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CITY OF SAN DIEGO

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CIVIL DIVISION
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MEMORANDUM OF LAW

DATE: November 26, 2014
TO: Honorable Mayor and City Council
FROM: City Attorney
SUBJECT: Appraisal of Water Utility Property at Qualcomm Stadium

INTRODUCTION

In 1966, the City and the County of San Diego executed a joint powers agreement creating the San Diego Stadium Authority, whose purpose was to finance and construct the stadium now known as Qualcomm Stadium. Later that year, the San Diego Stadium Authority executed a ground lease with the City (attached) to pay the water utility \$15,000 per year for the use of its land. The water utility owns about half of the 160 acres occupied by Qualcomm Stadium and its parking lot. The term of the ground lease was tied to the term of the joint powers agreement, which was for 40 years or until the revenue bonds were retired, whichever occurred first.

The San Diego City Council authorized terminating the ground lease in 1995 in anticipation of issuing new bonds the following year to renovate Qualcomm Stadium. San Diego Resolution R-286606 (Nov. 21, 1995). The original stadium bonds were retired in 1998, at which point the San Diego Stadium Authority was dissolved. There were no holdover provisions in the ground lease, but the City continued to pay the \$15,000 annual rent to the water utility that the San Diego Stadium Authority had been paying. The City made the rental payments until 2005, the balance of the originally anticipated 40-year term of the ground lease.

Earlier this year, the Public Utilities Department was conducting a review of its rental properties and discovered the water utility is not receiving any rent for the use of its property at Qualcomm Stadium. This Office has advised that the water utility must receive fair market value for the use of its property. 2005 City Att'y MOL 87 (2005-10; May 13, 2005). According to a 2005 Memorandum from former City Manager Lamont Ewell (attached), because the \$15,000 annual rental rate was not anticipated to extend beyond 40 years, a new appraisal would be done and presented to the Natural Resources & Culture Committee to determine the rent to be paid to the water utility in the future. It does not appear the appraisal was ever presented to a Council Committee or City Council, or that a new lease arrangement with the water utility was ever memorialized in writing.

The appraisal was completed by an outside consultant and submitted to the City in June 2007. The appraisal concluded that the fair market rent owed the water utility is \$0, or free. The key assumption underlying this appraisal is that the water utility has an "approximate 50% ownership interest in Qualcomm Stadium and the 166 acres on which it is situated" and that the General Fund is "the other co-owner of Qualcomm" managing the stadium while the water utility "acted as a passive investor." Appraisal cover letter from Desmond, Marcello & Amster (Jun. 20, 2007). The appraisal then evaluates the value of Qualcomm Stadium as an ongoing operation and determines that because the stadium is losing money, the return on the water utility's investment in the stadium is zero. The water utility has not received any rent for the use of its property at Qualcomm Stadium since 2005.

QUESTIONS PRESENTED

1. Can the City rely on the 2007 appraisal where the water utility was characterized as a co-owner and passive investor in Qualcomm Stadium?
2. Would an "oral agreement" for use of water utility property at no cost pursuant to the 2007 appraisal be enforceable?
3. Should a new appraisal be done?

SHORT ANSWER

1. No. The Water Fund may only be used for construction, operation, and maintenance of the water system. The water utility may not support or subsidize the operation of Qualcomm Stadium because there is no nexus between the stadium and providing water service to City customers.
2. To the extent there may be some "oral agreement" for the use of water utility property at no cost, it is of no force or effect because it was not approved by the City Council as required by the Master Installment Purchase Agreement nor approved by the City Attorney.
3. A new appraisal must be completed to determine the fair market value for the sale or use of the water utility property.

ANALYSIS

The Water Fund is held in trust to guarantee sufficient revenue to provide water service through self-sustaining, financially independent utility. 2006 City Att'y MOL 54 (2006-6; Mar. 16, 2006). Water funds may only be used for purposes related to the construction, operation, and maintenance of the City's water system. San Diego Charter § 53; 2010 City Att'y Report 489 (2010-6; Feb. 24, 2010). To help ensure the water utility has sufficient revenue to accomplish its mission, the water utility must receive fair market value for the use or sale of its property, even if the property is being used or purchased by another City department. 2005 City Att'y MOL 87 (2005-10; May 13, 2005). Water funds may not be diverted to pay for services or projects unrelated to providing water service. 2013 City Att'y MOL 8 (2013-01; Jan. 14, 2013).

