

RESOLUTION NUMBER R- 299342

ADOPTED ON JUN 15 2004

WHEREAS, on May 30, 1995, the San Diego City Council [City Council] adopted Ordinance No. O-18182 authorizing the City Manager to execute on behalf of the City of San Diego [City] the 1995 Agreement for the Partial Use and Occupancy of (then) San Diego Jack Murphy Stadium [“Original Agreement” and as supplemented from time-to-time, the “Agreement”] between the City and the Chargers Football Company [Chargers]; and

WHEREAS, on April 7, 1997, the City Council adopted Ordinance No. O-18398, which authorized the City Manager to execute on behalf of the City the Supplement Number One to the Original Agreement [Supplement Number One]; and

WHEREAS, the Original Agreement and Supplement Number One provided in part for the expansion of (now) Qualcomm Stadium [Stadium], and the use and occupancy of the Stadium by the Chargers under certain terms and conditions; and

WHEREAS, the Agreement also provided for certain renegotiation rights on the part of the Chargers, to be exercised under defined circumstances and at defined times, initiated by the sending of a Renegotiation Notice (as defined in the Agreement); and

WHEREAS, pursuant to the terms of the Agreement, and subject to the satisfaction of the conditions in them, the Chargers had the right to send a Renegotiation Notice at any time between December 1, 2002, and January 29, 2003; and

WHEREAS, on January 29, 2003, the City and Chargers entered into the Supplement Number Two to the Agreement pursuant to which the parties agreed to postpone the period during which the Chargers could send a Renegotiation Notice to the period March 1 through April 30, 2003; and

WHEREAS, on June 18, 2002, by Resolution No. R-296701, the City Council established the Citizens Task Force on Chargers Issues [Task Force] to examine and report back to the City Council by February 15, 2003, on a number of issues related to the Chargers and the National Football League; and

WHEREAS, on February 27, 2003, the Task Force, by a 14-1 vote, approved its final report to the City Council [Task Force Report]; and

WHEREAS, on March 4, 2003, the Chargers delivered to the City a Renegotiation Notice which commenced a 90-day period during which the City and the Chargers were to negotiate in good faith regarding certain terms of the Agreement [Negotiating Period]; and

WHEREAS, on March 18, 2003, the City Council adopted Resolution No. R-297734, which established a City negotiating team and directed that team to meet with the Chargers pursuant to the recommendations set forth in the Task Force Report, and pursuant to the delivery of the Renegotiation Notice; and

WHEREAS, the City's negotiating team commenced negotiations with the Chargers as authorized and directed by the City Council; and

WHEREAS, on May 20, 2003, the City and the Chargers entered into the Supplement Number Three to the Agreement by which the parties agreed to extend the Negotiating Period to and including August 31, 2003; and

WHEREAS, on August 7, 2003, the City and the Chargers entered into the Supplement Number Four to the Agreement by which the parties agree to extend the Negotiating Period to and including May 1, 2004; and

WHEREAS, on November 25, 2003, the Chargers filed a lawsuit against the City in the Superior Court for the County of Los Angeles entitled *Chargers Football Company LLC v. City of San Diego*, seeking a declaration that the Renegotiation Notice was valid; and

WHEREAS, the case was subsequently transferred to the Superior Court for the County of San Diego and the City filed a cross complaint seeking, among other things, a declaration that the Renegotiation Notice was not valid [collectively, the "Litigation"]; and

WHEREAS, on April 26, 2004, the City Council authorized the transmittal of a term sheet [Term Sheet] to the Chargers in order to discharge the City's obligations under the Agreement and to propose certain terms for a settlement of the Litigation to the Chargers; and

WHEREAS, on April 26, 2004, the City Manager executed for and on behalf of the City a Fifth Supplement to the Agreement extending the Negotiating Period to and including June 15, 2004; and

WHEREAS, the City and the Chargers have been negotiating for an agreement consistent with the Term Sheet but have been unable to reach an accord on the language of such an agreement; and

WHEREAS, the City and the Chargers mutually desire to further extend the Negotiating Period in order to continue negotiations for the terms of an agreement; NOW THEREFORE,

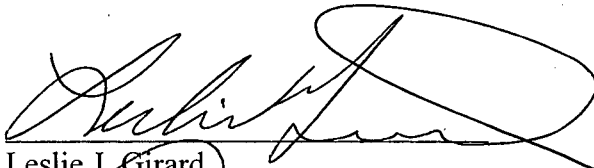
BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager is hereby authorized and directed to execute a Sixth Supplement to the Agreement which shall extend the Negotiating Period to and including July 15, 2004.

BE IT FURTHER RESOLVED, that the City's negotiating team is hereby authorized and directed to continue negotiations with the Chargers for the specific terms of an amendment to the Agreement consistent with the Term Sheet [Amendment], to be presented to and considered by the City Council at a subsequent public hearing, and which shall not become effective until approved by the City Council as required by law.

BE IT FURTHER RESOLVED, that any Amendment must be approved by the City as required by law, and approved by the Chargers, and that if the City and the Chargers do not each approve the Amendment, then the rights and obligations of the City and the Chargers shall continue to be governed by the terms and conditions of the Agreement.

APPROVED: CASEY GWINN, City Attorney

By

  
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Assistant City Attorney

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06/09/04  
Or.Dept: Atty  
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