

Santa Clara



City of Santa Clara, California



Date: May 29, 2009

To: City Manager/Executive Director for City Council/Redevelopment Agency Action

From: Assistant City Manager/Assistant Executive Director

Subject: **Joint Council and Redevelopment Agency "Committee of the Whole" Special Meeting to Consider a Proposed Term Sheet Between the City of Santa Clara/Redevelopment Agency and the San Francisco 49ers for the Construction and Operation of an NFL Stadium**

EXECUTIVE SUMMARY:**Overview**

In April 2007 the San Francisco 49ers (49ers) presented a proposal to the City of Santa Clara to locate an NFL stadium in the City's Bayshore North Redevelopment Area, in proximity to the Great America Theme Park and the City-owned Santa Clara Convention Center (refer to attached map-Exhibit 1). This general area is designated as Tourist/Commercial in the General Plan and as an Entertainment Zone in the Council's 2007/2009 Goals and Priorities. For the past two years, City staff and the 49ers have been evaluating all aspects of a proposed stadium plan: location (see Exhibit 2), financing, construction, and operation of a stadium, including the coordination with adjacent Theme Park operations. In addition, an Environmental Impact Report is being prepared. It is proposed that a public/private partnership between the City and the City's Redevelopment Agency (Agency), acting as the Stadium Authority (SA), and the team, acting as the 49ers Stadium Company, LLC (49ers), build and operate the facility. The City and the 49ers commenced their respective participation in these discussions with a set of guidelines, delineating key issues each party chose to focus on throughout the negotiations process. Both the City's Guiding Principles and the 49ers Guiding Principles are attached (Exhibit 3 and Exhibit 4, respectively). There have been 29 public meetings held on stadium issues over the past 2 ½ years, many held as "Committee of the Whole" special meetings.

Project Description

The stadium would be developed and owned by a public agency to be formed by the City of Santa Clara and the City's Redevelopment Agency. The stadium would be leased to the 49ers for playing their home games during the National Football League's (NFL) pre-season, regular season and post-season and used for other NFL-related events. In addition to football events, use of the stadium may range from incidental use of meeting room facilities within the main building portion of the stadium, including uses in support of adjacent Santa Clara Convention Center activities, to major activities such as concerts and other sporting events that could use a significant amount of the available seating. Approximately 17 events, resulting in an estimated 26 non-NFL related event days per year, are contemplated in the finance projections.

Additionally, the NFL is encouraging any franchise proposing a new stadium in a large market, such as the Bay Area, to evaluate the potential shared use of the stadium by a second NFL team. Although there are currently no specific plans for use of the stadium by a second NFL team, in recognition of this encouragement from the NFL, the project should be assumed to include the possible future use of the stadium by a second NFL team for its home games during the weeks when the 49ers team is scheduled for away games.

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The proposed stadium would have permanent seating capacity for up to 68,500 seats and would be designed to expand to approximately 75,000 seats for special events, like a Super Bowl game. The stadium structure would have a height of 175 feet, reaching a maximum height of 200 feet at the top of the light standards. The stadium would be five levels on the east, north and south sides and nine levels on the west side (referred to as the Suite Tower). In order to accommodate the stadium as proposed, Centennial Boulevard south of Tasman Drive would need to be abandoned and the roadway removed except for a restricted travel lane where a two-lane access driveway would be added along the eastern boundary of the stadium site to provide access to the City-owned Youth Soccer Park.

Process

City management staff and the 49ers have followed a methodical process in determining all aspects of the proposed stadium project in the City's Bayshore North Area. Immediately following the April 2007 presentation of the stadium proposal, City staff and consultants and the 49ers entered into an extended period of economic/fiscal analysis, reviewed alternative approaches to solving particular issues, and engaged in discussions with adjacent property stakeholders (Cedar Fair, owners of California's Great America Theme Park, and the management of the Santa Clara Convention Center). This initial review and analysis was summarized in a December 2007 report to Council on the City's ability to participate as a financing partner and in a January 2008 report addressing the feasibility of the stadium project pertaining to critical aspects of financing, construction, operations, and the impact to Cedar Fair, as understood to that date. The Feasibility Study noted that while there were real concerns pertaining to particular aspects of the proposed project, there was also sufficient potential to continue to proceed forward in discussions to determine if these issues could be resolved to the benefit of the City, the 49ers and Cedar Fair. Additionally, at their March 4, 2008 meeting, the Council determined that a City-wide ballot measure would be held on the proposed Term Sheet, if approved by Council, and that the ballot measure would be binding given the completion of the California Environmental Quality Act (CEQA) review.

For the past 18 months, staff and 49ers representatives have been working on the Term Sheet agreement. The Term Sheet serves as an outline of the stadium deal structure, addressing major issues of this proposed public/private partnership: the governance structure, financing plan, construction cost responsibilities, budget development for stadium operations, ground rent payments, treatment of stadium revenue, and a number of other key issues that comprise the core of the proposed project. If the proposed Term Sheet is approved by Council, City staff and the team will continue to negotiate and develop the various documents that will eventually define all aspects of the project. The end result of this effort would be a Disposition and Development Agreement (DDA) along with a Ground Lease and Stadium Lease. At the same time the DDA is under development, staff would continue to work on completing the project's CEQA-required Environmental Impact Report (EIR). It is anticipated that the EIR will be completed by the end of this calendar year, if not sooner, allowing the Santa Clara community the opportunity to vote on a stadium proposal in the first quarter of calendar year 2010.

Term Sheet

The intent of the Term Sheet is to document respective commitments and obligations of the involved parties: the City of Santa Clara, its Redevelopment Agency, and the San Francisco 49ers. Terms negotiated in this document serve as the basis to inform the Santa Clara community in preparation for a City-wide ballot measure. Additionally, the Term Sheet serves as an outline in continuing negotiations between the 49ers and the City in defining and documenting all aspects of a proposed long-term lease agreement. The stadium project will not proceed unless and until the parties have negotiated, executed, and delivered mutually

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acceptable agreements based upon information produced from the CEQA environmental review process and from other public review and hearing processes, and subject to all applicable governmental approvals. The Term Sheet is attached to this report (Exhibit 5). Critical elements of the Term Sheet are addressed in more detail in the Discussion section of this report.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

The public-private partnership as defined in the Term Sheet will contain significant opportunities and obligations for both the City and the 49ers:

