



CITY OF SANTA CLARA

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SANTA CLARA STADIUM AUTHORITY

AGENDA

A complete agenda packet with back-up reports is available at either City Library beginning Saturday before the Tuesday meeting or at the City Clerk's Office on weekdays. A complete agenda packet is also available at the City Council meeting and on the City's website.

June 24, 2014

6:00 pm

Closed Session

Council Conference Room

Conference with Legal Counsel - Existing Litigation
Pursuant to Government Code Section 54956.9(a)
*Vinod K. Sharma, et al. v. Successor Agency to the
Redevelopment Agency of the City of Santa Clara, et al.*
Sacramento County Superior Court Case No. 34-2013-80001396

REGULAR MEETING

7:00 PM in the City Hall Council Chambers

APPEAL OF HEARING DECISIONS OF THE STADIUM AUTHORITY MUST BE MADE TO THE SUPERIOR COURT WITHIN 90 CALENDAR DAYS OF FINAL ACTION. BECAUSE OF THE AGENDA PROVISION FOR RECONSIDERATION, FINAL ACTION IS DEEMED TO OCCUR AT THE END OF THE NEXT REGULAR MEETING PURSUANT TO CITY COUNCIL POLICY (P&P 042). (CODE OF CIVIL PROCEDURE SECTION 1094.6)

AB23 ANNOUNCEMENT: MEMBERS OF THE SANTA CLARA STADIUM AUTHORITY BOARD ARE ENTITLED TO RECEIVE \$30 FOR EACH ATTENDED MEETING.

- 1. ROLL CALL:**
- 2. APPROVAL OF MINUTES:**
 - A. May 13, 2014.
 - B. May 20, 2014.
- 3. CONTINUANCE/EXCEPTIONS:**
- 4. UNFINISHED BUSINESS:**
 - A. Possible Reconsideration of Actions Taken at Immediately Preceding Meeting. (See Summary of Actions for potential reconsideration, which is attached to the posted Agenda and is in the Agenda Packet Binder in the Council Chambers.)

5. NEW BUSINESS:

- A. Approval of an Indemnity Agreement between the City, Santa Clara Stadium Authority and the City of Sunnyvale regarding Special Law Enforcement Units for Levi's Stadium events.
- B. Approval of Amendment No. 4 to the Agreement for the Performance of Services with Keyser Marston Associates, Inc., in an amount of \$100,000 for a total not to exceed amount of \$1,000,000, to extend the term of the Agreement to June 30, 2015 for fiscal and economic analysis related to the development and operation of Levi's Stadium.

6. PUBLIC PRESENTATIONS:

This item is reserved for persons to address the Stadium Authority on any matter not on the agenda that is within the subject matter jurisdiction of the City. The law does not permit Stadium Authority action on, or extended discussion of, any item not on the agenda except under special circumstances. The Stadium Authority, or staff, may briefly respond to statements made or questions posed, and the Stadium Authority may request staff to report back at a subsequent meeting. Although not required, please submit to the Stadium Authority Secretary your name and subject matter on forms available by the door in the Council Chambers.

7. REPORTS OF STADIUM AUTHORITY MEMBERS AND SPECIAL STADIUM AUTHORITY COMMITTEES:

- A. Reports regarding conference attendance, if any.

8. CLOSED SESSION MATTERS:

- A. Stadium Authority Counsel Reports:

9. ADJOURNMENT:

- A. To Tuesday evening, **July 1, 2014** at 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

6/24/14

CLOSED SESSION NOTICE

Santa Clara Stadium Authority

6:00PM
SA



The **GOVERNING BOARD OF THE STADIUM AUTHORITY** will meet in closed session on **Tuesday, June 24, 2014, at 6:00 p.m.**, or as soon thereafter as the matter can be discussed, in the Council Conference Room located in the East Wing of City Hall at 1500 Warburton Avenue, Santa Clara, California, to consider the following matter(s) and to potentially take action with respect to it/them:

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

Pursuant to Gov. Code § 54956.9(a)

Vinod K. Sharma, et al. v. Successor Agency to the Redevelopment Agency of the City of Santa Clara, et al., Sacramento County Superior Court Case No. 34-2013-80001396

Date: June 20, 2014

A handwritten signature in black ink, appearing to read "R. Nosky".

