



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 23, 2015

6:00 pm

Closed Session

Council Conference Room

Conference with Legal Counsel - Existing Litigation
Pursuant to Government Code Section 54956.9(d)(1)
*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. CONTINUANCE/EXCEPTIONS:**
- 3. 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.)
- 4. NEW BUSINESS:**
 - A.** Approval of a Law Enforcement Services Agreement with the City of Santa Clara and the City of Gilroy regarding Special Law Enforcement Units and

Police Officers for Super Bowl 50 related events and authorization to execute similar agreements in substantially the same form and content with other jurisdictions as necessary.

- B. Approval of an Agreement and Covenant Running with the Land with the City of Santa Clara and Forty Niners SC Stadium Company, LLC to retain and maintain bollards and decorative concrete along the Tasman Drive property frontage at 4900 Marie P. DeBartolo Way and authorization to record the Agreement (APN 104-43-055; SC 18,754).

5. 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.

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

- A. Reports regarding conference attendance, if any.

7. CLOSED SESSION MATTERS:

- A. Stadium Authority Counsel Reports:

8. ADJOURNMENT:

- A. To Tuesday evening, **July 7, 2015**, at 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

6-23-15

6:00pm
SA

CLOSED SESSION NOTICE

Santa Clara Stadium Authority



The **GOVERNING BOARD OF THE STADIUM AUTHORITY** will meet in closed session on **Tuesday, June 23, 2015, 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(d)(1)

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 19, 2015

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

RICHARD E. NOSKY, JR.
Stadium Authority Counsel

Meeting Date: 6.23.15

AGENDA REPORT

City of Santa Clara, California

Agenda Item # 12.C

4.A
5A



Date: June 23, 2015

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

From: City Attorney
General Counsel

Subject: Approval of a Law Enforcement Services Agreement with the City of Gilroy Regarding Special Law Enforcement Units and Police Officers for Super Bowl 50 Related Events

EXECUTIVE SUMMARY:

This Agreement with the City of Gilroy seeks to do two things: (1) clarify the types of special unit personnel and equipment that the City may seek to use for Super Bowl 50 related events and (2) provide that Gilroy Police Officers may be called up for game day and other Super Bowl 50 events to provide supportive law enforcement staffing.

The Agreement is very similar to those you approved last year involving the Sheriff's Office and the City of Sunnyvale. The Agreement permits the City to call for Gilroy personnel to assist, to pay negotiated pay and equipment rates for those officers, and to ensure that those officers remain Gilroy employees while providing law enforcement services. Mutual indemnification provisions are in place for potential incidents, injuries, and third party suits that may arise related to services provided. The only other agreement in place currently with Gilroy is for per diem officers; this Agreement is different in that Gilroy officers will be providing services as Gilroy Police Officers (home agency uniform and equipment), instead of working as Santa Clara reserve officers.

Other jurisdictions may desire to enter into a substantially similar agreement with the City and Stadium Authority so that additional police officers can be deployed for Super Bowl 50 events. To avoid repeated approvals for the same agreement, City staff asks that the Council and Stadium Authority authorize the City Manager/Executive Director to execute substantially similar agreements as necessary in the future.

A copy of the 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 Gilroy are more clearly set forth in the event of disputes or third party lawsuits.

ECONOMIC/FISCAL IMPACT:

Super Bowl 50 public safety costs are expected to be reimbursed by the Super Bowl Host Committee.

June 23, 2015

City Manager for Council Action/Executive Director for Stadium Authority Action

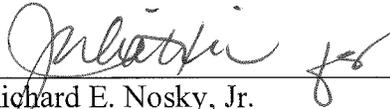
Subject: Approval of a Law Enforcement Services Agreement with the City of Gilroy Regarding Special Law Enforcement Units and Police Officers for Super Bowl 50 Related Events

Page 2

RECOMMENDATION:

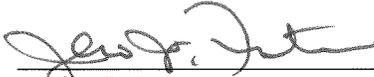
That the Council and Stadium Authority:

- approve and authorize the City Manager/Executive Director to execute the Law Enforcement Services Agreement by and between the City, Stadium Authority, and City of Gilroy; and,
- authorize the City Manager/Executive Director to execute similar agreements in substantially the same form and content with other jurisdictions as necessary.