- At Council's direction, the City's Guiding Principles have been maintained to the greatest extent possible.
- There will be no General Fund or Enterprise (Utility) Fund monies used or pledged to the development of the stadium project, except if the City decides to relocate or reconfigure the Tasman electric substation currently adjacent to the proposed stadium location. If the substation is relocated or reconfigured, the City's Electric Utility Enterprise Fund would pay for the cost.
- Options are being pursued with Cedar Fair to ensure the Theme Park remains a vital component of this expanded Entertainment Zone concept. The proposed stadium will be built and operated consistent with the Agency's obligations under the Ground Lease for the Great America Theme Park, or other arrangements acceptable to the Theme Park tenant. The 49ers and Cedar Fair have been negotiating the possible sale of the Theme Park to the team. While discussions continue, there has been no resolution on a potential sale to date. If the Theme Park is not sold, the City has created a revised parking lot plan to provide the necessary spaces required by the lease to the Theme Park, thereby allowing for stadium construction in what is now the overflow parking lot for the Theme Park. See the Discussion section of this report for additional information.
- The City will ground lease the stadium site to the SA for a fixed (guaranteed) base rent and a percentage of a performance-based rent. It is projected that the total rent received from this site provides a fair market value return for the land. Additionally, if a permanent, second NFL team comes to play in the stadium, the fixed (guaranteed) base rent is substantially increased and is escalated at different time periods through the life of the lease.
- The City land for the stadium site, including surrounding land and parking areas, will not be subordinated to financing for the project or to the payment of rent provisions (rents paid to the City) contained in the lease.
- The stadium lease will have a 40-year base term, with five separately exercisable options of four years each. The maximum term of the lease is 60 years.
- A \$0.35 (thirty-five cent) surcharge on NFL tickets will fund a City of Santa Clara Senior and Youth Program Fund, to a maximum amount of \$250,000 per year. This fee will be remitted to the City and will fund City programs for parks, recreation and libraries, including, without limitations, senior activities and the Youth Championship Team Fund, at the discretion of the City Council.
- Investment by the Agency in the construction of the stadium shall not exceed \$40 million, exclusive of debt service and other financing costs and exclusive of payments to the City for certain development fee costs (the Agency's share of development fees is estimated at \$2 million). There is

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no floor to the Agency's financial obligation; therefore, if economic conditions or State budget actions reduce the amount of Agency monies available, the Agency will only commit those funds available at the time of financing. In the most extreme case, if there were no Agency funds available at the time of financing, the 49ers would need to assume the Agency's entire portion of the public financing by way of a team advance to the Agency in order to proceed with the project.

- If the Agency cannot meet its \$40 million obligation cap, the 49ers will advance the difference up to the cap. The 49ers will seek repayment of their advance for the respective financings from available tax increment through the life of the Redevelopment Plan (2026). The advance will carry an annual compound interest rate the lower of either the rate on 30-year BB-rated corporate bonds or 8.5%, which is reasonable to the risk assumed.
- The principal amount of any team advance made on behalf of the Agency will be reimbursed to the Agency/City at the commencement of a second permanent NFL team playing in the stadium, contributing to repayment of a portion of the existing Cooperation Agreement between the City and the Agency.
- If a second NFL team comes to play on a permanent basis in the stadium, the 49ers would reimburse to the Agency/City an amount equal to the cash and bond proceeds advanced by the Agency at the commencement of the second team's first season of play. The Agency's portion of development fees paid would also be reimbursed to the Agency/City.
- No new or increased taxes will be required for the stadium, except that eight hotels in the stadium area, if they vote to form a special Mello Roos Community Facilities District (CFD), will be subject to a special tax based on hotel room revenue, which could be pledged to provide up to a \$35 million cap, exclusive of debt service and other financing costs, toward development of the stadium and related infrastructure.
- If the eight hotels cannot meet their \$35 million CFD cap, the 49ers will advance the difference up to the CFD cap of \$35 million and seek repayment of its advance from the hotel room surcharge as available. There can be no melding of repayment of advances to the 49ers between the Agency's obligation and the hotel CFD obligation. The advance will carry an annual compound interest rate the lower of either the rate on 30-year BB-rated corporate bonds or 8.5%, which is reasonable to the risk assumed.
- The 49ers will be responsible for any construction cost overruns.
- The Redevelopment Agency will construct a previously funded garage on the north side of Tasman Drive, adjacent to the tennis courts of the Santa Clara Golf and Tennis Club. This garage will be multi-purpose: to support Theme Park overflow parking if necessary, to support event parking at the proposed stadium, to meet the Hyatt Regency lease requirements pertaining to the provision of overflow parking, and to provide the Convention Center with additional parking as available.
- Reasonable costs incurred by the City in providing public safety and traffic management for NFL and non-NFL events will be reimbursed by the 49ers.

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- Upon completion of stadium construction, the 49ers will play their pre-season, regular season and post-season home games in the City, except as may otherwise be prescribed by the NFL. A permanent second team in the stadium will have the same requirements.
- The 49ers will pay the cost of demolition at the end of the lease if the SA (City Council) chooses to demolish the stadium.
- The SA will develop an annual stadium operating budget in cooperation with the 49ers and the 49ers will pay all operating expenses the team considers reasonable. There will be a dispute resolution process in place if the 49ers and SA cannot agree on a proposed budgeted item and, for public safety expenses, there will be a dispute resolution process available whereby the decision of the arbitrator will be final. In addition, a "Discretionary Fund" will be established within the SA from performance-based revenues resulting from a ticket surcharge on non-NFL event tickets. This fund is intended to be available to cover stadium operating expenses that are not agreed to in the budget development process and thus not reimbursed by the team, or additional expenses that may arise during the year that the SA chooses to pay for, particularly for Civic Events that the SA may wish to hold at the stadium. The SA may elect to distribute Discretionary Fund revenues to the City if the fund exceeds \$1 million, but one-half of any such distribution will remain with the SA to offset costs subject to the team reimbursement.
- The City, its Police and Fire Departments, the SA and the 49ers will develop and continuously update as needed, a Public Safety Plan describing procedures for traffic management, security and public safety at NFL games and other large events at the stadium. The SA will reimburse the City for the actual and reasonable costs of police, traffic control, fire, emergency services and similar services attributable to stadium events. Public safety capital expenditures dedicated to stadium operations will be budgeted for in the stadium's development budget. Public safety costs attributable to NFL games, including an amortization charge for capital equipment dedicated to the stadium, will be included in reimbursable expenses to the City up to a maximum annual amount equal to the product of \$170,000 multiplied by the total number of pre-season, regular season and post-season NFL games played in the stadium. This is the "Threshold" amount for the season (e.g., 10 home games times \$170,000 maximum reimbursement per game results in a Threshold of \$1.7 million for the season). For every season after the first, the Threshold will be increased by 4% per year; 6% per year if two teams are playing in the stadium. "Principal Terms of the Public Safety Agreement" can be found as Attachment C to the Term Sheet (Exhibit 5).