RICHARD E. NOSKY, JR.
Stadium Authority Counsel

6/24/14

2A
SA

**MINUTES OF THE SANTA CLARA STADIUM AUTHORITY OF
THE CITY OF SANTA CLARA FOR REGULAR MEETING
HELD ON TUESDAY EVENING, MAY 13, 2014**

The Santa Clara Stadium Authority of the City of Santa Clara met at 6:00 pm for a Closed Session in the Council Conference Room for a Conference with Legal Counsel - Existing Litigation pursuant to Government Code Section 54956.9(a); *Vinod K. Sharma, et al. v. Successor Agency to the Redevelopment Agency of the City of Santa Clara, et al.*, Sacramento County Superior Court Case No. 34-2013-80001396 (Stadium Authority Counsel - 05/09/14).

The Stadium Authority then met at 9:45 pm, on the above mentioned date, for the regular scheduled meeting in the City Hall Council Chambers.

Present: Stadium Authority Board Members Debi Davis, Lisa M. Gillmor, Patrick Kolstad, Patricia M. Mahan, and Teresa O'Neill and Chairperson Jamie L. Matthews. Absent: Jerry Marsalli (excused).

1. **MOTION** was made by Davis, seconded and unanimously carried (Marsalli absent), that Stadium Authority **excuse** Board Member Marsalli from attendance at this evening's meeting.

6A. Earlier in the evening, the Stadium Authority met for a Closed Session in the Council Conference Room for a Conference with Legal Counsel-Existing Litigation pursuant to Government Code Section 54956.9(a); *Vinod K. Sharma, et al. v. Successor Agency to the Redevelopment Agency of the City of Santa Clara, et al.*, Sacramento County Superior Court Case No. 34-2013-80001396 and there was no reportable action.

7A. **MOTION** was made by Davis, seconded and unanimously carried (Marsalli absent), that, there being no further business, the meeting was adjourned at 9:45 pm to Tuesday evening, **May 20, 2014** at 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

ATTEST: _____
Secretary

APPROVE: _____
Chairperson

6/24/14

2B
SA

**MINUTES OF THE SANTA CLARA STADIUM AUTHORITY OF
THE CITY OF SANTA CLARA FOR REGULAR MEETING
HELD ON TUESDAY EVENING, MAY 20, 2014**

The Santa Clara Stadium Authority of the City of Santa Clara met at 6:00 pm for a Closed Session in the Council Conference Room for a Conference with Legal Counsel - Existing Litigation pursuant to Government Code Section 54956.9(a); *Vinod K. Sharma, et al. v. Successor Agency to the Redevelopment Agency of the City of Santa Clara, et al.*, Sacramento County Superior Court Case No. 34-2013-80001396 (Stadium Authority Counsel - 05/16/14).

The Stadium Authority then met at 7:47 pm, on the above mentioned date, for the regular scheduled meeting in the City Hall Council Chambers.

Present: Stadium Authority Board Members Debi Davis, Lisa M. Gillmor, Patrick Kolstad, Patricia M. Mahan, Jerry Marsalli and Teresa O'Neill and Chairperson Jamie L. Matthews.

1. **MOTION** was made by Davis, seconded and unanimously carried with Marsalli abstaining (not present at the meeting), that the **Minutes** for the meeting of **April 22, 2014** be adopted as written.

- 5A. **MOTION** was made by O'Neill, seconded and unanimously carried, that, per the, the Stadium Authority **adopt Resolution No. 14-4 (Stadium Authority)** entitled, "A RESOLUTION OF THE SANTA CLARA STADIUM AUTHORITY AUTHORIZING THE STADIUM AUTHORITY EXECUTIVE DIRECTOR TO BIND INSURANCE COVERAGE FOR THE STADIUM" which authorizes the Executive Director to **select and bind insurance coverage** for **Levi's Stadium** consistent with the minimum requirements set forth in the Ground Lease and Stadium Lease.