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

APPROVED:



Julio J. Fuentes
City Manager/Executive Director

Documents Related to this Report:

1. Law Enforcement Services Agreement

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LAW ENFORCEMENT SERVICES AGREEMENT
by and between the
SANTA CLARA STADIUM AUTHORITY, THE CITY OF SANTA CLARA,
and
The City Of Gilroy, Police Department

PREAMBLE

This agreement for the performance of municipal law enforcement services ("Agreement") is made and entered into on this 23rd day of April, 2015, ("Effective Date") by and between City of Gilroy, Police Department ("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 certain additional, supplemental law enforcement functions described herein specifically for Super Bowl 50, scheduled to be held at Stadium on February 7, 2016.
- B. Agency is agreeable to rendering such additional, supplemental 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 supplemental law enforcement services, and Agency agrees to provide additional supplemental law enforcement services, in connection with Super Bowl 50 at and around the 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 Super Bowl 50 events taking place at the Stadium site and surrounding areas, as those areas are determined by the National Football League and/or City and/or Authority, 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 Super Bowl 50 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 encompass only those 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.
- C. For special detail officers, the request for Super Bowl 50 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 and if Agency is able to provide such 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 and paid for by Authority in accordance with Section 4 below 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 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 for a particular event, the Parties agree that the Santa Clara Chief of Police shall have final and conclusive determination of levels of service 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. 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.
- B. 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.
- C. For supplemental law enforcement services, equipment, supplies or personnel provided by Agency pursuant to this Agreement that are not listed on Exhibit A, Authority agrees to pay Agency for such services, equipment, supplies or personnel on a cost-recovery basis.

4. PAYMENT PROCEDURES.

- A. Agency shall submit a summarized invoice which covers all services performed during the term of this Agreement, to the Authority and the Authority shall pay Agency for all undisputed amounts within thirty (30) days after date of said invoice.

- B. 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.

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. This Agreement shall be effective as of the date indicated on the first page so that the Parties can undertake planning for all Super Bowl 50 related events. The law enforcement services provided by Agency shall begin on August 1, 2015 and shall terminate February 28, 2016, unless terminated sooner or extended in whole or in part as provided for herein. This Agreement shall terminate on March 31, 2016.

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:

Gilroy Police Department

7301 Hanna St

Gilroy Ca. 95020

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.

15. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties.

[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”

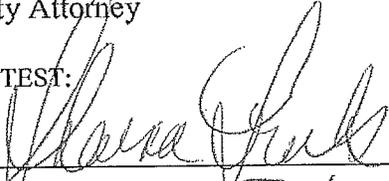
CITY OF GILROY, POLICE DEPARTMENT

APPROVED AS TO FORM:

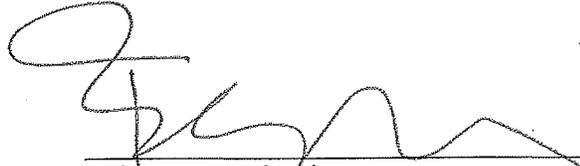


Atty City Attorney

ATTEST:



City Clerk, *Shawna Freels*



Thomas Haglund
City Administrator
City Of Gilroy

"AGENCY"

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MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT
by and between the
SANTA CLARA STADIUM AUTHORITY, THE CITY OF SANTA CLARA,
and
The City of Gilroy, Police Department

EXHIBIT A

The rates listed below are effective as of April 23, 2015:

The rates listed below are the maximum hourly rate and include workers compensation. This is a rate for a top step person in the respective classification. Not all employees are at top step and eligible for this maximum compensation:

<u>Classification</u>	<u>Current Rate</u>	<u>Rate effective July 1, 2015</u>
Multi Services Officer (jailer)	\$76.91	\$78.40
Police Officer	\$88.23	\$89.94
Police Corporal	\$94.45	\$96.28
Police Sergeant	\$104.71	\$106.73
Police Captain	\$121.33	\$123.68
Police Chief	\$135.00	\$137.61

Administrative overhead will be the amount of time taken to process the payroll and billing. This will be completed by the Chiefs secretary. The amount of time will not exceed 8 hours of time per payroll cycle. Payroll cycles are once per month.