In addition, the SA will reimburse the City up to \$500,000 for each of the first two years of stadium operations for the actual total compensation of a police lieutenant and sergeant to establish a special events unit to develop procedures and protocols for the implementation of the Public Safety Plan as well as coordinating joint powers/mutual aid agreements with surrounding jurisdictions for the use of officers to supplement City of Santa Clara police officers on game days. If a second team plays in the stadium on a permanent basis, the SA will reimburse the City \$250,000 for each of the first two years the second team is playing to allow the Special Events Unit to update their operating procedures based on two teams playing in the stadium. If the NFL mandates new or expanded security measures that substantially increase Public Safety costs in connection with NFL games, and these new measures cause the existing Threshold to be exceeded, then, at the request of the City, the Threshold shall be adjusted.

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Any public safety costs due to NFL games that exceed the Threshold will be paid by the SA, unless paid out of the SA Discretionary Fund, and will be considered "Credited Public Safety Costs" and will be credited against performance-based rent allocated to the SA to be paid to the City. If the City, SA and the 49ers cannot agree on any Public Safety cost, the allocation of such costs among NFL events, non-NFL events and/or Civic Events, or any adjustment of the Threshold, then senior management of each of the parties will meet and confer in good faith to resolve such disagreement. If it cannot be resolved in this manner, it may be submitted to expedited final alternative dispute resolution (expedited ADR) conducted by a 3-member panel: one member selected by the City, one member selected by the 49ers and the third member selected by the first two arbitrators. The expedited ADR panel's decision will be limited to (i) whether or not the particular cost is a Public Safety cost subject to reimbursement by the SA, (ii) determining the allocation of particular costs among NFL events, non-NFL events and/or Civic Events, and/or (iii) the amount of any increase in the Threshold required by NFL mandates.

- The 49ers will cover operating losses for non-NFL events. By definition, non-NFL events are those events that the 49ers and the SA mutually agree to book in the stadium.
- The City will create a Charter Review Committee to determine if existing City Charter language requiring competitive bidding for Public Works projects can be modified to allow for some focused, limited use of a design/build process in some or all of the stadium construction. If a Charter modification of Section 1310 of the City Charter (Contracts on Public Works) were to go forward on the same ballot as the Term Sheet it would be limited solely to the stadium project and no other future Public Works projects in the City.
- The stadium supports the Council's goal for an Entertainment Zone and can develop synergy with existing Theme Park and Santa Clara Convention Center activities.
- The Agency's financing commitment of up to \$40 million still allows for an approximate 6% per year commitment of Agency tax increment revenue, above the required 20% housing commitment, to be put to affordable housing projects.
- Prior to calculating available tax increment to commit to the stadium project, \$25 million in tax increment will be set aside for other redevelopment projects. The projects could include the refurbishment of existing City facilities in the Bayshore North Redevelopment Area, such as the Santa Clara Convention Center. These monies will be set aside through the remaining life of the Redevelopment Plan (2026).
- In order for the Agency to issue any amount of bonds in support of stadium construction, it will have to amend the Redevelopment Plan and become obligated as a result of the amendment to make what are known as SB 211 pass-through payments to other local taxing agencies after the Plan Amendment becomes effective. A portion of the property tax increment received by the Agency will be "passed-through" to these other agencies. The major recipient of this property tax pass-through is the Santa Clara Unified School District. It is estimated the District could receive up to \$20 million in additional property tax revenue through the remaining life of the Redevelopment Plan (2026).

The negotiations process has resulted in a few conditions that, to some degree, could affect the assumptions and expectations contributing to a favorable return to the General Fund:

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- A significant portion of the rent to the City is performance-based, dependent upon the success of non-NFL events at the Stadium, and is not guaranteed. This puts great importance on professional, year-round management of the stadium. There will need to be an experienced venue operator who can book profitable events when the stadium is not needed for NFL games. This concern is mitigated by the fact that revenue from non-NFL events is shared 50/50 between the SA and the 49ers, so the team is incentivized, along with the SA, to ensure there is a viable stadium operator in place and revenue producing non-NFL events to support the year-round operation of the stadium. The ability to have a successful non-NFL event calendar will be influenced by the planning and coordination between the SA and the Theme Park, allowing the Theme Park to maintain its successful operation.
- In the performance-based rent structure there are certain credits against the City's share of performance rent that reduce the amount of performance-based rent received by the City while increasing revenue available to pay stadium operating costs, a responsibility of the 49ers (see the Discussion section that follows for additional information).
- It is anticipated that a stadium in the Bayshore North Area will significantly benefit the weekend business of local hotels and increase overall transient occupancy tax (TOT) revenues in the City. However, by instituting a Community Facilities District (CFD) with eight of the City's largest hotels in proximity to the stadium, the 2% TOT equivalent included on every room charge is a potential TOT opportunity cost to the City's General Fund. However, in spite of this 2% equivalent TOT increase, there is no restriction on the City's right to propose a TOT increase in support of General Fund revenue enhancement at any time that the City would determine a TOT increase would be beneficial.
- The commitment of Agency funding will reduce somewhat the ability for the Council to meet its 30% goal for affordable housing (mandatory 20% set-aside requirement plus the Council's voluntary goal of an additional 10% set-aside). It is estimated that the City's contribution to affordable housing will decrease by \$6 million (in nominal dollars - dollars that are not adjusted for inflation) over the remaining life of the Redevelopment Plan, from an estimated \$189 million to \$183 million invested in affordable housing projects.
- The Agency is obligated to share 50/50 with the 49ers the cost of site development fees, estimated at approximately \$4 million. However, if a second NFL team comes to play in the stadium the Agency's share of development fees will be reimbursed to the Agency/City.
- If a second team comes to play in the stadium the Agency/City will be reimbursed the amount of cash and bond principal utilized for the stadium but not the interest on the debt or the issuance costs of the debt. Additionally, the principal amount of any advance from the 49ers repaid by the Agency will be reimbursed to the Agency/City, however, interest earned by the 49ers on the advance repayment will not be reimbursed to the Agency/City.
- The City has negotiated several protections to ensure stadium-related public safety and traffic management expenses are paid, including a reasonable Threshold for annual public safety expenses for NFL games, the creation of a SA Discretionary Fund to support certain classifications of stadium-related public safety expenses and other City expenses if necessary, a financial commitment from the 49ers to fund selected capital and personnel public safety expenses in the

early years of the operation stadium, the ability for the SA to take a credit against the City's performance-based rents to pay certain expenses not agreed to in the budget process, and a final dispute resolution process that either party can request, if necessary. With these various forms of financial protection, there is not an absolute guarantee from the 49ers that any and all City-defined public safety costs related to the stadium project will be reimbursed by the team. However, as described above, there are multiple checks and balances built into the public safety cost reimbursement process to ensure that the risk of the General Fund having to pay City-defined public safety expenses has been reduced significantly.