This Office has issued many opinions over the years explaining that there must be a nexus between expenditures from the Water and Sewer Funds and the provision of water and wastewater services. 2010 City Att'y Report 489 (2010-6; Feb. 24, 2010) (rejecting the use of water funds to pay for operating and maintaining a public park); 2001 City Att'y MOL 161 (2001-12; July 12, 2001) (rejecting the use of wastewater funds for a permanent sound wall to block noise from rush-hour traffic); 1993 City Att'y MOL 137 (93-22; Feb. 22, 1993) (rejecting the use of wastewater funds for improvements to Sunset Cliffs Park); 1995 City Att'y MOL 329 (95-07; Jan. 24, 1995) (cautioning against the use of wastewater funds to pay for street repaving beyond that portion impacted by sewer pipe replacement); 2002 City Att'y MS 316 (2002-01; Jan. 28, 2002) (concurring with the use of wastewater funds as a reward for the capture and conviction of those vandalizing the wastewater system); 1991 City Att'y Report 1580 (91-53; Nov. 13, 1991) (agreeing with the use of water funds to maintain fences, roads, and restrooms open to the public when such facilities are also necessary for water utility purposes). 2013 City Att'y MOL 8 (2013-01; Jan. 14, 2013) (supporting the use of water funds for litigation where the water utility receives a proportionate benefit if the City prevails).

There is no nexus between Qualcomm Stadium and the provision of water service that allows water utility funds or assets to be used to support or subsidize stadium operations. The City's water utility purchased the property in 1904 for the underlying aquifer which could be developed as a source of water or used for water storage. Qualcomm Stadium does not support that effort. Furthermore, we have not been able to find any documentary evidence suggesting the water utility owns part of the Qualcomm Stadium structure, ever financially invested in Qualcomm Stadium, or ever received a return on such an investment. To the contrary, the expired ground lease established a landlord-tenant relationship for the use of water utility property. Our understanding is that the Comptroller's records do not identify the Qualcomm Stadium structure as an asset or investment of the water utility either. The only record we have found characterizing the water utility as a co-owner and investor in the stadium is the 2007 appraisal itself.

The City's water bond covenants, conditions of obtaining public financing of capital improvements to the water system, indicate fair market value must be determined upon the sale, lease, or other disposition of water utility property, through an arms-length transaction:

[T]he City in its discretion may carry out such a disposition if the City receives from the acquiring party an amount equal to the fair market value of the portion of the Water System disposed of. As used in this clause (2), "fair market value" means the most probable price that the portion being disposed of should bring in a competitive and open market under all conditions requisite to a fair sale, the willing buyer and willing seller each acting prudently and knowledgeably, and assuming that the price is not affected by coercion or undue stimulus.

Amended and Restated Master Installment Purchase Agreement, (MIPA) § 6.04(b)(2) (Jan. 1, 2009). The terms of the sale or lease must be approved by the City Council. MIPA § 6.04(b).

A new appraisal of the water utility property at Qualcomm Stadium needs to be performed to determine the fair market value payable to the water utility in accordance with the MIPA. The 2007 appraisal which assumes the water utility is a co-owner and investor in Qualcomm Stadium is flawed because it is premised on the City misusing water ratepayer funds or assets, and therefore cannot be used to determine fair market value. To the extent there may be some "oral agreement" for the use of water utility property at no cost, it is of no force or effect because it was not approved by the City Council as required by the MIPA nor approved by the City Attorney.

We understand and acknowledge the City has already initiated the process to perform a new appraisal, and is transferring \$150,000 to the Water Fund as a "good faith" deposit for rent from 2005 to present. The \$150,000 is based on the original rent of \$15,000 per year for ten years, but we understand the final amount will be adjusted later based on the results of the new appraisal.

We also highlight the importance of conducting an arms-length transaction as required by the MIPA for this and other real property transactions involving the water utility. One possible way to comply is to form two negotiating teams consisting of equivalent management level employees. Any assumptions constraining the parameters of appraisals should be memorialized in writing. Each team should have access to professional consultants should either team determine such assistance is necessary. Negotiations may also include the sale or exchange of properties instead of a lease as suggested in former City Manager Ewell's 2005 Memorandum, if the teams determine it is beneficial to their respective departments. Once the negotiations are complete, the terms of the sale or lease must be memorialized in writing, reviewed by this Office and submitted to the City Council for approval. This Office is available to assist with any legal issues.

CONCLUSION

The 2007 appraisal of water utility property at Qualcomm Stadium is flawed because it assumes the water utility is a co-owner and investor in the stadium, an assumption without a factual or legal basis. A new appraisal must be done to determine the fair market value due the water utility for the sale or use of its property. To the extent there may be some "oral agreement" for the use of water utility property at no cost, it is of no force or effect because it was not approved by the City Council as required by the MIPA nor approved by the City Attorney. The water utility must be fairly compensated for use of the property since 2005 and for future use through an arms-length transaction.