Administrative Secretary	\$32.03	\$32.67
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Meeting Date: 6-23-15

AGENDA REPORT

City of Santa Clara, California

Agenda Item # 12E 4B
SA



Date: June 23, 2015

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

From: Director of Public Works / City Engineer

Subject: Approval of an Agreement and Covenant Running with the Land with Santa Clara Stadium Authority and Forty Niners SC Stadium Company, LLC, to retain and maintain bollards and decorative concrete along the Tasman Drive property frontage at 4900 Marie P. DeBartolo Way (APN 104-43-055; SC 18,754)

EXECUTIVE SUMMARY:

In compliance with City Resolution No. 3899 (policy regarding installation of private improvements in the public right-of-way), Santa Clara Stadium Authority (Stadium Authority) and Forty Niners SC Stadium Company, LLC (Lessee), are requesting to retain and maintain bollards and decorative concrete along the Tasman Drive property frontage at 4900 Marie P. DeBartolo Way. Lessee agreed to remove said private improvement at their sole cost and expense within sixty (60) days of the date of a written demand from City.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

Approval of the encroachment will allow Lessee to retain and maintain said improvements within the public right-of-way while relieving the City of associated liability.

ECONOMIC/FISCAL IMPACT:

There is no additional cost to the City other than staff time and expense.

City Manager for Council Action

Executive Director for Stadium Authority for Action

Subject: Approval of an Agreement and Covenant Running with the Land with Santa Clara Stadium Authority and Forty Niners SC Stadium Company, LLC, to retain and maintain bollards and decorative concrete along the Tasman Drive property frontage at 4900 Marie P. DeBartolo Way (APN 104-43-055; SC 18,754)

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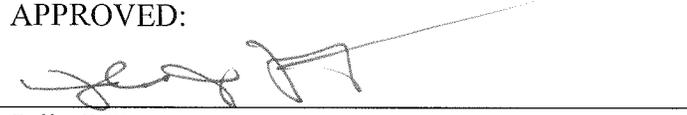
RECOMMENDATION:

That the Council and the Stadium Authority:

1. Approve and authorize the City Manager/Executive Director to execute the Agreement and Covenant Running with the Land with Santa Clara Stadium Authority and Forty Niners SC Stadium Company, LLC, to retain and maintain bollards and decorative concrete along the Tasman Drive property frontage at 4900 Marie P. DeBartolo Way (APN 104-43-055; SC 18,754); and
2. Authorize the recordation of said Agreement.


Rajeev Batra
Director of Public Works / City Engineer

APPROVED:


Julio J. Fuentes
City Manager

Documents Related to this Report:
1) Agreement

**RECORD WITHOUT FEE
PURSUANT TO GOV'T CODE § 6103**

Recording Requested by:
Office of the City Attorney
City of Santa Clara, California

When Recorded, Mail to:
Office of the City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Form per Gov't Code § 27361.6

[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

**AGREEMENT AND COVENANT RUNNING WITH THE LAND
TO MAINTAIN BOLLARDS AND DECORATIVE CONCRETE
IN PUBLIC RIGHT-OF-WAY**

[Restriction on 4900 Marie P. DeBartolo Way, Santa Clara, CA]

This Agreement and Covenant Running with the Land ("Covenant") is made and entered into on this ____ day of _____, 2015 ("Effective Date"), by and between Forty Niners SC Stadium Company, LLC, a Delaware limited liability company ("Lessee"), Santa Clara Stadium Authority, a joint exercise of powers entity, created through Government Code Sections 6500 *et seq.* ("Stadium Authority"), and the City of Santa Clara, California, a chartered California municipal corporation ("City").

RECITALS

- a. WHEREAS, Lessee is leasing from the Stadium Authority the stadium and related Property improvements located on the real property commonly known as 4900 Marie P. DeBartolo Way in the City of Santa Clara, California, and is shown on the 2014-15 Santa Clara County Property Tax Roll as Assessor's Parcel No. 104-43-055 ("Property"). Property is also known as Lot 1 as shown on that Tract No.10118 filed for record in Book 851 of Maps, at Pages 29-34, Santa Clara County Records.
- b. WHEREAS, Stadium Authority is owner of the stadium and related Property improvements.
- c. WHEREAS, City is the owner of the Property and Tasman Drive, a public right-of-way.
- d. WHEREAS, Lessee wishes to install bollards within said public right-of-way.
- e. WHEREFORE, the Parties enter into the following Covenant:

COVENANT

1. Lessee proposes to install and City agrees to permit certain private improvements ("Improvements") in the street right-of-way described and limited to the following:

6-inch diameter by 36 inches high with baseplate bollards and decorative concrete. The area of encroachment is shown on Exhibit "A", attached hereto and incorporated herein by this reference.