ECONOMIC/FISCAL IMPACT:

At the time the 49ers brought their stadium proposal to the City in 2007, the team conducted an economic analysis that looked at the effect of the stadium on the City and County economy and included tax revenues that accrue to City, County, and State government. Given that the City is the only public entity requested to participate in the financing of the stadium project, City staff limited the review of the economic and fiscal impacts to the City of Santa Clara only. The City's economic and fiscal consultant, Keyser Marston Associates (KMA), generally concurred with the 49ers economic consultant, CS&L International (CS&L) but made several refinements to CS&Ls findings including separately identifying economic benefits of the proposed stadium from the existing 49ers Training Center (which has been located in the City for the past twenty years). The annual direct, indirect and induced economic activity generated by the stadium was estimated at approximately \$41 million annually (Exhibit 6 – KMA Stadium Economic and Fiscal Impacts Recap). KMA also estimated that approximately 500 full-time equivalent jobs would be attributable to a new stadium and that the City's General Fund would benefit from revenues of approximately \$650,000 per year (estimate in 2007 dollars) that is projected to increase by 3% per year over time.

As Term Sheet negotiations progressed and critical issues were agreed to, particularly the term of the lease (negotiated from a proposed 30-year base term to a 40-year base term), the annual economic benefits calculated in the KMA economic study review were re-evaluated through the longer lease term. KMA estimated the fiscal revenues over a 40 year lease term from a 49ers stadium at \$13 million (stated in terms of net present value (NPV) is the total present value of a time series of cash flows, in this case 40 years of fiscal revenues brought back to current dollars). These revenues consist of sales taxes, transient occupancy (hotel) taxes, and other City revenues. The effect of a second team playing in the stadium commencing five years after the 2014 stadium opening (a 2019 estimated start date for a second team) is estimated to generate an additional \$6 million (NPV) from these same local taxes and fees, for a total of \$19 million (NPV) through the base term of the lease with two teams playing in the stadium.

Additionally, the economic consultants recognized that the stadium venue, with a significant amount of dining, meeting and pre-function space would create a synergistic relationship with the City's adjacent Santa Clara Convention Center and allow the Convention Center to utilize the stadium club areas and pre-function areas that include meeting space and food and beverage capabilities. The stadium will as a result allow the Convention Center to host larger shows than they are able to host now with significantly more space for meetings and exhibitions. The Convention Center will also be able to host more diverse shows, and manage separate shows in both the Convention Center and stadium venues. The stadium would charge a commercial rate for the use of its space, thereby enhancing the non-NFL revenue streams that become performance-based rent for the City. CS&L recently completed a report analyzing the effects of this synergistic relationship between the Convention Center and Stadium which was reviewed by KMA. Both consultants accepted that it is reasonable to project a positive benefit to the City's General Fund of \$330,000 annually, which with a 3% annual inflation rate yields an NPV of approximately \$7 million over 40 years.

Return on Investment to the General Fund

It is estimated that there will be a \$31 million (NPV) return to the General Fund over the 40-year term of the initial lease period. This return increases significantly if a second NFL team plays in the stadium on a permanent basis, to \$67 million. The higher return is driven primarily by the reimbursement of the Agency's financing contribution by the 49ers, due to the arrival of a second team (refer to Exhibit 7).

The Return of Investment exhibit details the components that make up the return to the General Fund:

- Fixed ground rent – represents the guaranteed rent payable to the City.
- Performance-based rent – represents the 50% share of non-NFL events net profit that flows to the City. The combination of these rent streams are estimated to produce a fair market value return on the City's land.
- The repayment of the Agency's construction investment in the stadium at the point a second team comes to play. It is estimated that the Agency's investment will be \$28 million of the \$40 million cap. The \$28 million (NPV) Agency investment is more than the estimated \$21 million (NPV) reimbursement as it is projected that there will be a five-year delay, after stadium opening, before a permanent second team will arrive.
- The \$0.35 per NFL ticket fee will produce a benefit estimated at \$3 million (NPV) over the initial 40-year term of the lease.
- The increase in property tax benefit to the General Fund is higher with a second team as it is believed that the lease valuation will be higher due to a doubling of the NFL-game use in the stadium.
- Sales tax, Vehicle license fees and transient occupancy tax values were validated by the City's fiscal/economic consultant, Keyser Marston Associates from the studies performed by the 49ers consultant, CS&L International.
- The relocation of the electric substation, estimated at \$20 million, is subtracted from the City's return above.

Return on Investment to the Redevelopment Agency

It is estimated that there will be a negative \$45 million return to the Redevelopment Agency for one team and a negative \$43 million from the addition of a second team. It is important to understand the primary goal of a Redevelopment Agency is to spend capital projects monies to renovate and enhance selected business, entertainment and mixed-use areas in a community. The true return on investment to the Redevelopment Agency comes from the increase in residents, tourists and jobs generated from Agency projects, such as the Convention Center, the Youth Soccer Park or David's Restaurant and Banquet Facility, all built with Agency funds and all returning sales tax, hotel tax and user fee dollars to the City's General Fund. The Return on Investment for the Agency is comprised of the following:

- Possessory interest taxes (property taxes) from the ground leases. With two teams it is estimated the lease valuation for possessory interest tax purposes will increase somewhat.
- \$36 million is the net present value of the Agency's investment to construction financing and the Agency's 50% share of development fees.
- It is estimated that if it is necessary to reconfigure the Theme Park parking lots to meet the City's requirements under the lease, that approximately 40% of the garage (700 parking spaces) will be dedicated to Theme Park overflow parking. This is an investment of \$15 million (NPV - \$17 million in nominal dollars) of the estimated \$42 million cost of the garage.

Cooperation Agreement

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The Agency has an financial obligation to pay the City for a parcel of land purchased for the ground leasing and development of an office park in 2005. The repayment comes from the lease revenues of three City-ground leased properties in Bayshore North Area and, when available, tax increment from the Agency. With the Agency's proposed investment in the stadium the repayment schedule will stretch as there will be less tax increment revenue to supplement the lease revenue source of the repayment. It should be noted that when the Cooperation Agreement was established it contemplated the possibility of additional projects requiring tax increment financing, and specifically states that the Cooperation Agreement is not intended to put the repayment of the land purchase to the City in a superior position over any future development project opportunities in the Bayshore North Redevelopment Area.