JAN I. GOLDSMITH, City Attorney

By /s/ Thomas C. Zeleny
Thomas C. Zeleny
Chief Deputy City Attorney

JIG:TCZ:mt

cc: Andrea Tevlin, Independent Budget Analyst
Eduardo Luna, City Auditor

ML-2014-14

Attachment(s): 1966 San Diego Ground Lease
2005 Memorandum from P. Lamont Ewell, former City Manager

City of San Diego
MEMORANDUM

DATE: November 21, 2005
TO: Honorable Deputy Mayor and City Council
FROM: P. Lamont Ewell, City Manager
SUBJECT: Water Department Property at Qualcomm Stadium

In January of 1966 the City of San Diego and the County of San Diego entered into a Joint Powers Agreement ("Agreement") to create the San Diego Stadium Authority ("Authority") for the purposes of acquiring a site, constructing, maintaining, operating a stadium for sporting events, exhibitions and other public meetings. The resultant stadium, now called Qualcomm Stadium ("Qualcomm"), was financed through an Authority issuance of revenue bonds. The City, as agent for the Authority, constructed Qualcomm. The term of the Agreement was to be 40 years and would not be terminated prior to the retirement of the revenue bonds. As part of the transaction, a ground lease was created whereby the City leased to the Authority, at an annual rent of \$15,000, the stadium premises consisting of approximately 160 acres. Approximately 80 acres of the premises had been purchased in the early 1900's by the City's Water Department with the remainder being general City property (General Fund). The term of the Ground Lease was to correspond with the term of the Agreement.

The \$15,000 in lease revenue associated with the stadium property has been received by the Water Department since approximately 1966. In 1998, following the retirement of the revenue bonds, the execution of the "Assignment and Assumption Agreement By and Between the San Diego Stadium Authority and the City of San Diego" essentially provided for the early termination of the Stadium Authority Agreement and Ground Lease, allowing the "City" to assume the Stadium Authority's obligations.

In specific regard to the Ground Lease, it is understood that with the City's assumption of the Stadium Authority's obligations, it rendered the Ground Lease an ineffective document, in that the rental obligation was to the "City" itself. Regardless of the termination of the contractual relationship between the City and the Stadium Authority, there remains an obligation to the Water Department for the use of the Water Department property occupied by the stadium facilities. As outlined in previous legal opinions and memoranda of law by the City Attorney, the City Charter and bond covenants preclude an uncompensated use of Water Department property.

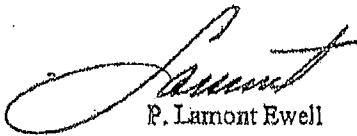
Accordingly, in the absence of a formal agreement to replace the original ground lease, an effective property lease situation has ensued for which the Water Department has received ongoing rental payments at the same level as outlined in 1966. It has been the assumption that this ongoing rental rate would not extend beyond the term of the original ground lease which would have otherwise ended in January 2006.

At this juncture, a revised appraisal of the stadium property is necessary to determine the appropriate rental value for its current or any alternative use.

Real Estate Assets has initiated the appraisal process to determine the fair market value of the current use of the property as a stadium facility for a lease of those lands owned by the Water Utilities Department. To determine this value, READ has contracted with an MAI appraiser to conduct this work. We anticipate this process will take 90 days to complete. Once a report is developed we will have this item brought before NR&C for discussion. Any alternative use of the site would warrant a "highest and best use" valuation of the property. Should an alternative use of the site be pursued, the Water Department would need to be compensated accordingly.

Given that the Water Department requires a fair market return on their assets, two solutions for compensation to the Water Department are: 1) the General Fund to begin making lease payments at the fair market value, or 2) identify General Fund held properties that have matching values and transfer ownership of those properties to the Water Department's holdings in return for the Water Department Qualcomm holdings being transferred to the General Fund.

Real Estate Assets is also in the process of identifying those General Fund properties that would be a valuation match to the Qualcomm Stadium site.



R. Lamont Ewell

cc: Deputy City Managers:

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DOCUMENT NO. 697348

FILED MAR 22 1966

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

SAN DIEGO STADIUM GROUND LEASE

THIS LEASE, dated for convenience as of *2-24*, 1966 (herein called the "Ground Lease"), by and between THE CITY OF SAN DIEGO, a municipal corporation duly organized and existing under a Charter adopted under the Constitution of the State of California (herein called the "City"), and the SAN DIEGO STADIUM AUTHORITY (herein called the "Authority"), a public entity and agency, duly organized and existing pursuant to an Agreement entitled "Joint Exercise of Powers Agreement Between The City of San Diego and the County of San Diego Creating the San Diego Stadium Authority", dated *January 24, 1965* 1966 (herein called the "Agreement");

WITNESSETH:

That in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

SECTION 1. *Demised Premises.*

The City hereby leases to the Authority the premises described in Exhibit A attached hereto and made a part hereof, subject to the terms hereof and subject to conditions, reservations, exceptions, and rights of way which are of record. All of the premises described in this Section 1 are herein called the "Demised Premises." There is hereby reserved to City the following rights and easements which are necessary or convenient for the purposes for which the Demised Premises are owned by City:

"The right to take water or extract minerals, hydrocarbons or oil from any portion of the Demised Premises, except that portion thereof upon which a permanent structure has been erected. Said taking or extraction may be done by any acts necessary thereto such as drilling wells, installing pumps, pipelines, utility lines and appurtenances. Provided that costs incurred by the City by reason of doing those acts necessary to the taking shall be borne by City, except that the City shall be reimbursed by the Authority for those extra costs to which the City is put by reason of the use of the Demised Premises for stadium purposes including, but not limited to (a) removal and

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replacement of pavement, sidewalks, or landscaping, (b) undergrounding of pipelines, power lines or equipment and (c) construction of underground vaults or other subsurface structures to house pumps, motors, or equipment."