Bollards shall be a minimum 4' clear from all fire hydrants, and position of bollards to provide 5' clear at ADA (Americans with Disabilities Act) pathways. Lessee shall provide 3 removable bollards for maintenance access at Traffic Signal poles.

2. Lessee shall maintain, at Lessee's expense, Improvements in a safe condition in compliance with City ordinances, rules, regulations, and such terms and conditions as all of the aforesaid are required by City from time to time. City approval of Improvements does not constitute approval on behalf of public utility companies. Approval of public utility companies shall be obtained separately by Lessee. If, in the future, Improvements are removed, the area they are removed from shall be left in a safe condition. Removal shall be at Lessee's expense and performed under an Encroachment Permit issued by City. Upon removal of Improvements, confirmation by City that the site has been returned to its original or better condition, and payment of applicable processing fee, City shall release Lessee's obligations under this Covenant by recording a Release of Interest at the County of Santa Clara Recorder's Office.
3. Lessee shall permit public utility companies, the City, and their respective officers, employees, and agents to enter upon Property so that there is access to the street right-of-way for the purpose of installation, modification, repair, maintenance, removal or replacement of utility companies and City owned public improvements, facilities or properties situated in the street right-of-way. Lessee waives any and all claims for damages or liabilities in connection therewith for property damages incurred as a result of City operations.
4. Lessee shall pay City for any damages to City owned facilities caused by the construction or maintenance done by Lessee in the street right-of-way. Payment to City shall be made within sixty (60) calendar days of said demand.
5. Lessee shall modify, maintain, repair, or remove within sixty (60) days of a written demand of the City Engineer (or designee) at no cost to the City, Improvements (or portion thereof) which prohibits or interferes with the City's ability to maintain, repair, or replace its public facilities located in the street right-of-way. If Lessee fails to modify, maintain, repair, or remove Improvements (or portion thereof) within the time frame stated in the written demand of City, City shall cause the work to be done and bill Lessee for any and all costs, fees, and expenses related to said work. Payment to City shall be made within sixty (60) calendar days of said demand for payment.
6. If Lessee fails to pay City for damage to City facilities or for City caused work the Lessee failed to perform upon City demand, City may enforce this Covenant in any manner allowed by law.
7. Lessee shall defend, indemnify and hold harmless the City, its council, officers, employees, agents, successors and assign from any claims, demands, loss, liability, injury, damage, expense or cost (including reasonable attorney's fees) however same may be caused, which may be sustained, incurred, or asserted against City because of and/or arising from this Agreement, including but not limited to claims for design defect and/or dangerous condition of public

property. Provided, however, that in no event shall Lessee's obligations in this Section apply to any such claims, demands, losses, liabilities, injuries, damages, expenses, or costs to the extent arising out of City's sole negligence or willful misconduct.

8. As used herein, street right-of-way includes not only the roadway traveled by vehicles but the curb and gutter, sidewalk and area between and beyond the sidewalk, if any, to the private property lines or exterior line of right-of-way easements.
9. Each and every covenant made by Lessee and/or City in this Covenant is made for the direct benefit of the respective lands described above or the interests in such lands held by the Parties, their heirs, assigns and/or successors in interest, and shall run with said respective lands or interest in lands, and if applicable, the responsibilities and burdens thereof are imposed on and shall run with said respective lands or interest in lands held by the Parties, their heirs, assigns and successors in interest.
10. The lands of the City which are burdened by this Covenant and which will have the responsibility and burden as specified in this Covenant for the modification, maintenance, repair, or removal of the Improvements is the above mentioned Property.
11. The lands of the City which are benefited by the covenants included in this Covenant is Tasman Drive, a public street owned by the City.
12. Enforcement, either to restrain violation or to recover damages, shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant created through this Agreement.
13. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.
14. Lessee represents and warrants to City that it is the Lessee of the stadium and related Property improvements at the time of their signature hereto, and has the authority to enter into this Covenant and the covenants contained herein, and grant such interests as are necessary to effectuate this Covenant.
15. Wherever the term "Lessee" is used, it shall refer collectively to the Lessee signing this Covenant, and/or Lessee's assigns and successors in interest. City and Lessee may be referred to herein collectively as the "Parties" or individually as a "Party". It is the express intent of the Parties hereto to have the benefits and burdens of this Covenant run with the land.

