

CITY COUNCIL

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☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9

Date: 01/26/2011

TO: Honorable Mayor, Members of the City Council and the Community Development Commission

FROM: Gilbert Rojas, Director of Finance

SUBJECT: Resolutions Declaring Intent to Incur Tax Exempt Obligations Related to Redevelopment and Construction of a Minor League Ballpark

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2011-20 and the Community Development Commission adopt CDC2011-02.

FISCAL ANALYSIS:

The adoption of these resolutions would allow the City or the Commission to incur certain costs that will be reimbursed from Bond proceeds.

BACKGROUND:

On December 15, 2010 the City Council voted to move forward on negotiating an agreement that would result in the construction of a minor league ballpark. Funding for this project would come from tax exempt financing. In order for the City or the Commission to be reimbursed for costs incurred before the actual bond issue a Resolution of Intention should be adopted by the governing body issuing the debt.

Respectfully submitted,



Gilbert Rojas
Director of Finance

9.a

RESOLUTION NO. 2011-20

RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO REGARDING ITS
INTENTION TO ISSUE TAX-EXEMPT
OBLIGATIONS

WHEREAS, the City Council of the City of Escondido (the "Issuer") desires to finance the costs of acquisition and construction of certain property and facilities associated with the Ballpark transaction which property and facilities are more fully described in Exhibit "A" attached hereto and incorporated herein by reference (the "Project"); and

WHEREAS, the Issuer intends to finance the acquisition of the Project or portions of the Project with the proceeds of the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"); and

WHEREAS, before the Obligations are issued, the Issuer desires to incur certain expenditures with respect to the Project from available monies of the Issuer, which expenditures are desired to be reimbursed by the Issuer from a portion of the proceeds of the sale of the Obligations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ESCONDIDO DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The Issuer hereby states its intention and reasonably expects to reimburse Project costs incurred prior to the issuance of the Obligations with proceeds of the Obligations. Exhibit "A" describes either the general character, type, purpose,

and function of the Project, or the fund or account from which Project costs are to be paid and the general functional purpose of the fund or account.

SECTION 2. The reasonably expected maximum principal amount of the Obligations is \$50,000,000.

SECTION 3. This resolution is being adopted on or prior to the date (the "Expenditures Date or Dates") that the Issuer will expend monies for the portion of the Project costs to be reimbursed from proceeds of the Obligations.

SECTION 4. Except as described below, the expected date of issue of the Obligations will be within eighteen months of the later of the Expenditure Date or Dates and the date the Project is placed in service; provided, the reimbursement may not be made more than three years after the original expenditure is paid. For Obligations subject to the small issuer exception of Section 148(f)(4)(D) of the Internal Revenue Code, the "eighteen-month limit" of the previous sentence is changed to "three years" and the limitation of the previous sentence beginning with "; provided," is not applicable.

SECTION 5. Proceeds of the Obligations to be used to reimburse for Project costs are not expected to be used, within one year of reimbursement, directly or indirectly (i) to pay debt service with respect to any obligation (other than to pay current debt service coming due within the next succeeding one year period on any tax-exempt obligation of the Issuer (other than the Obligations)) or (ii) to be held as a reasonably required reserve or replacement fund with respect to an obligation of the Issuer or any entity related in any manner to the Issuer, or to reimburse any expenditure that was

originally paid with the proceeds of any obligation, or to replace funds that are or will be used in such manner.

SECTION 6. This resolution is consistent with the budgetary and financial circumstances of the Issuer, as of the date hereof. No monies from sources other than the Obligation issue are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the Issuer (or any related party) pursuant to their budget or financial policies with respect to the Project costs. To the best of our knowledge, this City Council is not aware of the previous adoption of official intents by the Issuer that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 7. Section 3 and Section 4 do not apply to (a) costs of issuance of the Obligations, (b) an amount not in excess of the lesser of \$100,000 or five percent (5%) of the proceeds of the Obligations, or (c) any preliminary expenditures, such as architectural, engineering, surveying, soil testing, and similar costs other than land acquisition, site preparation, and similar costs incident to commencement of construction, not in excess of twenty percent (20%) of the aggregate issue price of the Obligations that finances the Project for which the preliminary expenditures were incurred.

SECTION 8. This resolution is adopted as official action of the Issuer in order to comply with Treasury Regulation § 1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Issuer expenditures incurred prior to the date of issue of the Obligations, is part of the Issuer's official

proceedings, and will be available for inspection by the general public at the main administrative office of the Issuer.

