



## Legislation Details (With Text)

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**Title:** Action on Resolution of Necessity to Acquire Recreation Facilities Rights from Leasehold Located 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

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. September 20, 2018 Offer Letter, 2. Resolution, 3. POST MEETING MATERIAL, 4. Resolution No. 18-8642

Date	Ver.	Action By	Action	Result
12/11/2018	1	Council and Authorities Concurrent Meeting	Approved	Pass
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## REPORT TO COUNCIL

### SUBJECT

Action on Resolution of Necessity to Acquire Recreation Facilities Rights from Leasehold Located 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

### BACKGROUND

On June 28, 2016, Council approved a series of actions related to the CityPlace Santa Clara project including but not limited to certifying the CityPlace Santa Clara Environmental Impact Report [SCH#2014072078]; approval of the Mitigation Monitoring and Reporting Program (MMRP); approval of a General Plan Amendment and Rezoning of the project site [PLN2014-10554]; approval of a Disposition and Development Agreement (DDA) and approval of a Development Agreement.

CityPlace Santa Clara is a phased development of approximately 240 acres on City-owned land that includes a new urban center with a retail, hotel and entertainment district, office development and residential uses located in close proximity to Levi's Stadium and the City's Convention Center north of Tasman Drive. The 240-acre project site (Site) is comprised of what is currently being used at the Santa Clara Golf & Tennis Center; David's Banquet Facility; Fire Station #10; Parks Maintenance facility; PAL BMX and vacant land. As approved, the project would include the construction of medium- and high-rise buildings up to 17 stories in height and with a maximum of 9.16 million gross square feet of overall floor area for all uses, excluding the floor area of associated parking structures.

The Site's location provides a unique opportunity to concentrate development where transit resources can be a significant alternative to auto-oriented access common to development across

most of Silicon Valley, with both light and heavy rail access immediately adjacent to the site, as well as multiple bus lines. This development specifically, and Silicon Valley generally, still must accommodate the demand for automobile access in light of the suburban character of the region. The Site is suitably accessible as it is readily served by various major local roadways, three expressways, and three State highways in close proximity, presenting little to no need for intrusion into local residential areas. However, since the Site's current predominant use is a golf course, there are limited public roadways through the project Site that would allow for the increased traffic allowing for auto, bicycle, and pedestrian circulation to access the transit centers and other existing public roadway arterials.

The Great America Station, immediately adjacent to the Site, currently services ACE and Capitol Corridor heavy rail. To accommodate commuters, more than a dozen shuttle buses service the Station daily during the am/pm peak commute times. As currently contemplated, the CityPlace project will fund certain improvements to the existing Great America Station that will enhance the commuter experience and transit bus access. In addition, City and VTA staffs will work together on a study for the longer term vision of the Great America Station, analyzing how the station may accommodate additional transit ridership, especially heavy rail and bus.

To provide increased and improved circulation through the CityPlace project and access to/from the Great America Station for regional transit ridership, roadway improvements are required. As approved by the Council through its project entitlements, the CityPlace zoning (through the Master Community Plan) and accompanying Infrastructure Master Plan depict the relocation of Stars and Stripes Drive to approximately 100 feet north of its current alignment and the development of Avenues A, B, and C as well as a network of public roads through the Site. The corresponding EIR studies the circulation network through the project Site and more specifically the proposed location of Stars and Stripes and Avenues A, B, and C.

In addition to the realignment and construction of roadways on a horizontal basis, the elevation of the new Stars and Stripes roadway is at an elevation approximately 15 feet higher than the existing elevation in order to install the necessary public infrastructure to accommodate the development including but not limited to public utilities and landfill-related systems. The development of public infrastructure (roadways and other public utilities) and the horizontal and vertical relocation of Stars and Stripes Drive necessitate the termination of the Recreation Facilities Agreement with IA Lodging Santa Clara.

### ***IA Lodging Santa Clara and the Recreation Facilities Agreement***

On May 16, 1985, the Santa Clara Redevelopment Agency entered into a series of agreements (including but not limited to a Ground Lease) with SCCC Associates that allowed for the development of a convention center hotel, now operated as the Hyatt Regency located at 5105 Great America Parkway. As a companion document to the Ground Lease, the Sports and Open Space Authority of the City of Santa Clara also entered into Recreation Facilities Agreement (RFA) with SCCC Associates addressing the construction, maintenance and operation of an 18-hole golf course, a golf clubhouse, and six (6) tennis courts and related facilities and amenities. Funds from SCCC Associates helped construct four of the six tennis courts. Over time, the rights of SCCC Associates related to the hotel Ground Lease, RFA and associated documents have been assigned to IA Lodging Santa Clara as SCCC Associates' successor in interest.

The RFA provides certain operational rights to use the Santa Clara Golf and Tennis facility including the right to use the tennis courts, rights to reserve tee times on the golf course, and the ability to bill

fees as hotel room charges for the benefit of hotel patrons. In order to build the public roads for the CityPlace Santa Clara project, the RFA must be terminated because the roads will necessitate closure of the golf course, clubhouse and tennis courts. Prior to the start of construction on the CityPlace project, adequate public rights-of-way must be constructed in order to allow for uninterrupted access to the Santa Clara Station, Youth Soccer Park, Levi's Stadium Loading Dock and SVP Northern Receiving Station.

