

Staff Summary Report

City Council Meeting Date: 8/18/2011

Agenda Item Number: 5E7

SUBJECT: Request adoption of a resolution authorizing the Mayor to execute an Assumption Agreement among Centerpoint Land, LLC, ZarCalRes Tempe, LLC (Zaremba) and the City, in which Centerpoint Land, LLC and Zaremba assume portions of the Development Agreement (C2004-128) originally executed by City and Tempe Land Company, LLC.

DOCUMENT NAME: 20110818cdaws01 SOUTHEAST QUADRANT DOWNTOWN TEMPE (0403-02-06) RESOLUTION NO. 2011.78

COMMENTS: The City and Tempe Land Company, LLC (TLC) were parties to a Development Agreement recorded June 28, 2004, with the First and Second Amendments recorded July 25, 2005 and February 10, 2006, respectively. The Development Agreement contemplated the development of the property as a mixed use, four-phase project consisting of "for sale" residential condominium units, retail uses and a structured parking facility, and that TLC would be the sole owner and developer of the Project.

Since the execution of the Development Agreement, Phase I, a 22-story tower (189 units) with a parking garage and retail space, and Phase Two, a 30-story tower (186 units), were substantially completed. TLC subsequently filed for bankruptcy and the Property was sold to Zaremba. Zaremba transferred to Centerpoint Land portions of the Property (Phases III and IV) and retained the balance of the Property (Phases I and II). This Assumption Agreement acknowledges the continued effectiveness of the Development Agreement, and allows the parties to formally assume their ongoing but separate obligations with respect to the Zaremba Property and the Centerpoint Land Property.

PREPARED BY: Alex Smith, Technology Development Specialist (350-2708)

REVIEWED BY: Chris Messer, Principal Planner (350-8562)

LEGAL REVIEW BY: Cynthia McCoy, Assistant City Attorney (858-2187)

DEPARTMENT REVIEW BY: Chris Anaradian, Community Development Director (858-2204)

FISCAL NOTE: No fiscal impact.

RECOMMENDATION: Adopt Resolution No. 2011.78

ADDITIONAL INFO: This resolution will provide both Centerpoint Land and Zaremba with the right to enter into subsequent agreements with the City amending any terms applicable to their respective property.