- 7A. Earlier in the evening, the Stadium Authority met for a Closed Session in the Council Conference Room for a Conference with Legal Counsel-Existing Litigation pursuant to Government Code Section 54956.9(a); *Vinod K. Sharma, et al. v. Successor Agency to the Redevelopment Agency of the City of Santa Clara, et al.*, Sacramento County Superior Court Case No. 34-2013-80001396 and there was no reportable action.

9A. **MOTION** was made by Davis, seconded and unanimously carried that, there being no further business, the meeting was adjourned at 7:49 pm to Tuesday evening, **June 10, 2014** at 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

ATTEST: _____
Secretary

APPROVE: _____
Chairperson

DRAFT

Meeting Date: 6/24/14

AGENDA REPORT

Agenda Item # 7B-1/5A
SA

City of Santa Clara, California



Date: June 24, 2014

To: City Manager for Council Action
Executive Director for Stadium Authority Action

From: City Attorney
General Counsel

Subject: Approval of a Municipal Law Enforcement Services Agreement with the City of Sunnyvale Regarding Special Law Enforcement Units for Levi's Stadium Events

EXECUTIVE SUMMARY:

This Agreement is very similar to the agreement you recently approved for special law enforcement services provided by the Santa Clara County Sheriff for events at Levi's Stadium. The Agreement permits the City to call for Sunnyvale personnel within a specified time prior to events, to pay negotiated pay and equipment rates for those personnel, and to ensure that those personnel remain Sunnyvale employees while providing law enforcement services. Mutual indemnification provisions are in place for potential injuries and third party suits that may arise related to services provided by Sunnyvale. A copy of the indemnity agreement can be viewed on the City's website or is available in the City Clerk's Office for review during normal business hours.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

The advantages of this Agreement are that the duties and responsibilities of the City and the City of Sunnyvale are more clearly set forth in the event of disputes or third party lawsuits.

ECONOMIC/FISCAL IMPACT:

Certain costs for the City and/or Stadium Authority, such as insurance premiums and worker's compensation benefits, will increase, but those will not impact the General Fund as they will be reimbursed as public safety cost per the Stadium Lease Agreement.

RECOMMENDATION:

That the Council and Stadium Authority approve and authorize the City Manager/Executive Director to execute the Indemnity Agreement by and between the City of Santa Clara, Santa Clara Stadium Authority and the City of Sunnyvale Regarding Special Law Enforcement Units for Levi's Stadium Events.



 Richard E. Nosky, Jr.
 City Attorney/General Counsel



 Michael Sellers
 Police Chief

APPROVED:



 Julio J. Fuentes
 City Manager/Executive Director

Documents Related to this Report:

- 1. Indemnity Agreement***

MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT
by and between the
SANTA CLARA STADIUM AUTHORITY, THE CITY OF SANTA CLARA,
and
CITY OF SUNNYVALE

PREAMBLE

This agreement for the performance of municipal law enforcement services (“Agreement”) is made and entered into on this _____ day of _____, 2014, (“Effective Date”) by and between the City of Sunnyvale, a chartered municipal corporation, located at 456 W. Olive, Sunnyvale, California 94086 (“Agency”), the Santa Clara Stadium Authority, a Joint Powers Authority, with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 (“Authority”), and the City of Santa Clara, a chartered municipal corporation, located at 1500 Warburton Avenue, Santa Clara, California 95050 (“City”). Authority, City and Agency may be referred to individually as a “Party” or collectively as the “Parties” to this Agreement.”

RECITALS

- A. Authority and City are desirous of contracting with Agency for the performance of the law enforcement functions described herein.
- B. Agency is agreeable to rendering such law enforcement services pursuant to the terms and conditions set forth in this Agreement.
- C. Pursuant to the authority set forth in Government Code sections 54981 and 55632, Authority and City seek additional law enforcement services, and Agency agrees to provide additional law enforcement services, for periodic events at the Santa Clara Stadium site.

The Parties agree as follows:

AGREEMENT PROVISIONS

1. SERVICES TO BE PROVIDED.

- A. Agency agrees, as available, to provide supplemental special detail law enforcement services for events taking place at the Stadium site and surrounding areas during the term of this Agreement. The classification and approximate numbers of personnel provided by Agency will be determined and mutually agreed upon, in writing, between Agency, Authority and the Santa Clara Chief of Police prior to each event. The Parties shall establish and agree to the number of hours necessary for Agency employees to perform the requested services. City herein provides consent, pursuant to Penal Code section 830.1(a)(2), for any Agency peace officer providing services hereunder to exercise full peace officer authority within the City’s jurisdiction.