COUNCIL OPTIONS:

The Council can consider one of three options pertaining to the Term Sheet:

1. Determine that the Term Sheet as presented does not meet the Council's goals for this project and, in consideration of the time and resources expended to date on the stadium project, direct the City Manager to terminate all further discussions with the 49ers on a stadium project in the City of Santa Clara.
2. Determine that the Term Sheet does not adequately address all the critical, relevant issues associated with a stadium project of this scope and cost, and direct the City Manager to return to Term Sheet negotiations with the 49ers to more fully develop selected issues and/or to seek different negotiating positions than currently reflected in the Term Sheet.
3. Determine that the Term Sheet does adequately address all the critical, relevant issues associated with a stadium project of this scope and cost, and:
 - a. Approve the Term Sheet between the City of Santa Clara, the Redevelopment Agency, and the 49er Stadium Company, LLC for the construction and operation of an NFL stadium and authorize the City Manager/Executive Director to execute the Term Sheet;
 - b. Direct the City Manager/Executive Director to return to the June 23, 2009 City Council/Redevelopment Agency meeting with:
 - 1) a report for City Council action to proceed with the process of creating a Charter Review Committee;
 - 2) an information report detailing the calendar of events necessary to have a Term Sheet ballot measure ready for a Spring 2010 election;
 - c. Direct the City Manager/Executive Director to return to the July 14, 2009 City Council/Redevelopment Agency meeting with:
 - 1) a presentation by the San Francisco 49ers on the design of the proposed stadium;
 - 2) a report for City Council/Redevelopment Agency action to amend the existing Negotiating Agreement between the City of Santa Clara, the Redevelopment Agency and the 49er Stadium Company, LLC in order to proceed with the next phase of the proposed stadium project, which is negotiation of the Disposition and Development Agreement;
 - 3) a proposed consultant budget for continuing staff support for the next phase of the stadium project.

RECOMMENDATION:

That the City Council/Redevelopment Agency take the following actions in approving Option 3:

- a. Approve the Term Sheet between the City of Santa Clara, the Redevelopment Agency, and the 49er Stadium Company, LLC for the construction and operation of an NFL stadium and authorize the City Manager/Executive Director to execute the Term Sheet;
- b. Direct the City Manager/Executive Director to return to the June 23, 2009 City Council/Redevelopment Agency meeting with:

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- 1) a report for City Council action to proceed with the process of creating a Charter Review Committee;
- 2) an information report detailing the calendar of events necessary to have a Term Sheet ballot measure ready for a Spring 2010 election;
- c. Direct the City Manager/Executive Director to return to the July 14, 2009 City Council/Redevelopment Agency meeting with:
 - 1) a presentation by the San Francisco 49ers on the design of the proposed stadium;
 - 2) a report for City Council/Redevelopment Agency action to amend the existing Negotiating Agreement between the City of Santa Clara, the Redevelopment Agency and the 49er Stadium Company, LLC in order to proceed with the next phase of the proposed stadium project, which is negotiation of the Disposition and Development Agreement;
 - 3) a proposed consultant budget for continuing staff support for the next phase of the stadium project.

APPROVED:



Ronald E. Garratt

Assistant City Manager / Assistant Executive
Director for Redevelopment Agency



Jennifer Sparacino

City Manager / Executive Director for
Redevelopment Agency

Documents Related to this Report:

- 1) ***Exhibit 1 – Map of the City’s North Bayshore Redevelopment Area***
- 2) ***Exhibit 2 – Map of Stadium Project Area***
- 3) ***Exhibit 3 – City Guiding Principles***
- 4) ***Exhibit 4 – 49ers Guiding Principles***
- 5) ***Exhibit 5 – Term Sheet Between the City of Santa Clara and the San Francisco 49ers***
- 6) ***Exhibit 6 – KMA Stadium Economic and Fiscal Impacts Recap***
- 7) ***Exhibit 7 – Preliminary Estimate of Return to City After Investment from Stadium Project***
- 8) ***Exhibit 8 – Ground Rent***
- 9) ***Exhibit 9 – Projected Ground Rent to City-One Team***
- 10) ***Exhibit 10 – Projected Ground Rent to City-Two Teams***
- 11) ***Exhibit 11 – Projected Non-NFL Event Revenue and Hypothetical Calendar of NFL Games and Non-NFL Events***
- 12) ***Exhibit 12 – Ground Rent Projection with One Team***
- 13) ***Exhibit 13 – Ground Rent Projection with Two Teams***
- 14) ***Exhibit 14 – Stadium Construction Financing***
- 15) ***Exhibit 15 – Public Safety Costs***
- 16) ***Exhibit 16 – Proposed Theme Park Parking Lot Renovation Plan***

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DISCUSSION:

There are certain issues in the Term Sheet (refer to Exhibit 5–Term Sheet) that require more detailed explanation. Listed below are selected issues and supporting information:

Voter Approval

Section 1.1 of the Term Sheet notes that the Stadium will not be constructed unless and until the voters of the City approve a ballot measure endorsing the development of a stadium consistent with the essential elements set out in the Term Sheet. It is anticipated that a ballot measure would go before the voters in Spring 2010.

City to Form Stadium Authority

Section 2.1 - The City and the Redevelopment Agency will enter into a joint powers agreement creating the Stadium Authority (SA). The SA will be a separate and distinct legal entity, and neither the City nor the Agency will be liable for the debts or obligations of the SA. The SA governing board will be the seven members of the City Council, with the City Manager acting as Executive Director and the City Attorney acting as General Counsel. It is anticipated that SA business will be added to the existing Council Agenda, which currently consists of City business followed by Agency business followed by Sports & Open Space Authority business.

City to Lease Stadium Site to Stadium Authority

Section 2.2 and 3.2 - The City will ground lease its property to the SA, who will then in turn concurrently lease the site to the 49ers Stadium, LLC who will then sublease to the 49ers team to allow them to play in the stadium. If a second team comes to play in the stadium, the 49ers will have the right to sublease to the second team.

Formation of Mello-Roos Community Facilities District (CFD)

Section 2.3 - The City will make good faith efforts to form a CFD that will include all hotel properties in the vicinity of the stadium (there are presently eight hotels in this proximate area). If approved by a vote of the property owners included in the CFD, the hotel properties in the CFD would be subject to a special tax based on hotel room revenue. Prior to the development of the CFD, a map will be created that will delineate the boundaries of the CFD and inform any future hotel projects whether they will be included in the district depending on their site location. Additionally, two of the eight hotels are on ground leases with the City. Under CFD regulations the City is required to vote for the Hyatt Regency Hotel and the Santa Clara Hilton Hotel as the underlying property owner; however, the City will consult with these hotel owners and vote their desired positions at the appropriate time.

Limitation of City Liability

Section 2.4 - There can be no City funds, investments, contracts or property interests used for the construction or operation of the Stadium nor pledged or loaned for the payment of any stadium construction financing, except the possible relocation of the substation.

Preconditions to Closing

Section 3.1 - The City and SA will enter into a Disposition and Development Agreement (DDA) with the 49ers Stadium Company, LLC that will set forth the predevelopment activities to be performed, the preconditions to the commencement of construction and the amount and timing of the construction funding from the participating parties, and will contain the ground lease as an attachment.

Term

Section 4.1 and Section 5.1- The lease will have an initial 40-year base term with 5 four-year option periods, totaling a maximum possible term of 60 years.

