

DATE ISSUED: March 13, 2003 REPORT NO: 03-047

ATTENTION: Honorable Mayor and City Council
Docket of March 18, 2003

SUBJECT: Item 330: In the Matter of the Citizens Task Force on Chargers Issues and the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium between the City of San Diego and the San Diego Chargers.

SUMMARY

This report addresses the above-referenced item on the City Council docket for Tuesday, March 18, 2003. The City Council will consider adopting a resolution which accepts the final report from the Citizens Task Force on Chargers Issues [Task Force Report]; authorizes a City negotiating team; directs discussions with the San Diego Chargers [Chargers] pursuant to the recommendations and principles set forth in the Task Force Report and in response to the Renegotiation Notice delivered to the City by the Chargers; and authorizes the retention of attorneys, consultants and experts to assist the City in the process.

BACKGROUND

On May 30, 1995, the City Council adopted Ordinance No. O-18182 authorizing the City Manager to execute on behalf of the City the 1995 Agreement for the Partial Use and Occupancy of (then) San Diego Jack Murphy Stadium [Original Agreement] between the City and the Chargers. On April 7, 1997, the City Council adopted Ordinance No. O-18398 which authorized the City Manager to execute the Supplement Number One to the 1995 Agreement [Supplement Number One]. The Original Agreement and Supplement Number One [collectively "the Agreement"] 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.

Pursuant to the terms of the Agreement, at any time from December 1, 2002, through and including January 29, 2003, the Chargers had the right to deliver to the City a

Renegotiation Notice. If the conditions which permit the notice to be sent are met (the existence of a “Triggering Event”), the notice begins a process by which the team and the City must first negotiate in good faith regarding the terms of the Agreement, but which may ultimately allow the team to seek a new venue outside San Diego and terminate the Agreement. The initial “good faith” negotiating period is for ninety (90) days, commencing on the date a Renegotiation Notice is delivered. During that time the City and the Chargers are to negotiate for an amendment to the Agreement to “offset the impact on the Chargers of the Triggering Event.” If an appropriate amendment is not agreed to, the Chargers have eighteen (18) months within which the team may present to the City a letter of intent from another venue. If a letter of intent is presented, the City then has ninety (90) days to match the “financial and overall economic terms” of that letter. If the City does not match those terms, the Chargers have sixty (60) days within which the team may terminate the Agreement and relocate, although the team may not relocate until after the 2003 season.

In the spring of 2002, the Chargers indicated publicly that the team had been approached by interests in the Los Angeles area about the possibility of relocating the team. The team declared its intent to discuss with the City issues surrounding the viability of Qualcomm Stadium and the future of the team in San Diego. In response to these circumstances, 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 on a number of issues related to the Chargers and the National Football League. A copy of that resolution, which sets forth the charge to the Task Force, is enclosed with this report. The membership of the Task Force was confirmed on July 23, 2003, and the Task Force immediately began its work.

The Task Force spent seven months researching issues, receiving presentations and public testimony, and reviewing and analyzing reports to address its mission. Numerous public meetings were conducted in various locations around the City to accomplish these tasks. The final Task Force Report has been prepared which presents the findings, analyses and recommendations of the Task Force to the Mayor and City Council. The recommendations include beginning negotiations with the Chargers in accordance with negotiating principles outlined in the report.

On January 29, 2003, the City and Chargers entered into the Supplement Number Two to the Original Agreement by which the period during which the Chargers could send a Renegotiation Notice was postponed to the period March 1 through April 30, 2003.

On February 27, 2003, the Task Force, by a 14-1 vote, approved the Task Force Report. On March 4, 2003, the Chargers delivered to the City a Renegotiation Notice.

RECOMMENDATION

The City Manager and City Attorney recommend that the Mayor and City Council accept the Task Force Report. In addition, it is recommended that a City negotiating team be authorized consisting of Deputy City Manager Bruce Herring, Assistant City Attorney

Leslie J. Girard, and such other attorneys, consultants or experts as the City Manager and City Attorney deem necessary and appropriate. It is also recommended that the City Council give direction to the negotiating team to meet with the Chargers pursuant to such parameters as the City Council deems appropriate; the Task Force Report recommends that the City negotiate with the Chargers pursuant to the recommendations and principles set forth in it, and the Agreement provides for the commencement of “good faith” negotiations as described above. It is also recommended that the process of assessing the validity of the Renegotiation Notice and the existence of the Triggering Event be continued, and that the Mayor and City Council be briefed on the status of that review and assessment as it proceeds.

It is also prudent to undertake a number of other actions regarding the retention of necessary and appropriate outside expertise to assist the City in responding to the Renegotiation Notice. First, it is recommended that the City Attorney be authorized to retain the law firm of Procopio, Cory, Hargreaves & Savitch LLP in an initial amount not to exceed \$100,000 to provide legal services. Second, it is recommended that the City Attorney be authorized to retain the accounting firm of Nation Smith Hermes Diamond/BDO Seidman in an initial amount not to exceed \$50,000 to provide expert accounting services. Last, it is recommended that the City Manager and City Attorney be authorized to retain such other attorneys, consultants or experts as they deem necessary and appropriate, each in initial amounts not to exceed \$100,000. Each of these authorizations is subject to the City Auditor & Comptroller first certifying the availability of funds.

Respectfully submitted,

Bruce A. Herring
Deputy City Manager

Leslie J. Girard
Assistant City Attorney

Note: The attachment is not available in electronic format. A copy is available for review in the Office of the City Clerk.

Attachments:

1. Resolution No. R-296701