- B. Except as otherwise specifically set forth, such services shall only encompass duties and functions of the type coming within the jurisdiction of, and customarily rendered by, Agency under its Charter and/or municipal codes, and the statutes of the State of California, and under the Charter and municipal codes of the City of Santa Clara.
- C. For special detail officers, the request for services shall be a written request from the Santa Clara Police Chief or his/her designee. The request shall contain specific dates of service, hours of operation, number of personnel requested, and classification of personnel requested. For the purpose of performing said services, Agency shall furnish and supply, as available, all necessary labor, supervision, personnel, helicopters, tactical vehicles, equipment, fuel, and supplies necessary to provide the services to be rendered hereunder. The Authority and/or City acknowledges that additional equipment charges for special equipment such as helicopters, tactical vehicles, equipment, fuel, and supplies may be appropriate depending upon the services requested, and may be charged by Agency as above and beyond the authorized pay rate for personnel. Notwithstanding the foregoing, the Authority and/or City may provide additional resources for Agency to utilize in performance of the services. The request shall be signed by a representative of the Authority and/or City who is duly authorized to enter into such agreements for supplemental law enforcement services. The request shall be submitted via email to the Agency specified contact.
- D. The City hereby grants to Agency and its personnel responding to requests for services herein the right to transmit and broadcast communications to the Santa Clara Police Department's units via the Santa Clara Police Department's designated dispatch frequency and/or any other law enforcement frequency for which the City of Santa Clara is licensed by the FCC.
- E. Mutual aid agreements pursuant to the California Emergency Plan (Government Code §§ 8550 et seq.) and the Master Mutual Aid Agreement: If any mutual aid agreement(s) currently in place are triggered during any performance of services under this Agreement, the mutual aid agreement(s) shall govern all necessary personnel and/or tactics.

2. ADMINISTRATION OF PERSONNEL.

- A. In the event of a dispute between the Parties to this Agreement as to the extent of the duties and functions to be rendered hereunder, or the minimum level or manner of performance of such service, the City shall be consulted and a mutual determination thereof shall be made by both Agency and the City in consultation with the City of Santa Clara's Chief of Police.
- B. The rendition of the services performed by Agency, the discipline of its officers, and other matters incident to the performance of such services and the control of personnel so employed shall remain with Agency.

- C. With regard to sections A. and B., if there remains a disagreement as to the minimum level of services or tactics for a particular event, the Parties agree that the Santa Clara Chief of Police shall have final and conclusive determination of levels of service or tactics provided by Agency's officers.
- D. All Authority and/or City employees who work in conjunction with Agency pursuant to this Agreement shall remain Authority and/or City employees, are not Agency employees, and have no claim or right to any Agency employment benefits or policies. Similarly, all Agency employees who work in conjunction with Authority and/or City pursuant to this Agreement shall remain Agency employees, are not Authority or City employees, and have no claim or right to any Authority or City employment benefits or policies.
- E. Neither Authority or City shall be called upon to assume any liability for the direct payment of any Agency salaries, wages, or other compensation to any Agency personnel performing services hereunder for said Authority and/or City. Except as herein otherwise specified, neither Authority or City shall be liable for compensation or indemnity to any Agency employee or agent for injury or sickness arising out of his/her status as a contract agent of the Authority and/or City.

3. COMPENSATION AND PAYMENT.

- A. The Authority shall pay Agency for the services it provides under the terms of this Agreement at the rates established by the Agency, as they may be amended from time to time. The rates listed below may be periodically adjusted by the Authority effective January 1 of each year to a mutually-agreed upon rate. In such case, the annual rate adjustment shall be attached to this Agreement as Exhibit A to reflect the change in rates each fiscal year. The Parties specifically agree that such adjustment and change in Exhibit A each year is a valid amendment to this Agreement, and that no formal Amendment form need be used for such annual rate adjustment. The Parties will separately execute Exhibit A each year, or whenever there is a change in Exhibit A rates.
- B. For and in consideration of Agency providing supplementary law enforcement services for the Authority and/or City under this Agreement, the Authority agrees to pay Agency for said services at the hourly rates as indicated in Exhibit A.