SECTION 2. Ownership.

The City covenants that it is the owner of the Demised Premises described in Exhibit A hereof.

SECTION 3. Term.

This Ground Lease shall commence on the date hereof and end at the same time as the Agreement.

SECTION 4. Rent.

The Authority shall pay to the City rent of \$15,000 per annum, payable annually in advance for each fiscal year on or before the end of the month which starts the fiscal year (such date is presently July 31). In the event that the liability of Authority for rent at said annual rate does not commence on the first day of City's fiscal year (presently July 1), the rent to be paid for the remaining portion of the fiscal year in which such liability commences shall be prorated and shall be paid in no event later than the end of the fiscal year involved (presently June 30). During the remainder of the term of the lease to Authority said rental shall be paid as in this Section first provided for the use of the premises during each of the succeeding fiscal years. Authority shall, as part of rent, reimburse City for any additional expense to City in the exercise of its reserved rights under Section 1 hereof caused by repair and replacement of permanent structures and the like.

SECTION 5. Purpose.

The Authority shall use the Demised Premises for the purpose of constructing thereon a portion of the Stadium described in the Agreement and for such purposes as may be incidental thereto.

SECTION 6. Assignments and Subleases.

The Authority shall not assign or sublet the Demised Premises, except as provided in the San Diego Stadium Lease.

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SECTION 7. *Right of Entry.*

The City reserves the right for any of its duly authorized representatives to enter upon the Demised Premises at any reasonable time in exercise of the rights and easements reserved in Section 1; provided, however, that any damage to the Demised Premises shall be replaced and repaired so that the same shall as nearly as practicable be restored to their former condition.

SECTION 8. *Expiration.*

The Authority agrees, upon the expiration of this Ground Lease, to quit and surrender the Demised Premises in good order and condition, reasonable wear and tear excepted; provided, that any permanent structures existing upon the Demised Premises at the time of the termination of this Ground Lease shall remain thereon and title thereto shall vest in the City.

SECTION 9. *Quiet Enjoyment.*

The Authority at all times during the term of this Ground Lease shall peaceably and quietly have, hold and enjoy all of the Demised Premises.

SECTION 10. *Taxes.*

The City covenants and agrees to pay any and all taxes and assessments levied or assessed upon the Demised Premises (including both land and improvements) that are not paid by County under the terms of the Agreement.

SECTION 11. *Eminent Domain.*

By a lease entitled San Diego Stadium Lease executed by the parties hereto contemporaneously with the execution of this Ground Lease, the Authority is leasing to the City certain land, including the Demised Premises, and the Stadium to be constructed thereon as described in the Agreement. If the whole or any part of the Demised Premises shall be taken under the power of eminent domain, the effect of such taking upon this Ground Lease shall be in accord with the provisions of said San Diego Stadium Lease relating to eminent do-

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main, and the rental payable hereunder by the Authority to City shall be abated in the same ratio as the part of the Demised Premises taken bears to the whole of the Demised Premises.

SECTION 12. *Notices.*

All notices, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments or designations hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party, if sent by United States registered mail, return receipt requested, postage prepaid and addressed as follows:

City — City Clerk, Administration Building, 202 "C" Street, San Diego.

Authority — Secretary — At such address as Authority shall designate for such purpose.

SECTION 13. *Partial Invalidity.*

If any one or more of the terms, provisions, promises, covenants or conditions of this Ground Lease shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction each and all of the remaining terms, provisions, promises, covenants and conditions of this Ground Lease shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

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IN WITNESS WHEREOF, the parties hereto have caused this Ground Lease to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

THE CITY OF SAN DIEGO

By Frank Curran
Mayor

Attest:

John Dean
City Clerk

(Seal)

SAN DIEGO STADIUM AUTHORITY

By Albert T. Hamilton
Chairman of the Governing Board

Attest:

W. Bert Patchey
Secretary

(Seal)

I HEREBY APPROVE the form and legality of the foregoing Agreement this 24th day of February, 1966.

EDWARD T. BUTLER
City Attorney and ex officio Attorney
for the San Diego Stadium Authority

By A. M. Fitzpatrick
Deputy

2/18/66

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STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } ss.

On this 2nd day of March, in the year 1966, before me, LA VERNE E. MILLER, a Notary Public, State of California, duly commissioned and sworn, personally appeared Frank Curtis, known to me to be the Mayor, and Phillip Baker, known to me to be the City Clerk, respectively, of THE CITY OF SAN DIEGO, a municipal corporation, that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of said municipal corporation therein named, and acknowledged to me that such municipal corporation executed the within instrument pursuant to a resolution of the Council of said City of San Diego.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year in this certificate first above written.

La Verne E. Miller
Notary Public, State of California

[Notarial Seal]

My commission expires:



LA VERNE E. MILLER
MY COMMISSION EXPIRES MARCH 30, 1966

Presently

2/18/66

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STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } ss.

