

RESOLUTION NO. 18-8642

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY INTERESTS AT 5105 GREAT AMERICA PARKWAY, SANTA CLARA, CALIFORNIA FROM IA LODGING SANTA CLARA, LLC FOR A PUBLIC PROJECT AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS

(RECREATIONAL FACILITIES AGREEMENT)

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, it is desirable and necessary for the City of Santa Clara, a chartered city and municipal corporation (hereinafter the "City") to acquire certain real property interests necessary for the relocation of Stars & Stripe Drive and development of Avenues A, B and C (the "Project"), as depicted in Exhibit A. The land upon which these streets will be built (as more particularly described in Exhibit B) is encumbered by a Recreational Facilities Agreement, dated April 30, 1985, between the City's predecessor in interest, the Sports and Open Space Authority of the City of Santa Clara, and SCCC Associates, the predecessor in interest of IA Lodging Santa Clara, LLC ("IA Lodging"), which Recreation Facilities Agreement was recorded in in the Official Records of the County of Santa Clara (the "Official Records") on May 16, 1985, as Instrument No. 8411277 in Book 1348, Page 1, as amended by that certain First Amendment to Recreation Facilities Agreement, dated November 24, 1987 recorded in the Official Records on December 2, 1987 in Book K377, Page 638 and as further amended by that certain Second Amendment to Recreation Facilities Agreement dated March 17, 1998 recorded in the Official Records on April 21, 1998, as Instrument No. 14150277 and as further amended by that certain First Supplement to Recreation Facilities Agreement, recorded in the Official Records on February 16, 2001 as Instrument No. 15563487 (collectively, and as amended, the "RFA");

WHEREAS, The RFA is an appurtenance to that certain Hotel Ground Lease made by and between the Redevelopment Agency of the City of Santa Clara and IA Lodging's predecessor in interest, SCCC Associates, a California general partnership, dated April 30, 1985, as amended and assigned, a memorandum of which was recorded in the Official Records on May 16, 1985, in Book J348, page 42 (as amended, supplemented and assigned, the "Hotel Ground Lease") pertaining to that certain parcel of land and improvements thereon, located at 5105 Great America Parkway (APN: 104-55-012) and all appurtenances thereto;

WHEREAS, The RFA provided for the construction, maintenance and operation of an 18-hole golf course, a golf clubhouse, and six (6) tennis courts, two of which were constructed at the cost and expense of other than the Hotel Lessee (as defined in the Hotel Ground Lease), and related facilities and amenities including, appropriate parking and landscaping on the lands described in Exhibit B attached hereto and incorporated herein by this reference;

WHEREAS, the City is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19 of the Constitution of the State of California, Sections 37350.5, 37353 and 40404 of the California Government Code, and Sections 1240.010 and 1240.220 of the California Code of Civil Procedure;

WHEREAS, pursuant to the provisions of Section 1245.235 of the California Code of Civil Procedure, notice has been duly given to IA Lodging Santa Clara, LLC ("IA Lodging"), whose property interests under the RFA (the "Subject Property Interests") are to be acquired by eminent domain and whose name and address appears on the Santa Clara County Equalized Assessment Roll, and the property owner has been given a reasonable opportunity to appear and be heard before the City Council;

WHEREAS, on June 28, 2016, by Resolution No. 16-8337, the City Council certified the Final Environmental Impact Report (EIR) for the CityPlace Santa Clara project (SCH#2014072078) in accordance with CEQA. The EIR analyzed the environmental and transportation impacts of the CityPlace Santa Clara project and determined the need to construct a series of both new improvements and enhancements to existing public right-of-way to mitigate the anticipated impacts of traffic and circulation of the Project. No further environmental review is necessary pursuant to CEQA; and,

WHEREAS, pursuant to the provisions of Section 7267.2 of the California Government Code, the City has made an offer to the owner(s) of record to acquire its interests under the RFA for the amount which it has established to be just compensation therefore.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That the public interest and necessity require the Project.
2. That the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. That the property sought to be acquired is necessary for the Project.
4. That all environmental review required by law has been prepared and adopted.
5. That the offer required by Section 7267.2 of the California Government Code has been made to the owner(s) of record of the Subject Property Interests.
6. That the City Attorney or his duly authorized designee is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such actions as he may deem advisable or necessary in connection therewith.

7. That the City may deposit with the State Treasury the probable amount of compensation and obtain an order for prejudgment possession of the Subject Property Interests.

8. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 11th DAY OF DECEMBER, 2018, BY THE FOLLOWING VOTE:

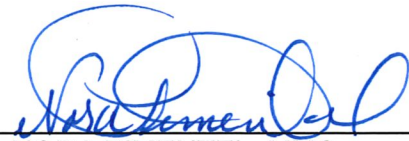
AYES: COUNCILORS: Chahal, Davis, Hardy, O'Neill, and Watanabe, and Mayor Gillmor

NOES: COUNCILORS: None

ABSENT: COUNCILORS: Mahan

ABSTAINED: COUNCILORS: None

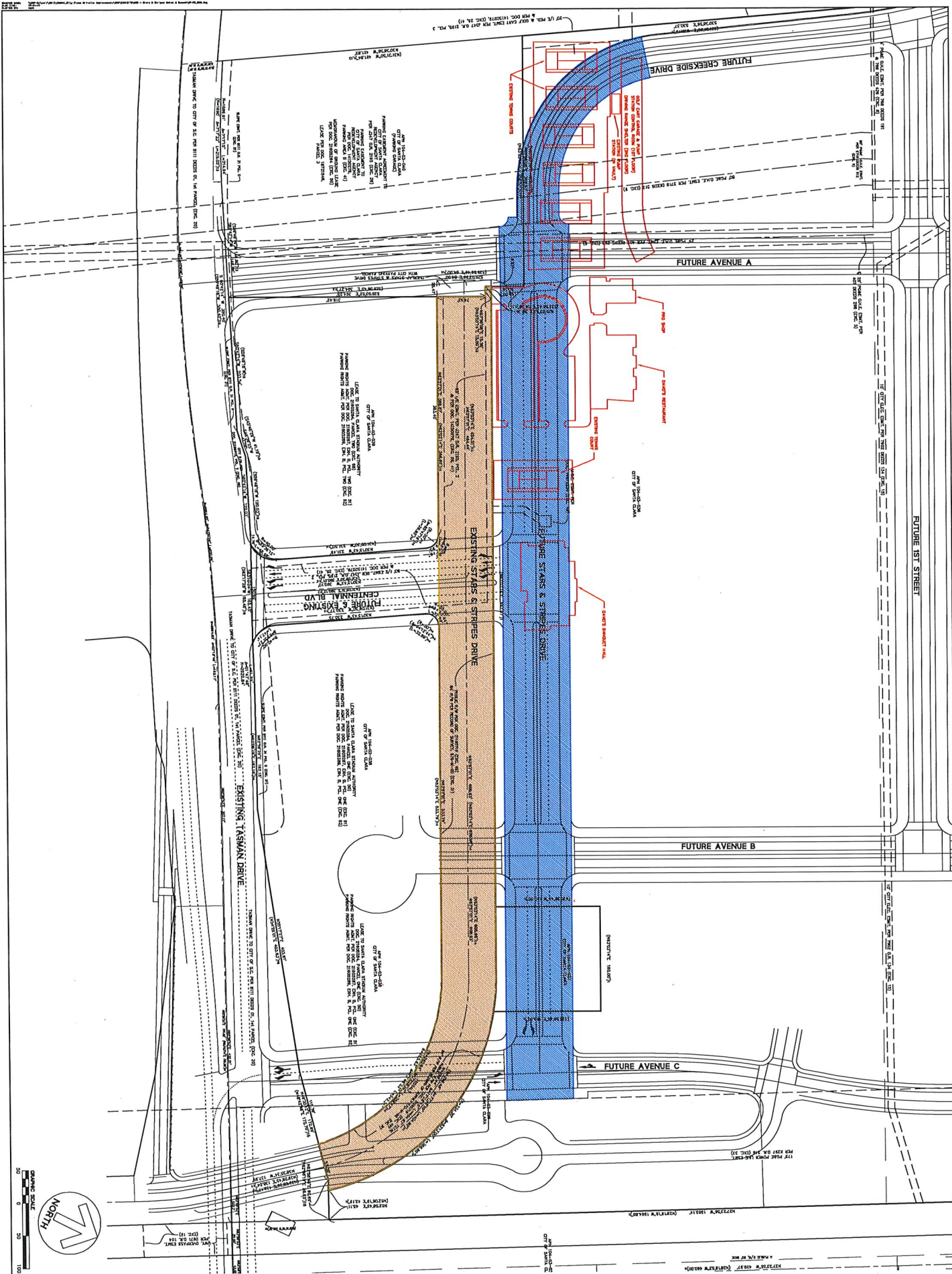
ATTEST: _____



NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Exhibits incorporated by reference:

- A. Stars & Stripes
- B. Legal Description



**CITY PLACE SANTA CLARA
RIGHT OF WAY EXHIBIT**

CITY OF SANTA CLARA

SANTA CLARA COUNTY

EXHIBIT "A"

CALIFORNIA



1730 N. FIRST STREET
SUITE 600
SAN JOSE, CA 95112
TEL: 408.467.9100
FAX: 408.467.9199

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Revisions	Revised By	Revised Date
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EXHIBIT B

Those certain rights contained in "Recreation Facilities Agreement" recorded May 16, 1985 in Book J348 at Page 1 as Instrument No. 8411277 of Official Records, and Amendments thereto recorded December 2, 1987 in Book K377 at Page 638; April 21, 1998 as Instrument No. 14150277; and February 16, 2001 as Instrument No. 15563487 of Official Records, in and to the following described land.