The rates in Exhibit A are developed by the Agency. These rates are designed to reimburse Agency's costs in the compensation of employees, the administration of workers' compensation benefits, and the Agency's overhead attributable to providing the services identified in this Agreement, and as they may be amended from time to time.

4. PAYMENT PROCEDURES.

- A. On a monthly basis, Agency shall submit a summarized invoice which covers all services performed during said month, to the Authority and the Authority shall

pay Agency for all undisputed amounts within thirty (30) days after date of said invoice.

- B. If such payment is not delivered to Agency within thirty (30) days after the date of the invoice, Agency is entitled to recover interest thereon. Said interest shall be at a rate of five percent (5%) per annum or any portion thereof, calculated from the date payment was due.
- C. For all disputed amounts, Authority shall provide Agency with written notice of the dispute including the invoice date, amount, and reasons for dispute within ten (10) days after receipt of the invoice. The Parties shall memorialize the resolution of the dispute in writing. For any disputed amounts, interest shall accrue at the rate stated in subsection B, above, if payment is not received within thirty (30) days after the dispute resolution is memorialized.

5. CANCELLATION OF PERSONNEL.

- A. The Authority shall not be charged for cancellations made more than 24 hours prior to the scheduled event/assignment.
- B. The Authority agrees that if cancellation is made within 24 hours prior to the scheduled event/assignment and the assigned Agency officer cannot be notified of such cancellation, Authority shall reimburse Agency a minimum of four (4) hours of compensation for each assigned officer pursuant to the rates identified herein.
- C. Agency agrees to make all reasonable efforts to notify its assigned officer(s) of the cancellation.

6. TERM OF AGREEMENT.

- A. The term of this Agreement shall commence upon execution by the Parties and shall terminate June 30, 2016, unless terminated sooner or extended in whole or in part as provided for herein.

7. TERMINATION.

- A. Either Party may terminate this Agreement with or without cause by giving not less than sixty (60) days advance written notice to the other Party.
- B. Notwithstanding the foregoing, Agency may terminate the Agreement on only twenty (20) days advance notice, or less in the event of exigent circumstances, if Agency concludes that there are insufficient personnel to provide the agreed upon services and still perform other Agency duties as required by law.
- C. In the event of a termination, each Party shall fully discharge all obligations owed to the other Party accruing prior to the date of such termination, and, except as

otherwise provided herein, each Party shall be released from all obligations, which would otherwise accrue subsequent to the date of termination.

8. FAIR EMPLOYMENT.

While in the performance of services under this Agreement, Agency and its employees and agents shall not discriminate against any other employee or agent because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law.

9. HOLD HARMLESS/INDEMNIFICATION.

- A. For purposes of indemnification, each Party shall be responsible for the acts of its participating employee and shall incur any liabilities arising out of the service and activities of those employees.
- B. Any Agency employee who performs duties under this Agreement shall be deemed to be continuing under the general employment of his or her respective jurisdiction and shall have the same powers, duties, privileges, responsibilities, and immunities as are conferred upon such employee by law in his or her own jurisdiction. Pursuant to Insurance Code Section 11663, the general employer shall be responsible for the entire cost of any worker's compensation payable on account of injury occurring in the course of and arising out of general and special employments.
- C. Pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, employees, and agents, harmless from any damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with any work performed or authority delegated to such party under this Agreement. No party, nor any officer, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other parties hereto, their officers, employees or agents, under or in connection with any work performed or authority delegated to such other parties under this Agreement.

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING.

A Party shall not assign its rights and/or subcontract, or otherwise delegate, its duties under this Agreement, either in whole or in part, without the prior written consent of the other Party, and any attempted assignment or delegation without such consent shall be null and void.

11. INTEGRATED DOCUMENT.

This Agreement represents the entire agreement between Authority, City and Agency. No other understanding, agreements, or conversations with any representative of either Party prior to execution of this Agreement shall affect or modify any of the terms or obligations of this Agreement. Any verbal agreement shall be considered unofficial information and is not binding upon either Party.