[The last paragraph, Paragraph 16, concerning recordation of this Covenant, and the signature blocks are on pages 4 and 5]

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16. This Covenant shall be recorded by City in the Office of the County Recorder of Santa Clara County.

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

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

APPROVED AS TO FORM:

RICHARD E. NOSKY, JR.
City Attorney

JULIO J. FUENTES
City Manager

ATTEST:

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax Number: (408) 241-6771

ROD DIRIDON, JR.
City Clerk

“City”

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**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.
Authority General Counsel

JULIO J. FUENTES
Executive Director

ATTEST:

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax Number: (408) 241-6771

ROD DIRIDON, JR.
Authority Secretary

"Stadium Authority"

**FORTY NINERS SC STADIUM COMPANY, LLC,
a Delaware limited liability company**

By: 

Print Name: Cipora Herman

Title: Chief Financial Officer

4949 Marie P. DeBartolo Way
Santa Clara, CA 95054
Telephone: (408) 562-4949
Fax Number: (408) 727-4937

"Lessee"

ALL LEGAL OWNER(S) OF PROPERTY MUST SIGN THIS DOCUMENT. IF OWNER(S) IS A CORPORATION, THE COMPLETE LEGAL NAME AND CORPORATE SEAL OF THE CORPORATION AND CORPORATE TITLES OF THE PERSONS SIGNING FOR THE CORPORATION SHALL APPEAR ABOVE. WRITTEN EVIDENCE OF AUTHORITY OF PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF CORPORATION, PARTNERSHIP, OR JOINT VENTURE, OR ANY OTHER ORGANIZATION OTHER THAN A SOLE PROPRIETORSHIP SHALL BE ATTACHED.

ATTACH THE ALL-PURPOSE NOTARY ACKNOWLEDGMENT FORM FOR THE PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF THE OWNER(S).

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)
On June 12, 2015 before me, Hannah Gordon,
Date Here Insert Name and Title of the Officer
personally appeared Cipara Herman
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Agreement & Covenant Runway Document Date: 6/12/15
Number of Pages: 5 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Cipara Herman
 Corporate Officer — Title(s): CEO
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: Forty Nines SC Stadium Company LLC

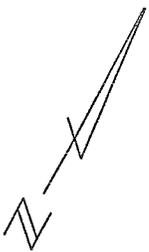
Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

EXHIBIT "A"