Stadium Operations Generally

Section 8.1 – The SA, in cooperation with the 49ers, will conduct NFL games and events, non-NFL events and Civic Events. The primary purpose of the stadium is to serve as a venue for NFL football games. In order to enhance the revenue opportunities beyond a 10 to 12 game schedule (49ers) or a 20 to 22 game schedule (2 NFL teams playing in the stadium), the SA and the 49ers will cooperate in booking non-NFL events throughout the year, but with particular sensitivity to cooperating with Cedar Fair and the Theme Park schedule. These non-NFL events will be agreed to by both parties, the SA and the 49ers. Net income from these events is called performance-based rent and is shared between the City and the SA, with the 49ers obligated to cover any event losses. Events proposed by the SA that the 49ers do not concur with can still be held by the SA and are called Civic Events. Depending on the nature of the Civic Event, if it is not a revenue-producing event, the SA can pay the loss from its Discretionary Fund or the General Fund can assume responsibility for the event. The 49ers are not responsible for losses from Civic Events nor do they share in the profits from revenue producing Civic Events. An example of a Civic Event could be a 4th of July fireworks show held in the stadium.

Ground Lease and Rent to the City

Section 4.3 – There will be a fixed (guaranteed) ground rent and a performance-based (participating) ground rent paid to the City. The fixed ground rent starts at \$180,000 in the first year the stadium is opened and increases \$35,000 a year for each of the first ten years (year 10 rent will be \$495,000). In year 11 the fixed rent increases to \$1 million. It increases \$100,000 every 5 years thereafter, so that at the end of the initial term in year 40 the rent would be \$1.5 million per year. If a second NFL team comes to play in the stadium on a permanent basis, the second team will pay an additional \$1 million per year from the first year of its arrival through year 10, with the rent then increasing by \$100,000 every 5 years through the remainder of the initial term.

Performance-based rent is derived from non-NFL events held at the stadium. The net income from these events would be split 50/50 between the City and the 49ers. The City's share of the performance-based rent is adjusted for certain rent credits:

- 50% of the fixed (guaranteed) rent paid in a particular year for either one team or two teams will be credited against the performance-based rent.
- There is a threshold as to the payment of public safety costs that is calculated at \$170,000 multiplied by the number of NFL games played at the stadium in a season. If for any reason public safety costs exceed the threshold, the excess could be funded from the SA's Discretionary Fund, or the 49ers will cover the costs and seek reimbursement through a credit to the performance based rent due to the City. This reimbursement concept is known as "Credited Public Safety Costs".
- Following the expiration of the Agency's ability to collect tax increment in 2026, the portion of property tax revenue actually received by the City (10% of the property tax levied on the stadium lease in any year after 2026) will be credited against performance-based rent. It is important to note that the 10% share of stadium property tax will go to the City's General Fund each year after 2026. Through this credit formula that amount will be deducted from the stadium performance-based rent which also goes to the City.

- The sum of fixed and performance rent is expected to meet or exceed fair market rent for the stadium site even after the credits are taken into account. Additionally, although it is a credit, the City will receive its share of property tax from the Stadium. It should also be noted that performance rent cannot go below zero under any circumstances.

Senior and Youth Program Fee

Section 4.4 – A \$0.35 (thirty-five cent) fee will be applied to every NFL ticket, producing a City of Santa Clara Senior and Youth Program Fee not to exceed \$250,000 a year. With one team this fee is estimated to produce a maximum of \$228,000 a year in revenue. With two teams, the revenue will be substantially more, but is capped at \$250,000 per year. This fee will be remitted to the City to be used for parks, recreation and library programs, including, without limitation, senior activities and the existing Youth Championship Team Fund.

Summary of Ground Rent Received by the City

Exhibit 8 titled “Ground Rent” demonstrates the flow of fixed (guaranteed) rent in 5-year increments over the initial term of the lease. A sense of the escalation of the ground rent over time and the effect of a second team (assumed to commence playing in year six of stadium operations or 2019) can be gained from Table 1. The projected performance-based rent is predicated on approximately 17 non-NFL events in eight event categories held in the stadium each year comprising an estimated 26 event days (some events occur over multiple days), with attendance estimated at 500,000. Non-NFL rent is escalated 3% per year in this projection. Added to these two rent streams (fixed and performance-based) are the Senior and Youth Program Fee.

Exhibit 9 titled “Projected Ground Rent to City – One Team” demonstrates the projected flow of rent to the City after the credits detailed above are deducted from the performance-based rent. Column A is the fixed (guaranteed) rent to the City. It is nearly \$41 million (in nominal dollars) over the initial term of the lease. Column B is the city’s 50% share of the net income from performance-based (non-NFL) events. Column C is the rent credit equivalent to one-half of the fixed (guaranteed) rent for that year. Column D is the 10.2% (City share) of property tax paid annually by the SA. Commencing at the end of the Redevelopment Plan in 2026, this property tax credit reduces performance-based rent to the City, yet the City’s General Fund is still receiving this full amount of property tax through the County’s tax collection process. Column E represents credits if the 49ers are required to pay public safety expenses that exceed the threshold cap of \$170,000 times the number of games. Those credits are paid from performance based rent. In this example, it is assumed that there is a very low probability of this form of rent credit materializing, given the adequate coverage of public safety expenses and the dispute resolution process. Column F is the net of the credits against the City’s 50% share of performance-based rents. Column G is a projection of the revenue supporting the Senior and Youth Program Fee with Column H representing the estimated total revenue to be received by the City. The smaller font column to the far right in Column H is the net present value (2009 dollars) of the nominal projected rents shown in Column H.

Exhibit 10 titled “Projected Ground Rent to the City – Two Teams” is in the same format and structure as Exhibit 9 with the addition of the fixed (guaranteed) ground rent from a second team commencing in the sixth year of stadium operations. The performance-based rent assumptions remain unchanged between one team and two teams. With two teams there may be more of a challenge to scheduling non-NFL events, but a portion of the football season occurs through the winter months when fewer non-NFL events are scheduled due to weather considerations.

Given that the performance-based rent is such a large component of the potential return to the City, staff and the 49ers have reviewed other open air stadium venues and had a former general manager from a major event management company review the non-NFL event projections to test the accuracy of the assumptions. Exhibit 11 contains a hypothetical calendar of events for NFL games with two teams playing in the stadium. Section 5.2 notes that the 49ers require that the stadium be available and ready for NFL games 48 hours prior to the start of the game. This requirement does inhibit to some degree the flexibility in scheduling non-NFL events in the football season, but this time period can be reduced by the team if they so determine.

In summarizing the issue of rent paid to the City, it is important to note that even if the credits applied against performance-based rent exceed the amount of performance-based rent available, there can be no reduction of the annual fixed (guaranteed) rent to the City.