On this 21 day of March, in the year 1966, before me,
LA VERNE E. MILLER, a Notary Public, State of California, duly
commissioned and sworn, personally appeared Albert T. Harshman, known
to me to be the Chairman of the Governing Board, and W. Paul Kitchey
known to me to be the Secretary, respectively, of SAN DIEGO STADIUM
AUTHORITY, a public corporation, that executed the within instrument,
and known to me to be the persons who executed the within instrument
on behalf of said public corporation therein named, and acknowledged
to me that such public corporation executed the within instrument
pursuant to a resolution of its governing board.

IN WITNESS WHEREOF, I have hereunto subscribed my name and
affixed my official seal on the day and year in this certificate first above
written.

La Verne E. Miller
Notary Public, State of California

[Notarial Seal]

My commission expires:



LA VERNE E. MILLER
MY COMMISSION EXPIRES MARCH 23, 1966

UTILITY DEPARTMENT LAND FOR LEASE
PARCEL NO. 1

DESCRIPTION OF GROSS PARCEL:

All that portion of Lot 35 of Rancho Mission of San Diego, in the City of San Diego, County of San Diego, State of California, according to the Partition Map thereof on file in Case No. 348 of Superior Court in San Diego County entitled "Juan M. Luco, et al., vs. The Commercial Bank of San Diego, et al." described as follows:

Beginning at the most Northerly corner of said Lot 35; thence along the Northwesterly line thereof, South $40^{\circ}17'08''$ West 1866.48 feet; thence South $05^{\circ}14'33''$ East 862.81 feet; thence North $67^{\circ}24'27''$ East 845.03 feet to the beginning of a tangent 9259.03 foot radius curve concave Southeastly; thence Northeastly along the arc of said curve through a central angle of $08^{\circ}15'56''$ a distance of 1335.72 feet to a point to which a radial line of said 9259.03 foot radius curve bears North $14^{\circ}19'37''$ West; thence leaving said curve North $47^{\circ}42'09''$ East a distance of 78.44 feet; thence South $88^{\circ}48'15''$ East a distance of 146.48 feet to a point of intersection on the last described 9259.03 foot radius curve to which a radial line bears North $13^{\circ}01'29''$ West; thence continuing Northeastly, along said curve, through a central angle of $06^{\circ}13'11''$ an arc distance of 1005.11 feet to the Northeastly line of said Lot 35; thence along said North-easterly line North $58^{\circ}07'54''$ West 2487.03 feet to the Point of Beginning.

EXCEPTING THEREFROM, THE FOLLOWING DESCRIBED PARCELS:

PARCEL NO. 1A:

Commencing at the most Northerly corner of said Lot 35; thence South $58^{\circ}07'54''$ East, 2487.03 feet to the TRUE POINT OF BEGINNING, being also a point in the arc of a 9259.03 foot radius curve, concave Southeastly, a radial bears North $06^{\circ}48'18''$ West to said point; thence Southwestly, along the arc of said curve, through a central angle of $00^{\circ}32'43''$, an arc length of 88.12 feet to a point to which a radial of a 4141.50 foot radius curve, concave Southwestly, bears North $85^{\circ}05'09''$ East; thence Northwesterly, along the arc of said curve, through a central angle of $00^{\circ}57'46''$ an arc length of 69.59 feet; thence South $58^{\circ}07'54''$ East, 110.65 feet returning to said TRUE POINT OF BEGINNING.

Containing .070 Acres \pm

PARCEL NO. 1B:

Commencing at the most Northerly corner of said Lot 35; thence South $58^{\circ}07'54''$ East, 2288.39 feet to the TRUE POINT OF BEGINNING; thence South $58^{\circ}07'54''$ East, 87.99 feet to a point to which a radial of a 4141.50 foot radius curve, concave Southwestly, bears North $84^{\circ}07'23''$ East; thence Southeastly, along the arc of said curve through a central angle of $00^{\circ}57'46''$, an arc length of 69.59 feet to a point of intersection with the arc of a 9259.03 foot radius curve, concave Southeastly, a radial bears North $07^{\circ}21'01''$ West to said point; thence Northwestly, along the arc of said curve, through a central angle of $00^{\circ}26'01''$, an arc length of 70.06 feet to the beginning of a 4071.50 foot radius curve, concave Westerly, a radial bears North $85^{\circ}07'53''$ East to said point; thence Northerly, along the arc of said curve, through a central angle of $01^{\circ}46'30''$, an arc length of 126.13 feet, returning to said TRUE POINT OF BEGINNING.