PARCEL A:

Beginning at a point in the Easterly line of Lafayette Street (90 feet in width), said point being the most Easterly point in the boundary of that parcel of real property conveyed from Santa Clara Reclamation Corporation to the City of Santa Clara by that Grant Deed recorded in Book 9246 of Official Records at Page 588, Santa Clara County Records;

Thence, from said point of beginning along the Easterly line of said parcel and of Lafayette Street, North 28° 17' 01" West, 151.57 feet;

Thence, North 73° 25' 05" East, 107.04 feet;
Thence, North 87° 56' 26" East, 243.06 feet;
Thence, North 51° 15' 04" East, 358.39 feet;
Thence, North 65° 28' 16" East, 332.04 feet;
Thence, North 49° 16' 19" East, 206.66 feet;
Thence, North 08° 11' 12" West, 257.39 feet;

Thence, North 59° 03' 09" East, 200.10 feet to a point in the Westerly boundary line of Parcel 1 of that real property conveyed to the Santa Clara County Flood Control and Water District by that Grant Deed filed for record April 26, 1973 in Book 0346 of Official Records at Page 667, said county records;

Thence, along said boundary line of Parcel 1, South 35° 35' 43" East, 2011.53 feet, more or less, to a point in the Southerly boundary line of Parcel 2 of that real property conveyed to the Santa Clara Reclamation Corporation by that Grant Deed filed for record October 19, 190 in Book 9092 of Official Records at Page 80, said county records;

Thence, along said Southerly boundary line the following Four (4) courses,
North 84° 12' 19" West, 48.71 feet;
South 23° 54' 49" East, 7.41 feet;
North 85° 16' 49" West, 139.94 feet;
South 67° 43' 11" West, 1603.27 feet to the point of beginning.

PARCEL B:

Beginning at the point of intersection of the Westerly line of Southern Pacific Railroad right-of-way (50 feet wide) with the Northerly line of Tasman Drive as shown on that certain Record of Survey filed in the Office of the County Recorder, Santa Clara County, California, in Book 345 of Maps at Pages 1 through 8 therein;

Thence, along said Westerly line of the Southern Pacific Railroad right-of-way, North 28° 16' 16" West, 1984.85 feet to the point of intersection with the Northerly line of that certain parcel of land conveyed to Santa Clara

Municipal Refuse Disposal Corporation by deed recorded in Book 6644 of Official Records at Page 143, Santa Clara County Records;

Thence, along last said Northerly line, South $69^{\circ} 56' 26''$ West, 2,240.54 feet; more or less, to the point of intersection with the Easterly line of Great America Parkway (125 feet wide) as shown on said record of survey;

thence, along said Easterly line of Great America Parkway, South $1^{\circ} 05' 37''$ West, 340.91 feet, more or less, to the point of intersection with the Northeasterly line of San Tomas Aquino Channel (230 feet wide) as described in the deed to Santa Clara County Water District recorded in Book B498 of Official records at Page 28, Santa Clara County Records;

Thence, along said Northeasterly line, South $57^{\circ} 47' 44''$ East, 950.15 feet to the point of tangency with a curve, concave to the Southwest, having a radius of 686.10 feet;

Thence, continuing along said Northeasterly line of said curve, through a central angel of $26^{\circ} 15' 54''$, and an arc length of 314.52 feet; Thence, continuing along said Northeasterly line, tangent to said curve, South $31^{\circ} 31' 50''$ East, 530.26 feet;

Thence leaving said Northeasterly line, North $63^{\circ} 02' 12''$ East, 364.67 feet;

Thence, South $31^{\circ} 59' 37''$ East, 50.51 feet;
Thence, North $63^{\circ} 03' 14''$ East 949.21 feet;
Thence, North $26^{\circ} 56' 46''$ West, 136.86 feet;
Thence, North $65^{\circ} 32' 14''$ East, 12.86 feet;

Thence, from a tangent bearing of North $17^{\circ} 30' 36''$ East, along the arc of a curve to the right, having a radius of 63.63 feet, through a central angle of $45^{\circ} 33' 56''$, and an arc length of 50.60 feet;

Thence, North $63^{\circ} 02' 37''$ East, 106.78 feet; Thence, South $27^{\circ} 14' 09''$ East, 158.88 feet;

Thence, from a tangent bearing of North $71^{\circ} 20' 34''$ East, along the arc of curve to the right, having a radius of 334.30 feet, through a central angle of $69^{\circ} 06' 04''$, and an arc length of 403.18 feet to a point in said Northerly line of Tasman Drive;

Thence, along last said Northerly line North $62^{\circ} 06' 19''$ East, 43.82 feet to the point of beginning.