Excess Revenue

Sections 5.3 and 10.5 and Article 15 – In their original stadium proposal presented to the City in 2007, the 49ers included a \$5 million facility rent commitment plus a commitment to cover all operating expenses of the stadium. If in any year, stadium expenses were less than stadium revenues, which include the \$5 million Facility Rent, a “waterfall” of excess revenue would be distributed as follows:

- The first \$1 million will go to the Stadium Capital Expenditure Reserve;
- The second \$1 million will be paid to the City as additional ground rent;
- The third portion of \$2 million will be retained by the SA to fund future SA expenses;
- The fourth portion, the remainder if any, will be distributed 1/3 each to the City, the SA Capital Expenditure Reserve and the SA to fund future SA expenses.

The City’s fiscal/economic consultant, KMA, analyzed the possibility of excess revenue resulting from SA operations given the projected revenues and expenditures associated with stadium operations and concluded that it would be highly unlikely for excess revenues to materialize thereby significantly discounting the ability for a “waterfall” revenue distribution to occur.

Fair Market Return on Land

KMA estimated the fair market rent of the approximate 15-acre site being used for the stadium at \$1.8 million per year, escalated at 3% per year and based on the General Plan designation of the site for retail/entertainment use. The graph shows the projected rents from one team as shown in Exhibit 12 titled “Projected Ground Rent to City – One Team,” as well as the combination of the fixed rent, performance-based rent and the Senior and Youth Program Fee exceeds the fair market value for the property. The fair market rent is also realized and exceeded in the projections for two teams playing in the stadium, with a major difference being the significant increase in fixed (guaranteed) rent from two teams (refer to Exhibit 13). Both scenarios determine that a fair market rent can be realized, but also points out that the realization of a fair market rent return is heavily dependent on performance-based activities (non-NFL events).

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Demolition

Section 5.4 – At the end of the lease term, the 49ers Stadium Company, at the option of the SA, will demolish the stadium. If the SA transfers ownership of the stadium to the City at the end of the lease, the City becomes responsible for any future cost of demolition.

Charter Review Committee

Section 6.3 addresses the need for a Charter Review Committee to consider a possible amendment to Section 1310 of the City Charter (Contracts on Public Works) to facilitate the use of sole source contracting, if necessary, while assuring that the majority of stadium construction work is put out for public bid on a best value basis. If a Charter amendment were to be approved by the City's voters, it would be limited in scope to only the stadium project and no other Public Works projects in the City.

Development Fees

Section 6.4 – One half of the approximate \$4 million in development fees will be paid by the Agency, and will be reimbursed by the 49ers if a second team plays in the stadium.

Stadium Construction Financing

Article 7 – Current assumptions have stadium construction commencing in 2012 for a 2014 opening. Exhibit 14 details the estimated contributions from the participating parties in the stadium financing. The Agency's contribution of \$42 million includes financing from bonds and cash of \$28 million thereby necessitating an advance from the 49ers of \$12 million. In addition, the Agency will be contributing 50% of the development fees, approximately \$2 million. The combination of the Agency's contribution and 49ers advance may be allocated differently by the anticipated date of the stadium financing in 2011 given economic circumstances and credit markets at the time of financing, but the concept of the \$40 million cap on tax increment financing remains, regardless of the mix in contributions. Additionally, given current economic conditions, it is projected that the hotel CFD financing from the 8 participating hotels will generate approximately \$15 million, necessitating a 49ers advance of \$20 million, again not exceeding the \$35 million CFD cap. As with the Agency's financing, the allocation between the hotel CFD and the 49ers advance are not set and will very likely be modified by changing financial/economic circumstances at the time the financing is done, estimated in 2011. In seeking reimbursement for any advance the team might make, the 49ers can only look to the Agency for tax increment reimbursement or the hotels for CFD funds reimbursement; the 49ers cannot meld the two revenue sources in seeking reimbursement.

Prior to moving forward with stadium construction financing, the SA and Agency will create a finance plan, which will set out in reasonable detail the amount and timing of the various construction sources: the Agency's upfront contribution, the Mello Roos CFD bonds, and the 49ers Stadium Company, LLC contribution. The Finance Plan will demonstrate, to the reasonable satisfaction of the City, Agency and SA, that the 49ers Stadium Company, LLC will have sufficient assets, credit and revenue streams to timely fund the team's contribution. It is the intent of the financing structure that the recourse of any bondholder or lender of any SA financing will be limited such that no City or Agency General Funds or operating revenues or City Enterprise Funds will be used as collateral. Both Stadium Builder's Licenses and Naming Rights will be marketed by the SA in consultation with the 49ers. Additionally, the SA will impose a surcharge on the price of admission to all NFL games held in the stadium. This NFL ticket surcharge is intended to be a percentage of the price of all tickets sold in that year, excluding the amount of suite, club and other premiums attached to the tickets. The SA will use these revenue sources to fund the construction of the stadium (Section 7.3).

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Redevelopment Agency Construction Financing

Section 7.4 - The Agency will invest an amount not to exceed \$40 million, comprised of cash on hand from existing unallocated Agency funds not otherwise needed to make any State mandated payments to offset State budget shortfalls. The Agency will issue tax increment bonds from the net tax increment available to the Agency net of existing obligations and legally required affordable housing set-asides, SB 211 required pass-through payments to other local taxing jurisdictions, debt service on a new tax increment bond financing of \$25 million for future Agency refurbishment projects in support of existing publically owned facilities in the Bayshore North Redevelopment Area, and Agency administrative costs at a fiscal 2008/2009 base escalated 4% annually.

49ers Advance to the Agency

Section 7.4 c - The 49ers will advance the difference between the maximum Agency upfront investment and \$40 million. This advance will be repayable only from the net tax increment remaining after the Agency's payment of debt service on the tax allocation bonds issued in support of stadium construction. Annual compound interest on the advance will be the lower of either the rate on 30-year BB-rated corporate bonds or 8 ½ %. Prior to making a payment on the 49ers advance, the Agency will make an annual election to provide an additional deposit to the mandatory 20% affordable housing set-aside fund of up to an additional 10% of gross tax increment, with such additional deposit ceasing on December 2016 with the termination of the Redevelopment Plan. Upon the expiration of the Agency's ability to collect tax increment (2026), any amount of the 49ers advance that is outstanding will be forgiven by the 49ers.

CFD (Hotel) Construction Financing

Section 7.5 - If approved by a vote of the eight participating hotels, the Mello Roos Community Facilities District (CFD) will be formed to collect special taxes on room charges projected to raise \$35 million. The rate imposed on the participating hotels to raise these monies may not exceed a rate equal to a 2% increase in the City's transient occupancy tax (TOT). The term of the CFD will not exceed 40 years. The CFD will issue Mello Roos bonds to the maximum amount subject to fiscal prudence and the financial markets at the time of issuance. If the CFD financing cannot raise the full \$35 million for construction, the 49ers will advance funds similar to the Agency advance described above with a similar interest rate assigned.