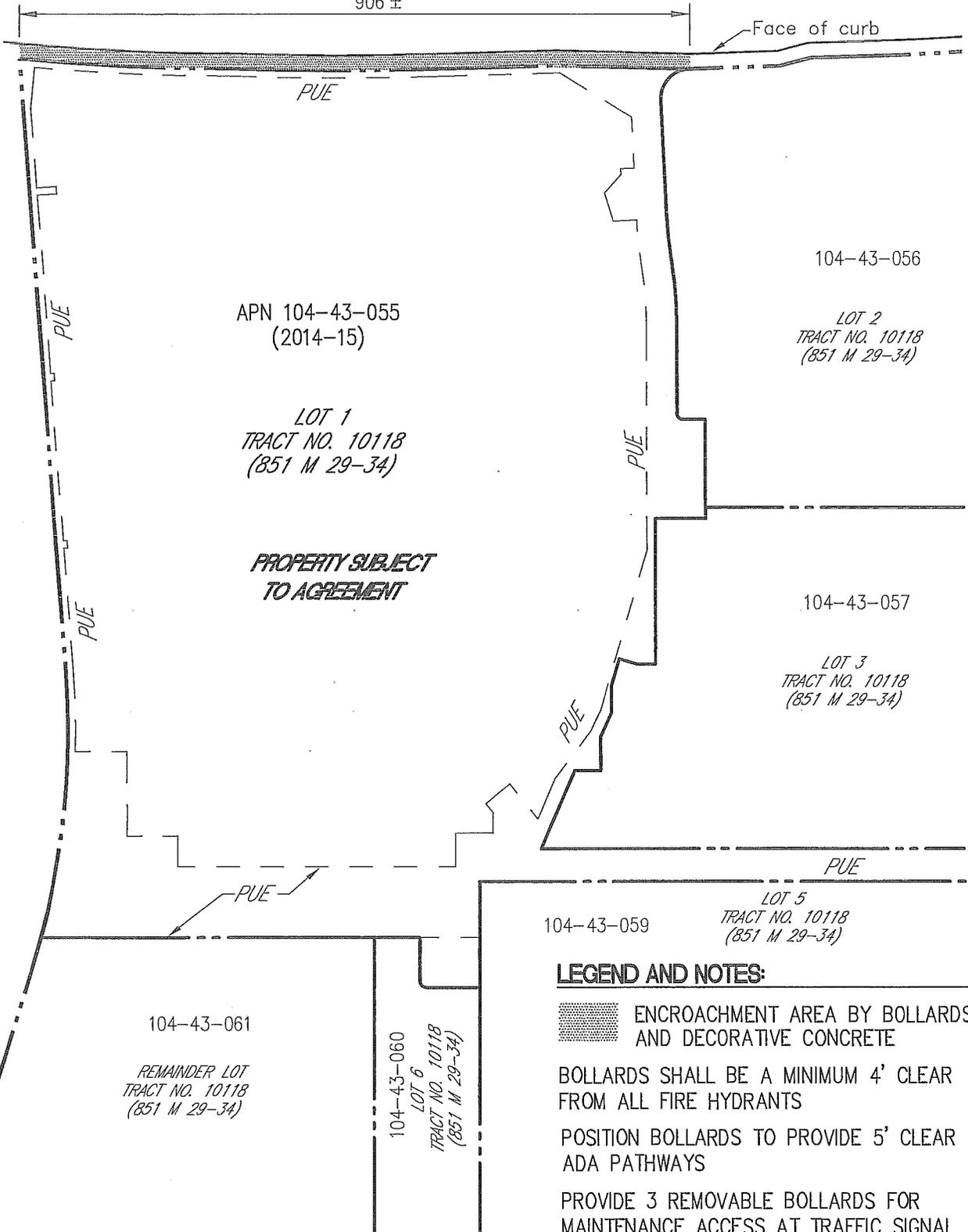
TASMAN DR.

906'±

Face of curb



SAN TOMAS AQUINO CREEK



APN 104-43-055
(2014-15)

LOT 1
TRACT NO. 10118
(851 M 29-34)

PROPERTY SUBJECT
TO AGREEMENT

104-43-056

LOT 2
TRACT NO. 10118
(851 M 29-34)

104-43-057

LOT 3
TRACT NO. 10118
(851 M 29-34)

104-43-059

LOT 5
TRACT NO. 10118
(851 M 29-34)

104-43-061

REMAINDER LOT
TRACT NO. 10118
(851 M 29-34)

104-43-060
LOT 6
TRACT NO. 10118
(851 M 29-34)

LEGEND AND NOTES:



ENCROACHMENT AREA BY BOLLARDS
AND DECORATIVE CONCRETE

BOLLARDS SHALL BE A MINIMUM 4' CLEAR
FROM ALL FIRE HYDRANTS

POSITION BOLLARDS TO PROVIDE 5' CLEAR
ADA PATHWAYS

PROVIDE 3 REMOVABLE BOLLARDS FOR
MAINTENANCE ACCESS AT TRAFFIC SIGNAL
POLES

K:\... \AUTOCAD\LPD\HUNG\SC18754-ROW ENC BY BOLLARDS STADIUM.DWG

Revised		05-26-2015
Drawn By	HL	05-19-2015
Checked By	R Santos	05-26-15
Approved By	G. Gomez	5-26-2015
RAJEEV BATRA		
DIRECTOR OF PUBLIC WORKS \ CITY ENGINEER		

CITY OF SANTA CLARA
AGREEMENT AND COVENANT RUNNING WITH THE LAND
TO MAINTAIN BOLLARDS AND DECORATIVE CONCRETE
IN PUBLIC RIGHT-OF-WAY
 4900 MARIE P. DEBARTOLO WAY

Scale	NTS
Ref.	SC 18,754
Tracing No.	12,074-A

12,054-A