RESOLUTION NO. 2010.119

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE THE SECOND AMENDMENT TO DEVELOPMENT AND DISPOSITION AGREEMENT AND LEASE AND RELATED DOCUMENTS WITH RED’S MOVIOLA, INC.

WHEREAS, RED’S MOVIOLA, INC., an Arizona corporation (the “Owner”) owns a parcel of real property located at 509 South Mill Avenue and more commonly known as Harkins Valley Art Theater (the “Property”) as described in Exhibit “A” attached hereto, that is located in a downtown redevelopment area as described in A.R.S. §36-1471, et seq.; and

WHEREAS, pursuant to Resolution No. 1163 dated March 23, 1973, as amended, City created the University Hayden Butte Redevelopment Area I (the “Redevelopment Area”) and adopted the University Hayden Butte Redevelopment Plan pursuant to Resolution No. 94.67 dated December 8, 1994 (the “Redevelopment Plan”) to provide a guideline for redevelopment of the Redevelopment Area; and

WHEREAS, City and Owner are parties to a Development and Disposition Agreement (the “Original Agreement”) dated June 23, 2000, and recorded on July 3, 2000 in the Official Records of Maricopa County, Arizona as Instrument No. 2000-0506132; and

WHEREAS pursuant to the applicable provisions of A.R.S. § 42-6201 through § 42-6209, the Property was conveyed to City and City leased it back to the Owner in that certain Lease dated March 2, 2001 (the “Original Lease”); and

WHEREAS, The Original Agreement was amended pursuant to that First Amendment to Development and Disposition Agreement (the “First Amendment”) dated October 8, 2009, and recorded on November 18, 2009 in the Official Records of Maricopa County, Arizona as Instrument No. 20091062246; and

WHEREAS, The City and RMI executed that certain Lease Amendment No. 1 (“Lease Amendment 1”) on October 8, 2009, pursuant to the First Amendment; and

WHEREAS, the parties desire to amend the First Amendment in certain respects and extend the term of the Original Lease to enable RMI to preserve the historic Valley Art Theatre structure located on the Project Property.

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 Second Amendment to Development and Disposition Agreement and Lease and other related documents referenced therein, and to take such further actions and execute such additional documents as are necessary to implement the Second Amendment to Development and Disposition Agreement and Lease.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this __________ day of ______________, 2010.

Hugh L. Hallman, Mayor

ATTEST:

________________________
CITY CLERK

APPROVED AS TO FORM:

________________________
CITY ATTORNEY
EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

The land referred to in this Agreement is situated in the City of Tempe, County of Maricopa, State of Arizona, and is described as follows:

Lot 17 (County Assessor’s Parcel No. 132-27-042) and a particular portion of Lot 18 (County Assessor’s Parcel No. 132-27-043A), Block 3, TEMPE as recorded in the records of the Maricopa County Recorder.