

RESOLUTION NUMBER R- 305882

DATE OF FINAL PASSAGE JUN 09 2010

A RESOLUTION AUTHORIZING THE MAYOR OR DESIGNEE TO EXECUTE THE THIRD AMENDMENT TO THE NTC PARK IMPROVEMENT AGREEMENT; AMENDING THE FY 2010 CIP BUDGET BY ADDING CIP NO. S-10000, NTC PARK AQUATIC CENTER; INCREASING THE BUDGET IN THE AMOUNT OF \$466,726 FROM THE NTC REDEVELOPMENT PROJECT TAX INCREMENT FUNDS; AUTHORIZING THE APPROPRIATION AND EXPENDITURE OF THE FUNDS; AND REPEALING ITEM 6 FROM RESOLUTION NO. R-303918.

WHEREAS, the NTC Park Improvement Agreement [Agreement] among the City of San Diego, the Redevelopment Agency of the City of San Diego [Agency], and McMillin NTC, LLC [Master Developer], dated July 10, 2000, provides the terms for construction of the NTC Park; and

WHEREAS, on May 6, 2003, during the hearing to approve the General Development Plan for the NTC Park, the City Council instructed staff to eliminate a water feature from the Park and direct the cost savings of \$446,726 toward the design and development of a future aquatic center within the Park; and

WHEREAS, the design and construction of an aquatic center was not part of the NTC Disposition and Development Agreement and is not the responsibility of the Master Developer; and

WHEREAS, the First Amendment to NTC Park Improvement Agreement, approved May 24, 2005, adjusted the construction phases of the park to be completed in two phases instead of three; and

WHEREAS, at the May 13, 2008 hearing for the Second Amendment to the NTC Park Improvement Agreement, the Agency approved providing the \$466,726 funding for design of the proposed aquatic center from NTC Redevelopment Funds. The Second Amendment specified that upon identifying and allocating sufficient funding for the construction of the Aquatic Center, the City will request that the Agency provide \$466,726 to be used by the City for the Aquatic Center; and

WHEREAS, on July 13, 2008, as set forth in Resolution R-303918, the NTC Park Aquatic Center Planning and Design Funding was further refined: a Capital Improvement Budget was established, the City Council authorized the creation of CIP No. 29-976.0, Fund No. 10294, dedicated to Aquatic Center design costs and appropriation and expenditure of the \$466,726 was authorized, contingent on the City's identification and allocation of sufficient construction funding; and

WHEREAS, as of July 1, 2009, the City of San Diego changed accounting systems which did not capture the previously approved actions in Resolution No. R-303918 and the accounting actions previously authorized as items 3-5 in Resolution No. R-303918 must be reauthorized; and

WHEREAS, it has been requested that the Agency release the \$466,726 for design of the Aquatic Center prior to the identification of sufficient funding in order to determine what the cost of construction, maintenance and operation of the aquatic center will actually be; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor, or designee, is hereby authorized and empowered to execute, for and on behalf of said City,

the Third Amendment to the NTC Park Improvement Agreement [Agreement] between the City of San Diego, the Redevelopment Agency of the City of San Diego, and McMillin NTC, LLC, under the terms and conditions set forth in the Agreement on file in the office of the City Clerk as Document No. RR 305882.

BE IT FURTHER RESOLVED, that the Fiscal Year 2010 Capital Improvements Budget is amended by adding CIP No. S-10000, NTC Park Aquatic Center, in the amount of \$466,726 from the NTC Redevelopment Project Tax Increment funds.

BE IT FURTHER RESOLVED, that an increase in the amount of \$466,726 is authorized in the Fiscal Year 2010 Capital Improvement Budget for CIP No. S-10000, NTC Park Aquatic Center, from the NTC Redevelopment Project Tax Increment funds from the Redevelopment Agency.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to appropriate and expend an amount not to exceed \$466,726 in CIP No. S-10000, NTC Park Aquatic Center, from the NTC-RDA Contribution to CIP Fund for the purpose of planning and design of the Project.

BE IT FURTHER RESOLVED, that the Council repeals the following language contained in Item 6 of Resolution No. R-303918:

6. That the actions in Section 2-5 above are contingent upon the City's identification and allocation of sufficient funding for construction of the NTC Park Aquatic Center, consistent with the Second

Amendment to NTC Improvement Agreement, approved by the City  
Council on May 19, 2008, by Resolution No. RR-303698.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas  
Shannon M. Thomas  
Deputy City Attorney

SMT:cw  
03/30/10  
Or.Dept: C.P.C.I.  
R-2010-643  
MMS #9762

I hereby certify that the foregoing Resolution was passed by the Council of the City of  
San Diego, at this meeting of MAY 25 2010

ELIZABETH S. MALAND  
City Clerk

By Ara Richards  
Deputy City Clerk

Approved: 6.9.10  
(date)

JSL  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

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JERRY SANDERS, Mayor