12. SEVERABILITY AND WAIVER.

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect. Agency agrees that waiver by Authority and/or City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

13. NOTICES.

All notices to the Parties shall, unless otherwise requested in writing, be sent to Authority addressed as follows:

Santa Clara Stadium Authority
Attention: Executive Director
1500 Warburton Ave.
Santa Clara, CA 95050
or by facsimile at (408) 241-6771

And to City as follows:

City of Santa Clara
Attn: Chief of Police
601 El Camino Real
Santa Clara, CA 95050
or by facsimile at (408) 248-0276

And to Agency addressed as follows:

City of Sunnyvale
Attn: City Manager
456 W. Olive Ave.
Sunnyvale, CA 94086
or by facsimile at (408) 730-7699

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

14. LAW GOVERNING CONTRACT AND VENUE.

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara.

[Signatures on next pages.]

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

**CITY OF SANTA CLARA, CALIFORNIA,
a chartered California municipal corporation**

APPROVED AS TO FORM:

RICHARD E. NOSKY, JR.
City Attorney

ATTEST:

ROD DIRIDON, JR.
City Clerk

JULIO J. FUENTES
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“CITY”

**SANTA CLARA STADIUM AUTHORITY
a Joint Powers Authority**

APPROVED AS TO FORM:

RICHARD E. NOSKY, JR.
Authority Counsel

ATTEST:

ROD DIRIDON, JR.
Secretary

JULIO J. FUENTES
Executive Director
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“AUTHORITY”

CITY OF SUNNYVALE

APPROVED AS TO FORM:

JOAN BORGER
City Attorney

ATTEST:

Clerk

ROBERT WALKER
Interim City Manager
456 W. Olive Ave.
Sunnyvale, CA 94086
Telephone: (408) 730-7480
Fax: (408) 730-7699

“AGENCY”

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MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT
by and between the
SANTA CLARA STADIUM AUTHORITY, THE CITY OF SANTA CLARA,
and
CITY OF SUNNYVALE

EXHIBIT A

The rates listed below are effective as of May 29, 2014:

Community Service Officer: \$56.15 per hour

Public Safety Officer: \$95.18 per hour

Lieutenant: \$111.03 per hour

Meeting Date: 6/24/14

AGENDA REPORT

City of Santa Clara, California

Agenda Item #



Date: June 4, 2014

To: Executive Director for Stadium Authority Action

From: Economic Development Officer/Assistant City Manager

Subject: Approval of Amendment No. 4 to the Professional Services Agreement with Keyser Marston Associates, Inc. in the amount of \$100,000 for Fiscal and Economic Analysis Related to the Development and Operation of Levi's Stadium

EXECUTIVE SUMMARY:

Founded in 1973, Keyser Marston Associates (KMA) provides a wide array of real estate advisory services, specializing in public-private transactions, fiscal and economic impact analyses, and real estate negotiations.

On July 5, 2011, the Stadium Authority approved a consulting services contract with KMA related to Levi's Stadium. The negotiation and drafting of the many financial and legal documents essential to the Stadium Project required specialized expertise in the areas of fiscal and economic analysis, complex financing options and real estate issues, particularly in the area of stadium development and professional sports franchises. KMA's assistance allowed for the Stadium close of escrow to occur in late March 2012.

The Stadium Authority has approved subsequent amendments to the Professional Services Agreement extending the term of the agreement and increasing the total contract amount. KMA provided the Stadium Authority with assistance on negotiations by providing critical financial and fiscal analyses related to the Stadium Management Agreement, Stadium Builders Licenses, NFL Events, Stadium Naming Rights, permanent financing of the Stadium and is now providing assistance on the fiscal issues related to the commencement of stadium operations.

Staff is requesting approval of Amendment No. 4 to the contract to extend the term of the contract one year to June 30, 2015 and to increase the not-to-exceed amount by \$100,000 for a total of \$1,000,000. Funding is available in the Stadium Authority budget for this purpose.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

Approval of this amendment to the contract with Keyser Marston Associates, Inc. will allow the Stadium Authority to continue to receive fiscal and economic analysis services related to the completion of construction and commencement of operations of Levi's Stadium.