SECTION 9. All the recitals in this Resolution are true and correct and this City Council so finds, determines and represents

SECTION 10. This Resolution shall take effect from and after its date of adoption.

EXHIBIT "A"

DESCRIPTION OF PROJECT

- Construction of a Minor League Ballpark
- Purchase of property located at 480 North Spruce Street related to the construction of a minor league ballpark

A RESOLUTION OF THE COMMUNITY
DEVELOPMENT COMMISSION OF THE
CITY OF ESCONDIDO REGARDING ITS
INTENTION TO ISSUE TAX-EXEMPT
OBLIGATIONS

WHEREAS, the Community Development Commission of the City of Escondido (the "Issuer") desires to finance the costs of construction of certain property and facilities associated with the Ballpark transaction which property and facilities are more fully described in Exhibit "A" attached hereto and incorporated herein by reference (the "Project"); and

WHEREAS, the Issuer intends to finance the acquisition of the Project or portions of the Project with the proceeds of the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"); and

WHEREAS, before the Obligations are issued, the Issuer desires to incur certain expenditures with respect to the Project from available monies of the Issuer, which expenditures are desired to be reimbursed by the Issuer from a portion of the proceeds of the sale of the Obligations;

NOW, THEREFORE, THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF ESCONDIDO DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The Issuer hereby states its intention and reasonably expects to reimburse Project costs incurred prior to the issuance of the Obligations with proceeds

of the Obligations. Exhibit "A" describes either the general character, type, purpose, and function of the Project, or the fund or account from which Project costs are to be paid and the general functional purpose of the fund or account.

SECTION 2. The reasonably expected maximum principal amount of the Obligations is \$50,000,000.

SECTION 3. This resolution is being adopted on or prior to the date (the "Expenditures Date or Dates") that the Issuer will expend monies for the portion of the Project costs to be reimbursed from proceeds of the Obligations.

SECTION 4. Except as described below, the expected date of issue of the Obligations will be within eighteen months of the later of the Expenditure Date or Dates and the date the Project is placed in service; provided, the reimbursement may not be made more than three years after the original expenditure is paid. For Obligations subject to the small issuer exception of Section 148(f)(4)(D) of the Internal Revenue Code, the "eighteen-month limit" of the previous sentence is changed to "three years" and the limitation of the previous sentence beginning with "; provided," is not applicable.

SECTION 5. Proceeds of the Obligations to be used to reimburse for Project costs are not expected to be used, within one year of reimbursement, directly or indirectly (i) to pay debt service with respect to any obligation (other than to pay current debt service coming due within the next succeeding one year period on any tax-exempt obligation of the Issuer (other than the Obligations)) or (ii) to be held as a reasonably required reserve or replacement fund with respect to an obligation of the Issuer or any

entity related in any manner to the Issuer, or to reimburse any expenditure that was originally paid with the proceeds of any obligation, or to replace funds that are or will be used in such manner.

SECTION 6. This resolution is consistent with the budgetary and financial circumstances of the Issuer, as of the date hereof. No monies from sources other than the Obligation issue are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the Issuer (or any related party) pursuant to their budget or financial policies with respect to the Project costs. To the best of our knowledge, this governing board is not aware of the previous adoption of official intents by the Issuer that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 7. Section 3 and Section 4 do not apply to (a) costs of issuance of the Obligations, (b) an amount not in excess of the lesser of \$100,000 or five percent (5%) of the proceeds of the Obligations, or (c) any preliminary expenditures, such as architectural, engineering, surveying, soil testing, and similar costs other than land acquisition, site preparation, and similar costs incident to commencement of construction, not in excess of twenty percent (20%) of the aggregate issue price of the Obligations that finances the Project for which the preliminary expenditures were incurred.

SECTION 8. This resolution is adopted as official action of the Issuer in order to comply with Treasury Regulation Section 1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Issuer

expenditures incurred prior to the date of issue of the Obligations, is part of the Issuer's official proceedings, and will be available for inspection by the general public at the main administrative office of the Issuer.

SECTION 9. All the recitals in this Resolution are true and correct and this governing board so finds, determines and represents.

SECTION 10. The Secretary shall certify to the passage and adoption of this Resolution, which shall take effect immediately upon its adoption.

EXHIBIT "A"

DESCRIPTION OF PROJECT

- Construction of a Minor League Ballpark
- Purchase of property located at 480 North Spruce Street related to the construction of a minor league ballpark