

RESOLUTION NUMBER R- 299410

ADOPTED ON JUL 12 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 the (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 agreed 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, on June 15, 2004, the City Manager executed for and on behalf of the City a Sixth Supplement to the Agreement extending the Negotiating Period to and including July 15, 2004; and

WHEREAS, the City and the Chargers have been negotiating for an agreement consistent with the Term Sheet, and a proposed agreement (the "Eighth Supplement") is being considered by the City Council concurrently with consideration of this resolution; and

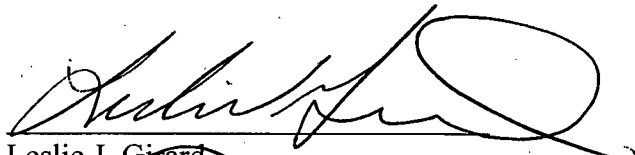
WHEREAS, in order to permit the introduction and adoption of an ordinance authorizing the execution of the Eighth Supplement, the City and the Chargers mutually desire to further extend the Negotiating Period; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager is hereby authorized and directed to the Seventh Supplement to the Agreement, a copy of which is attached hereto as Exhibit A, which shall extend the Negotiating Period to and including August 1, 2004. When executed, the Seventh Supplement shall be kept on file in the City Clerk's Office as Document Number RR-**299410**

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized and directed to take any necessary or appropriate actions to implement the intent and purposes of this resolution.

APPROVED: CASEY GWINN, City Attorney

By



Leslie J. Girard
Assistant City Attorney

LJG:ljk:km
07/02/04
Or.Dept: Atty
R-2005-29

**SUPPLEMENT NUMBER SEVEN TO THE
1995 AGREEMENT FOR PARTIAL USE AND OCCUPANCY
OF SAN DIEGO JACK MURPHY STADIUM**

between

**CHARGERS FOOTBALL COMPANY, LLC
a California limited liability company**

and

**THE CITY OF SAN DIEGO,
a municipal corporation**

DATED: as of July __, 2004

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EXHIBIT A**

**SUPPLEMENT NUMBER SEVEN TO THE
1995 AGREEMENT FOR PARTIAL USE AND OCCUPANCY OF
SAN DIEGO JACK MURPHY STADIUM**

THIS SUPPLEMENT NUMBER SEVEN TO THE 1995 AGREEMENT FOR PARTIAL USE AND OCCUPANCY OF SAN DIEGO JACK MURPHY STADIUM ("**Supplement Number Seven**") is made and entered into as of July __, 2004, at San Diego California, by and between the CITY OF SAN DIEGO, a municipal corporation (the "**City**"), and the CHARGERS FOOTBALL COMPANY, LLC, a California limited liability company (the "**Chargers**").

RECITALS

A. On May 30, 1995 the City and Chargers Football Company, a California limited partnership (as predecessor-in-interest to the Chargers) (the "**Partnership**") entered into the 1995 Agreement For Partial Use And Occupancy Of San Diego Jack Murphy Stadium, a copy of which is on file in the Office of the City Clerk as Document Number OO-18182-1 (the "**Original Agreement**"). Pursuant to the Original Agreement, the City agreed to make certain improvements (the "**Improvements**") to San Diego Jack Murphy Stadium now known as Qualcomm Stadium (the "**Stadium**").

B. In order to facilitate the completion of the Improvements, the City and the Partnership entered into that certain Supplement Number One To The 1995 Agreement For Partial Use And Occupancy Of San Diego Jack Murphy Stadium, dated as of April 7, 1997 ("**Supplement Number One**").

C. The City appointed a Citizens' Task Force on Chargers Issues (the "**Task Force**") to, among other things, determine what can be done "to keep the Chargers in San Diego in a fiscally responsible way that the public will support." In order to give the Task Force ample time to complete its work prior to the commencement of the renegotiation process under the Agreement, the parties entered into that certain Supplement Number Two To The 1995 Agreement For Partial Use And Occupancy Of San Diego Jack Murphy Stadium, dated as of January 28, 2003 ("**Supplement Number Two**").