Containing 0.116 Acres

EXHIBIT A

RESERVING FROM THE ABOVE DESCRIBED PARCEL NO. 1, THE FOLLOWING DESCRIBED EASEMENTS:

PARCEL NO. 1C (Public Sewer)

Reserving unto the Grantor herein, its successors or assigns, a permanent easement for a right of way for the construction, operation and maintenance of a public sewer or sewers, together with the right of conveyance, through, over, under, along and across:

All that portion of Lots 35 and 43 of Rancho Mission of San Diego partly in the City of San Diego and all in the County of San Diego, State of California, according to Partition Map on file in the office of the County Clerk of San Diego County in Action No. 348 in Superior Court of said County entitled "Juan M. Luco, et al. vs. The Commercial Bank of San Diego, et al." being more particularly described as follows:

Commencing at the most Northerly corner of Lot 35, Rancho Mission; thence South $40^{\circ}17'08''$ West, 1866.48 feet; thence South $05^{\circ}14'33''$ East, 836.62 feet to the TRUE POINT OF BEGINNING; thence North $67^{\circ}24'27''$ East, 837.22 feet to a point to which a radial of a 9284.03 foot radius curve, concave Southeasterly, bears North $22^{\circ}35'33''$ West; thence Northeasterly along the arc of said 9284.03 foot radius curve, through a central angle of $16^{\circ}14'49''$ an arc length of 2632.60 feet; thence North $15^{\circ}38'54''$ West, 55.7 feet to a point to which a radial of a 9339.03 foot radius curve, concave Southerly, bears North $06^{\circ}24'03''$ West; thence Southwesterly, along the arc of said curve, through a central angle of $16^{\circ}11'30''$, a distance of 2639.19 feet; thence South $67^{\circ}24'27''$ West, a distance of 820.04 feet; thence South $05^{\circ}14'33''$ East, 57.32 feet, returning to said TRUE POINT OF BEGINNING.

PARCEL NO. 1D (Sewer and Water)

Reserving unto the Grantor herein, its successors or assigns, a permanent easement for a right of way for the construction, operation and maintenance of a public sewer or sewers and water main or mains, together with the right of conveyance, through, over, under, along and across:

All that portion of Lots 35 and 43 of Rancho Mission of San Diego partly in the City of San Diego and all in the County of San Diego, State of California, according to Partition Map on file in the office of the County Clerk of San Diego County in Action No. 348 in Superior Court of said County entitled "Juan M. Luco, et al. vs. The Commercial Bank of San Diego, et al." being more particularly described as follows:

Commencing at the most Northerly corner of said Lot 35; thence South $58^{\circ}07'54''$ East, 2256.38 feet to a point to which a radial of a 4046.50 foot radius curve, concave Southwesterly, bears North $83^{\circ}04'27''$ East, said point being also the TRUE POINT OF BEGINNING; thence Southerly, along the arc of said 4046.50 foot radius curve, through a central angle of $02^{\circ}04'33''$ an arc distance of 146.61 feet to a point in the arc of a 9259.03 foot radius curve, concave Southeasterly; thence Northeasterly, along the arc of said curve, through a central angle of $00^{\circ}09'17''$, an arc length of 25.01 feet to a point to which a radial of a 4071.50 foot radius curve, concave Southeasterly, bears North $85^{\circ}07'53''$ East; thence Northwesterly, along the arc of said curve, through a central angle of $01^{\circ}46'30''$, an arc length of 126.13 feet to a point to which a radial of a 4071.50 foot radius curve, bears North $83^{\circ}21'23''$ East; thence Northwesterly along the arc of last said curve, through a central angle of $09^{\circ}00'17''$, a distance of 639.89 feet; thence North $15^{\circ}38'54''$ West, a distance of 101.74 feet to a point to which a radial of a 2570.00 foot radius curve, concave Easterly, bears South $74^{\circ}21'06''$ West; thence Northwesterly and Northerly, along the arc of said curve, through a central angle of $18^{\circ}07'37''$ an arc length of 813.08 feet; thence North $02^{\circ}28'43''$ East, 128.39 feet; thence North $67^{\circ}09'59''$ West to an intersection with a line which is parallel with and distant 25.00 feet Westerly, measured at right angles from the above described line bearing North $02^{\circ}28'43''$ East; thence South $02^{\circ}28'43''$ West, along said parallel

line, 137.67 feet to a point to which a radial of a 2595.00 foot radius curve, concave Northeasterly, bears North $87^{\circ}31'17''$ West; thence Southerly and Southeasterly along the arc of said curve, through a central angle of $18^{\circ}07'37''$, an arc length of 820.99 feet; thence South $15^{\circ}38'54''$ East, 101.74 feet to a point to which a radial of a 4046.50 foot radius curve, concave Southwesterly, bears North $74^{\circ}21'06''$ East; thence Southeasterly, along the arc of said curve, through a central angle of $08^{\circ}43'21''$, an arc length of 616.02 feet to a terminus.