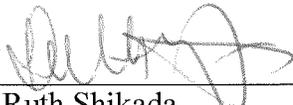
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ECONOMIC/FISCAL IMPACT:

This amendment increases the not-to-exceed amount for the agreement by \$100,000 for a total not-to-exceed amount of \$1,000,000. Funds are available in the Stadium Authority Contractual Services account.

RECOMMENDATION:

That the Authority approve and authorize the Executive Director to execute Amendment No 4. to the Professional Services Agreement with Keyser Marston Associates, Inc. for fiscal and economic analysis extending the term of the agreement to June 30, 2015 and increasing the total contract amount by \$100,000 for total not-to-exceed amount of \$1,000,000.



Ruth Shikada
Economic Development Officer/
Assistant City Manager

OKTC
Certified as to Availability of Funds:
875-1012-80770-4912 \$ 100,000.00



Gary Ameling
Director of Finance/Treasurer/Auditor
Assistant City Manager

APPROVED:



Julio J. Fuentes
Executive Director for
Stadium Authority

- Documents Related to this Report:***
1) *Amendment No. 4 to Professional Services Agreement between Stadium Authority and Keyser Marston Associates*

**AMENDMENT NO. 4
TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE SANTA CLARA STADIUM AUTHORITY
AND
KEYSER MARSTON ASSOCIATES, INC.**

PREAMBLE

This agreement ("Amendment No. 4") is made and entered into on this ____ day of June, 2014, ("Effective Date") by and between Keyser Marston Associates, Inc., a California corporation, with its principal place of business located at 160 Pacific Avenue, Ste. 204, San Francisco, CA 94111 ("Consultant"), and the Santa Clara Stadium Authority, a joint exercise of powers entity, created through Government Code sections 6500 *et seq.* ("Authority"), with its primary place of business located at 1500 Warburton Avenue, Santa Clara, CA 95050. Stadium Authority and Firm may be referred to herein individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A. The Parties previously entered into an agreement entitled "Agreement for the Performance of Services by and between the Santa Clara Stadium Authority and Keyser Marston Associates, Inc." dated July 5, 2011; Amendment No. 1 dated May 8, 2012; Amendment No. 2 dated April 9, 2013; and, Amendment No. 3 dated June 11, 2013 (collectively referred to as "Agreement"); and
- B. The Parties entered into the Agreement for the purpose of having Consultant provide fiscal, economic and land use analysis services, and the Parties now wish to amend the Agreement to extend the term of the Agreement and to increase the not-to-exceed amount of Nine Hundred Thousand Dollars (\$900,000.00) by One Hundred Thousand Dollars (\$100,000.00), bringing the total not-to-exceed amount to One Million Dollars (\$1,000,000.00).

AGREEMENT PROVISIONS

The Parties agree as follows:

1. AMENDMENT PROVISIONS

- a. That Section 2 of the Agreement, entitled "Term of Agreement" is hereby amended to read as follows:

"Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on June 30, 2015."

- b. That the paragraph entitled "Maximum Not to Exceed Contract Amount" of Exhibit B, entitled "Schedule of Fees" of the Agreement, is hereby amended to read as follows:

"In no event shall the amount billed to Stadium Authority by Consultant for services under this Agreement exceed One Million Dollars (\$1,000,000.00), subject to budget appropriations."

2. TERMS

All other terms of the Agreement which are not in conflict with the provisions of this Amendment No. 4 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 3, the provisions of this Amendment No. 4 shall control.

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The Parties acknowledge and accept the terms and conditions of this Amendment No. 4 as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Amendment No. 4 shall become operative on the Effective Date first set forth above.

SANTA CLARA STADIUM AUTHORITY,
a Joint Exercise of Powers Entity, created through Government Code sections 6500 *et seq.*

APPROVED AS TO FORM:



RICHARD E. NOSKY, JR.
Stadium Authority Counsel

ATTEST:

ROD DIRIDON, JR.
Secretary

JULIO J. FUENTES
Executive Director
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“STADIUM AUTHORITY”

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