Over the past several years, the City has had several general discussions with IA Lodging (Hotel Lessee) about the potential need to acquire RFA interests to allow for the relocation of Stars and Stripes and the construction of other public improvements. On September 20, 2018, the City made an offer to acquire the RFA in accordance with the requirements of Section 7267.2 of the Government Code (Attachment 1). The offer of \$306,000 represented the value of the Hotel Lessee's interest as determined by an independent state licensed and certified appraiser.

Since the September 20, offer was made to the Hotel Lessee, the City and Hotel Lessee representatives have had discussions about the parties' respective interests. However, the City and Hotel Lessee have not agreed on the terms of the acquisition of the Hotel Lessee's interest and termination of the RFA.

In a letter dated November 21, 2018, the Hotel Lessee was advised of the City's intention to consider adoption of a Resolution of Necessity to Condemn Interest in Real Property for the relocation of Stars & Stripes Drive and the development of Avenues A, B, and C in accordance with Section 1245.235 of the California Code of Civil Procedure at the December 11, 2018 Council meeting.

## **DISCUSSION**

The adoption of a Resolution of Necessity (Attachment 2) requires the City to consider and make the following findings:

- The public interest and necessity require the project
- The project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury
- The property sought to be acquired is necessary for the project
- The offer required by Section 7267.2 of the Government Code has been made to the Owner of record for the full amount established as the fair market value of the property

### ***The public interest and necessity require the project***

The CityPlace Santa Clara EIR analyzed the circulation and traffic improvement necessary to accommodate the project. In order to accommodate the anticipated traffic and increased access to Great America Station to accommodate transit growth, the realignment of Stars and Stripes, the development of Avenues A, B, and C, and other public improvements are necessary. Such relocation of Stars and Stripes is required by the Master Community Plan (the zoning) and associated Infrastructure Master Plan. In order to allow for the development of the necessary public right-of-way, the acquisition and termination of the Hotel Lessee's interest in the Recreation Facilities Agreement is necessary.

### ***The project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury***

The realignment of Stars and Stripes and the development of Avenues A, B, and C will provide

required public right-of-way circulation for the benefit of the CityPlace Santa Clara project, and improved and greater access to the Great America Station for transit riders in the region. The alignment of the Stars and Stripes and Avenues A, B and C were studied in the CityPlace EIR and incorporated into the approved Master Community Plan. Alternate alignments of Stars and Stripes Drive and Avenues A, B and C did not optimize objectives for remainder development parcels; circulation network for auto and bus; and/or access to/from current (or longer term) Great America Station.

***The property sought to be acquired is necessary for the project***

In order to reconstruct Stars and Stripes Drive, the tennis courts must be removed. In addition, in order to facilitate the construction of other public roadway and infrastructure improvements, especially Avenues A, B and C, the Hotel Lessee's interest in the operation of the Santa Clara Golf and Tennis facility must be acquired and the RFA terminated because the roads would bisect the golf course, which will necessarily cease operation.

***The offer required by Section 7267.2 of the Government Code has been made to the Owner of record for the full amount established as the fair market value of the property***

On September 20, 2018, the City made an offer of fair market value to IA Lodging Santa Clara to acquire its interest in the Recreation Facilities Agreement based upon the value determined by an independent state licensed and certified appraiser in accordance with the above referenced Government Code.

If the Council adopts the recommended Resolution, the City would deposit the necessary funds for the Hotel Lessee's probable compensation with the State Condemnation Deposit Fund and file an eminent domain complaint with the Court to seek possession of the property.

As always, the parties can continue to negotiate in an effort to come to a mutual agreement on value and compensation for the Recreation Facilities Agreement.

**ENVIRONMENTAL REVIEW**

This project was analyzed in accordance with the requirements of the California Environmental Quality Act (CEQA) in the CityPlace Santa Clara EIR [SCH#2014072078] as certified and adopted by Council on June 28, 2016 by Resolution No. 16-8337.

**FISCAL IMPACT**

As documented in the June 28, 2016 CityPlace Disposition and Development Agreement with Related (Developer), pursuant to Section 18.2, the Developer shall reimburse the City for expenses incurred related to requirements under California Relocation Assistance laws within 30 days following the presentation of an invoice detailing costs.

**COORDINATION**

This report has been coordinated with the City Attorney's Office.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public

information desk at any City of Santa Clara public library.

### **ALTERNATIVES**

1. Adopt Resolution of Necessity to Acquire Real Property Interests at 5105 Great America Parkway, Santa Clara as it relates to the use and operation of the Santa Clara Golf and Tennis facility from IA Lodging Santa Clara for a Public Project and Directing the Filing of Eminent Domain Proceedings
2. Do not adopt Resolution of Necessity to Acquire Real Property Interests at 5105 Great America Parkway, Santa Clara as it relates to the use and operation of the Santa Clara Golf and Tennis facility from IA Lodging Santa Clara for a Public Project and Directing the Filing of Eminent Domain Proceedings
3. Any other action the Council deems appropriate

### **RECOMMENDATION**

Alternative 1.:

Adopt Resolution of Necessity to Acquire Property Interests at 5105 Great America Parkway, Santa Clara as it relates to the use and operation of the Santa Clara Golf and Tennis facility from IA Lodging Santa Clara for a Public Project and Directing the Filing of Eminent Domain Proceedings.

Reviewed by: Ruth Shikada, Assistant City Manager

Approved by: Deanna R. Santana, City Manager

### **ATTACHMENTS**

1. September 20, 2018 Offer Letter
2. Resolution