PARCEL NO. 1E (Sewer)

Reserving unto the Grantor herein, its successors or assigns, a permanent easement for a right of way for the construction, operation and maintenance of a public sewer or sewers, together with the right of conveyance, through, over, under, along and across:

All that portion of Lot 35 of Rancho Mission of San Diego in the City of San Diego, County of San Diego, State of California, together with portions of Lots 36, 42 and 43, in the County of San Diego, according to Partition Map on file in the office of the County Clerk of San Diego County in Action No. 348 in Superior Court of said County entitled "Juan M. Luco, et al. vs. The Commercial Bank of San Diego, et al." being more particularly described as a strip of land 25.00 feet in width lying 15.00 feet Southerly, Southeasterly and Southwesterly and lying 10.00 feet Northerly, Northwesterly and Northeasterly, each as to the following described line:

Commencing at the most Northerly corner of said Lot 35; thence South $40^{\circ}17'08''$ West a distance of 1866.48 feet; thence North $05^{\circ}14'33''$ West, a distance of 152.91 feet to the TRUE POINT OF BEGINNING; thence North $57^{\circ}16'33''$ East, 488.68 feet to a point to which a radial of a 360.00 foot radius curve, concave Northwesterly, bears South $32^{\circ}43'27''$ East; thence Northeasterly, along the arc of said curve, through a central angle of $12^{\circ}30'00''$, an arc length of 78.54 feet; thence North $44^{\circ}36'33''$ East, 498.71 feet; thence North $40^{\circ}20'16''$ East, 552.00 feet to a point to which a radial of a 500.00 foot radius curve, concave Southerly (having a central angle of $102^{\circ}46'12''$ and a length of 896.84 feet) bears North $40^{\circ}39'44''$ West; thence Northeasterly, Easterly and Southeasterly, along the arc of said curve, a distance of 896.84 feet to a point to which a radial of last said curve bears North $53^{\circ}06'28''$ East; thence South $36^{\circ}53'32''$ East, 530.16 feet to a point to which a radial of a 135.00 foot radius curve, concave Northeasterly, bears South $53^{\circ}06'28''$ West; thence Southeasterly along the arc of said curve, through a central angle of $22^{\circ}28'05''$ an arc length of 52.94 feet; thence South $57^{\circ}21'37''$ East, a distance of 20.00 feet; thence South $58^{\circ}07'54''$ East, 902.20 feet to a point to which a radial of a 360.00 foot radius curve, concave Northeasterly, bears South $31^{\circ}52'06''$ West; thence Southeasterly and Easterly, along the arc of said curve, through a central angle of $32^{\circ}04'35''$ a distance of 201.55 feet; thence North $89^{\circ}47'31''$ East, 89.58 feet to a terminus in a line bearing North $15^{\circ}38'54''$ West, through said terminus.

The sidelines of the above described strip of land shall terminate Westerly in a line bearing South $05^{\circ}14'33''$ East through the TRUE POINT OF BEGINNING, and shall terminate Easterly in a line bearing North $15^{\circ}38'54''$ West through the above described terminus.

PARCEL NO. 1F (Water Main or Mains)

Reserving unto the Grantor herein, its successors or assigns, a permanent easement for a right of way for the construction, operation and maintenance of a public water main or mains, together with the right of conveyance, through, over, under, along and across:

All that portion of Lots 35 and 43 of Rancho Mission of San Diego in the City of San Diego, County of San Diego, State of California, according to Partition Map on file in the office of the County Clerk of San Diego County in Action No. 348 in Superior Court of said County entitled "Juan M. Luco, et al. vs. The Commercial Bank of San Diego, et al." being more particularly described as follows:

PARCEL NO. 1F-1

A strip of land 15.00 feet in width, lying 5.00 feet Westerly and 10.00 feet Easterly of the following described line:

Commencing at the most Northerly corner of Lot 35; thence South $40^{\circ}17'08''$ West, 1866.48 feet; thence South $05^{\circ}14'33''$ East, 862.81 feet; thence North $67^{\circ}24'27''$ East, 845.03 feet to a point to which a radial of a 9259.03 foot radius curve, concave Southeasterly, bears North $22^{\circ}35'33''$ West; thence Northeasterly, along the arc of said curve, through a central angle of $11^{\circ}15'43''$, a distance of 1819.94 feet to the TRUE POINT OF BEGINNING; thence NORTH, a distance of 207.30 feet; thence North $11^{\circ}07'45''$ East, 515.00 feet to a point for purposes of this description being designated as "Point A"; thence continuing North $11^{\circ}07'45''$ East, 804.49 feet to a point to which a radial of a 2625.00 foot radius curve, concave Easterly bears South $87^{\circ}00'32''$ East; thence Northwesterly, along the arc of said curve, through a central angle of $05^{\circ}28'11''$, an arc length of 250.60 feet; thence North $02^{\circ}28'43''$ East, 148.79 feet to a terminus.

The sidelines of the above strip of land shall terminate Southerly in the arc of the 9259.03 foot radius curve, intersecting the TRUE POINT OF BEGINNING and shall terminate Northerly in said line bearing North $67^{\circ}09'56''$ West through the terminus.

PARCEL NO. 1F-2

Being a strip of land 20.00 feet in width lying 10.00 feet on each side of the following described centerline:

Beginning at "Point A" as described and established in Parcel No. 1F-1, above; thence Northwesterly at right angles to said line described above as North $11^{\circ}07'45''$ East, a distance of 20.00 feet to a terminus.