D. On March 4, 2003, the Chargers delivered a Renegotiation Notice to the City (the "**March Renegotiation Notice**"). The ninety (90) day negotiation period referenced in Paragraph (b)(ii) and the first clause of the first sentence of Paragraph (b)(iii) of Section 31 of the Agreement commenced on March 4, 2003. In order to extend the length of such negotiation period in the aggregate to and including July 15, 2004, the parties entered into those certain Supplement Numbers Three, Four, Five and Six To The 1995 Agreement For Partial Use And Occupancy Of San Diego Jack Murphy Stadium, ("**Supplement Number Three**", "**Supplement Number Four**", "**Supplement Number Five**" and "**Supplement Number Six**"). The Original Agreement, as supplemented by Supplement Number One, Supplement Number Two, Supplement Number Three,

Supplement Number Four, Supplement Number Five and Supplement Number Six is hereinafter referred to as the "**Agreement**." All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

E. The parties now desire to further supplement the Agreement to extend the negotiation period to and including August 1, 2004.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Chargers and the City hereby agree as follows:

1. Modifications to the Agreement.

The Chargers and the City hereby agree that notwithstanding anything to the contrary in Section 31 of the Agreement, with respect to the March Renegotiation Notice only:

Paragraph (b)(ii) of Section 31 of the Agreement is hereby deleted and replaced with the following:

(b)(ii) Upon the delivery of a Renegotiation Notice, the parties hereto shall negotiate in good faith for a seventeen month period to and including August 1, 2004, (the "**Negotiation Period**") to agree upon mutually acceptable terms for an amendment to this Agreement to offset the impact on the Chargers of the Triggering Event; provided, however, that neither party shall be precluded from conducting negotiations with third parties during the Negotiation Period. If the parties hereto reach an agreement within the Negotiation Period, they shall execute and deliver an amendment hereto immediately after reaching such agreement and in any event not later than ten (10) Business Days after the end of the Negotiation Period. If the parties do not reach an agreement within the Negotiation Period, then subparagraph (iii) below shall apply.

The first sentence of Paragraph (b)(iii) of Section 31 of the Agreement is hereby deleted and replaced with the following:

(b)(iii) If, within the eighteen (18) month period following the end of the Negotiation Period provided for in subparagraph (ii) above, the Chargers execute a letter of intent providing for the Chargers' use of another stadium with any third party, the Chargers shall offer the City a ninety (90) calendar day period after the execution of such letter of intent within which to execute an amendment hereto which matches the financial and overall economic terms of the proposed third party transaction as set forth in such letter of intent.

2. General Provisions.

2.1 **Effect of Supplement.** In the event of any inconsistency between the Agreement and this Supplement Number Seven, the terms of this Supplement Number Seven shall prevail. Except as expressly set forth herein, the terms and conditions of the Agreement and the rights and obligations of the parties shall remain unmodified and in

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EXHIBIT A

full force and effect. The Agreement, as supplemented and modified by this Supplement Number Seven, represents the entire agreement between the parties hereto with respect to the subject matter thereof and supersedes all other written and oral agreements with respect to such subject matter.

2.2 **Governing Law.** This Supplement Number Seven shall be construed in accordance with, and the transactions described herein shall be governed by, the laws of the State of California as to all issues, including, without limitation, issues of validity, interpretation, effect, performance and remedies.

2.3 **Amendments.** This Supplement Number Seven may not be amended or modified, except in writing signed by both of the parties hereto.

2.4 **Headings.** Section headings used herein are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Supplement Number Seven.

2.5 **Counterparts.** This Supplement Number Seven may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, and all of which shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, this Supplement Number Seven is executed as of the date first written above by The City of San Diego, acting by and through its City Manager, pursuant to Resolution No. _____, authorizing such execution, and by the Chargers.

THE CITY OF SAN DIEGO

By: _____
P. Lamont Ewell
City Manager

CHARGERS FOOTBALL COMPANY, LLC,
a California limited liability company

By: _____
Dean A. Spanos
President - CEO

I HEREBY APPROVE the form and legality of the foregoing Supplement Number Seven this ___ day of July, 2004.

CASEY GWINN, City Attorney

By: _____
Leslie J. Girard
Assistant City Attorney

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