RESOLUTION NO. 2011.78

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE AN ASSUMPTION AGREEMENT RELATED TO THE CENTERPOINT CONDOMINIUMS DEVELOPMENT AGREEMENT (C2004-128)

WHEREAS, City and TEMPE LAND COMPANY, LLC (“TLC”) were parties to that certain Development Agreement dated June 18, 2004 and recorded June 28, 2004 as Instrument No. 2004-0730290, Official Records of Maricopa County, Arizona, as amended by the First Amendment to Development Agreement dated June 16, 2005 and recorded July 25, 2005 as Document No. 2005-1041108 (the “First Amendment”), Official Records of Maricopa County, Arizona, a Second Amendment dated January 19, 2006 and recorded February 10, 2006 as Document No. 2006-0194908, Official records of Maricopa County, Arizona (the “Second Amendment”), and an Addendum dated July 18, 2011 (collectively, the “Development Agreement”); and

WHEREAS, the Development Agreement contemplated the development of the property described and defined therein as a mixed use, four-phase project consisting of “for sale” residential condominium units, retail uses and a structured parking facility (the “Project”), and that TLC would be the sole owner and developer of the Project; and

WHEREAS, since the execution of the Development Agreement, Phase One, a 22-story tower consisting of 189 units, parking garage and retail space, and Phase Two, a 30-story tower consisting of 186 units, were substantially completed. TLC subsequently filed for bankruptcy and the Property was sold to Zaremba, which subsequently transferred to Centerpoint Land portions of the Property; and

WHEREAS, Zaremba and Centerpoint Land now desire to acknowledge the continued effectiveness of the Development Agreement, and to formally assume their ongoing but separate obligations with respect to their properties.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1: That the Mayor is authorized to execute the Assumption Agreement to the Centerpoint Condominiums Development Agreement (C2004-128) in substantially the form of such document on file with the City Clerk’s office and to execute such other documents and take such further actions as are necessary to implement its terms.
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ________ day of ______________, 2011.

Hugh L. Hallman, Mayor

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY