First Amendment to the Development Agreement [collectively, Development Agreement] on file in the Office of the City Clerk as Document Numbers 00-18848 and 00-18867, respectively, contemplating development of a mixed-use retail, commercial, and industrial/business park project on certain real property in the Kearny Mesa area of the City; and

WHEREAS, the Development Agreement requires LNR Kearny Mesa, Inc. [LNR] as successor-assignee to General Dynamics Properties, Inc. to advance fund certain improvements to the Clairemont Mesa Boulevard/SR-163 Interchange [Project]; and

WHEREAS, the Council of the City of San Diego authorized the City Manager, via Resolution No. R-299586, to execute for and on behalf of said City, an agreement in furtherance of LNR's advance funding obligations for the Project, under the terms and conditions set forth in the Assurance Agreement on file in the Office of the City Clerk as Document No. RR-299586-1 [Assurance Agreement]; and

WHEREAS, under the Assurance Agreement, LNR is obligated to advance fund \$10,900,000 for Phase I of the Project (ramp and bridge widening on the eastern side of the SR-163 Interchange); and

WHEREAS, the City entered into the Assurance Agreement based upon the State of California Department of Transportation's [Cal Trans's] approval of the \$10,900,000 estimate for construction of Phase I; and

WHEREAS, since execution of the Assurance Agreement by the Parties, Cal Trans has increased the cost estimate for Phase I of the Project by \$2,700,000 to reflect escalating construction prices and other factors for construction of Phase I of the Project; and

WHEREAS, to proceed with construction of Phase I of the Project, the City and LNR have worked in good faith to obtain additional funding to meet the revised cost estimate for construction of Phase I of the Project [Additional Funding]; and

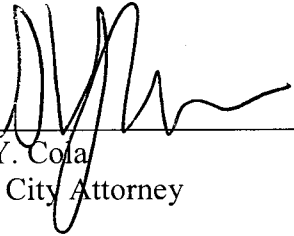
WHEREAS, LNR's contribution towards the Additional Funding will be achieved by LNR's advance funding of the additional amount of \$1,000,000 [Additional Contribution] in consideration of the City performing its obligations as set forth in the Reimbursement Agreement on file in the Office of the City Clerk as Document No. RR 300607-1, including, reimbursement by the City, conditioned upon the City's receipt of Trans Net Local Street and Road Program Funds for the Project, beginning in Fiscal Year 2008. 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 Reimbursement Agreement with LNR [Agreement], in furtherance of LNR's obligations under the Development Agreement, under the terms and conditions set forth in the Agreement on file in the Office of the City Clerk as Document No. RR 300607-1, 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.

BE IT FURTHER RESOLVED, that the City Manager is authorized to enter into the cooperative agreement with the State of California for construction Phase I of the Interchange on file in the Office of the City Clerk as Documents No. RR 300607-2 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.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Susan Y. Cola
Deputy City Attorney

SYC:kat
06/23/05
Aud.Cert: N/A
Or.Dept:E&CP
R-2005-1383