PARCEL NO. 1G (Fuel Line)

Reserving unto the Grantor herein, its successors or assigns, a permanent easement for a right of way for the construction, operation and maintenance of a fuel line or lines together with the right of conveyance, through, over, under, along and across:

All that portion of Lots 35, 42 and 43, Rancho Mission of San Diego, partly in the City of San Diego and all in the County of San Diego, State of California, according to Partition Map on file in the office of the County Clerk of San Diego County in Action No. 348 in Superior Court of said County entitled "Juan M. Luco, et al. vs. The Commercial Bank of San Diego, et al." being more particularly described as follows:

Commencing at the most Northerly corner of said Lot 35; thence South 58° 07'54" East, a distance of 2256.38 feet to the TRUE POINT OF BEGINNING, being also a point to which a radial of a 4046.50 foot radius curve, concave Southwesterly, bears North 83°04'27" East; thence Northwesterly, along the arc of said curve, through a central angle of 08°43'21", a distance of 616.02 feet; thence North 15°38'54" West, 101.74 feet to a point to which a radial of a 2595.00 foot radius curve, concave Easterly, bears South 74°21'06" West; thence Northwesterly and Northerly, along the arc of said 2595.00 foot radius curve, concave Easterly, through a central angle of 18°07'37", an arc length of 820.99 feet; thence North 02°28'43" East, a distance of 137.67 feet; thence North 67°09'56" West, 20.00 feet more or less to an intersection with a line which is parallel with and distant 20.00 feet Westerly, measured at right angles from the previously described line bearing North 02°28'43" East, having a length of 137.67 feet; thence South 02°28'43" West, 145.08 feet to a point to which a radial of a 2615.00 foot radius curve concave Easterly, bears North 87°31'17" West; thence Southerly and Southeasterly, along the arc of said curve, through a central angle of 18°07'37" an arc length of 827.32 feet; thence South 15°38'54" East, 101.74 feet to a point to which a radial of a 4026.50 foot radius curve, concave Southwesterly, bears North 74°21'06" East; thence Southeasterly along the arc of said 4026.50 foot curve, through a central angle of 08°29'36", an arc length of 596.88 feet to an intersection with the Northeasterly line of said Lot 35, distant thereon South 58°07'54" East, 2230.68 feet from the most Northerly corner of said Lot 35, a radial bears North 82°50'42" East to said point; thence continuing along the arc of said 4026.50 foot radius curve, through a central angle of 02°19'12", an arc length of 163.04 feet, a radial bears North 85°09'54" East to said point; thence continuing along the arc of said 4026.50 foot radius curve, through a central angle of 00°37'08" a distance of 20.07 feet to a point to which a radial of a 9239.03 foot radius curve, concave Southeasterly, bears North 08°04'12" West; thence Northeasterly along the arc of said 9239.03 foot radius curve, through a central angle of 00°42'51", a length of 115.16 feet; thence Northwesterly, along the arc of a 4071.50 foot radius curve, through a central angle of 00°29'05", an arc length of 20.02 feet to a point to which a radial line bears North 71°21'21" West; thence Southwesterly along the arc of a 9259.03 foot radius curve, through a central angle of 00°35'18", an arc distance of 95.07 feet to a point to which a radial of a 4046.50 foot radius curve, concave Westerly, bears North 89°09'00" East; thence Northwesterly, along the arc of said 4046.50 foot radius curve, through a central angle of 02°04'33", a distance of 146.61 feet returning to the TRUE POINT OF BEGINNING.

RESOLUTION No. 186448

ADOPTED ON FEB 24 1966

BE IT RESOLVED by the Council of The City of San Diego as follows:

That the Mayor and City Clerk be, and they are hereby authorized and empowered to execute, for and on behalf of said City a ground Lease Agreement with San Diego Stadium Authority, as lessee, leasing certain portions of Lot 37 of Rancho Mission of San Diego, for the purpose of constructing thereon a portion of the multipurpose sports stadium, under the terms and conditions set forth in the form of agreement on file in the office of the City Clerk as Document No. 696503.

BE IT FURTHER RESOLVED, that the City Clerk of said City is hereby authorized and directed to file in the office of the County Recorder said ground lease agreement.

Presented by _____

APPROVED: EDWARD T. BUTLER, City Attorney

By _____
C. M. Fitzpatrick, Deputy

K/2/23/66.

Passed and adopted by the Council of The City of San Diego
on February 24, 1966, by the following vote:

YEAS -- Councilmen: Cobb, deKirby, Scheidle, Hom, Morrow,
Walsh, Hitch, Schaefer, Mayor Curran.

NAYS -- Councilmen: None.

ABSENT -- Councilmen: None.

AUTHENTICATED BY:

FRANK R. CURRAN,
Mayor of The City of San Diego, California.

PHILLIP ACKER,
City Clerk of The City of San Diego, California.

(SEAL)

By EVELYN L. WORRELL, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full, true
and correct copy of RESOLUTION NO. 186446 passed and adopted
by the Council of The City of San Diego, California, on February 24, 1966.

PHILLIP ACKER,
City Clerk of The City of San Diego, California.

(SEAL)

By Evelyn L. Worrell, Deputy.