If the CFD repays the Mello Roos bonds and the 49er advance prior to the expiration of the 40-year term of the CFD, the SA may use any remaining CFD proceeds for CFD-eligible expenditures. However, in this period of time, if the City has increased the City-wide TOT rate beyond 9.5%, the participating CFD hotels will receive a credit for the amount of TOT they pay above 9.5% against the remaining CFD proceeds.

49ers Stadium Company Investment

Section 7.6 language commits the 49ers to pay all construction cost overruns in excess of the contributed financing from the Redevelopment Agency and the participating hotels.

Stadium Operations

Article 8 – The SA will be responsible for the management and operation of the stadium for NFL events, non-NFL events and Civic events and the 49ers Stadium Company will cooperate with the SA in the operation of the facility. Non-NFL events are defined as those events occurring in the stadium that have been agreed to between the SA and the 49ers as being profitable event opportunities. These events cannot conflict with the need to have the stadium available for NFL games and events. If the SA desires to host a particular non-NFL event that the 49ers are not interested in hosting, or if the SA wishes to hold a civic function in the stadium that may or may not return a profit, then these events are classified as Civic Events.

A Stadium Operation and Maintenance Plan and a Capital Expenditure Plan (Cap X Plan) will be adopted annually by the SA, subject to mutual approval between the SA and the 49ers. The Cap X Plan will include an annual projection of expenditures as well as a 5-year projection of capital needs. The 49ers maintain the right to the reasonable approval of the annual operating and capital budgets. Any activities not agreed to in the budget by the team will require a separate funding source such as the SA's Discretionary Fund (funded from a \$2 per ticket surcharge on all non-NFL tickets), or the City's General Fund. If the SA and the 49ers cannot agree on certain stadium expenses, then the management of each of the parties will meet and confer to resolve the issue and, if necessary, submit the issue to non-binding mediation.

Stadium Parking

Section 8.2 – Parking for stadium events will occur in existing publicly-owned lots and private lots within easy walking distance of the stadium. It is anticipated that a mutually agreeable resolution to the use of Theme Park lots will be a part of this parking program. There will be an experienced, responsible third-party parking operator hired to manage the private and public lots used for event parking under the supervision of the SA and in close coordination with the City's public safety resources. The City will consider amending its zoning ordinance to create a parking overlay zoning district for the area around the stadium to require a conditional use permit for paid public parking use of off-street parking for stadium events. There will be a parking fee that will be allocated to pay the parking lot owner for the use of their lot, pay the parking lot operator for the control, security and clean-up of the lot and pay the SA for the reimbursement of event public safety costs.

As mentioned previously, the Agency financed, nearly ten years ago, a 1,700 space parking garage to be constructed on the north side of Tasman, east of San Tomas Aquino Creek, in front of the tennis courts for the Santa Clara Golf and Tennis Club. Access to this garage will be from Stars and Stripes Drive off of the northern terminus of Centennial Boulevard. This garage will be used for a variety of parking needs, but will be available for stadium event parking also.

Police, Traffic and Emergency Services

Section 8.3 and Attachment C – There will be specific public safety facilities constructed in the stadium including a holding facility and a secure command center. The City will develop a public safety joint powers agreement (JPA) with surrounding jurisdictions to provide sufficient sworn public safety resources to effectively manage events at the stadium. The Santa Clara Police Chief will be in charge of this public safety JPA.

The City, the public safety departments, the SA and the 49ers will develop a Public Safety Plan that will be continuously updated to deal with large events at the stadium. The SA will reimburse the City for actual and reasonable costs of police, traffic control, fire, emergency services and similar services attributable to stadium events in addition to a paying for a fair share of reasonable capital expenditures that are stadium related.

For stadium operations, Public Safety Costs will be allocated as follows:

- NFL games – an annual funding threshold will be established based on \$170,000 multiplied by the pre-season, regular and post-season games played in the stadium. This amount will be increased by 4% per year if only the 49ers are playing in the stadium and by 6% per year if two teams are playing in the stadium. Certain public safety costs that will be reimbursed by the SA to the City that are not included in the threshold include: 1) \$500,000 for each of the first two years of stadium operations

for the cost of a police lieutenant and sergeant to establish a Special Events Unit to develop procedures and protocols for the implementation of the Public Safety Plan and coordinate the joint powers/mutual aid agreements as necessary. If a second team plays in the stadium on a permanent basis the SA will reimburse the City \$250,000 for each of the first two years the second team is playing to allow the Special Events Unit to update their operating procedures based on two teams playing in the stadium; 2) rental from third parties of barricades and radios to be used on event days; 3) police escorts or additional security requested for the 49ers or visiting teams; and 4) a capital expenditure amortization charge to replace dedicated stadium public safety equipment. Exhibit 15 demonstrates how these costs are accumulated in the start-up budget under the assumption of a 10-game season.

The public safety threshold amount may be modified at the request of the City if the NFL mandates specific new or expanded security measures that substantially increase game-day costs. If there is disagreement between the parties as to the amount of such an increase then the issue can be taken to expedited final ADR. If due to unanticipated circumstances other than new or expanded security measures mandated by the NFL, public safety costs that exceed the annual threshold over any three consecutive years can be discussed between the parties in good faith to determine if an increase to the threshold should occur. This unanticipated increase in cost is not subject to expedited ADR.

Any public safety costs attributable to NFL games paid by the SA to the City in excess of the threshold in any year can be paid from the SA's Discretionary Fund at the SA's sole discretion or can be considered as a "Credited Public Safety Cost" and be credited against performance-based rent to the City.

Stadium Operating Revenue

Article 10 - The SA will receive all Stadium Operating Revenue comprised of the following sources:

- Ticket surcharges – NFL ticket surcharge proceeds not needed to pay debt service or other NFL ticket surcharge financing.
- Naming rights revenue – not needed to pay debt service or other costs of naming rights financing.
- Stadium Builders Licenses (SBL's) – resulting from the sale or transfer of seat licenses.
- Mello-Roos CFD special taxes – received from the hotel tax in excess of debt service and team advance repayments.
- Facility rent – payable by the 49ers Stadium company in the amount of \$5 million per year.
- Parking revenue – all net revenues from the operation of surface lots or in parking structures owned or controlled by the SA.
- Concessions revenue – all net revenues from concessionaires authorized by the SA to engage in the sale of food, beverages and other goods in the stadium or on parking lots or structures owned or controlled by the SA.
- Third-party rent – the SA will receive all net rent for leasable space in the stadium, estimated to be in the range of 10,000 square feet.
- Revenue from non-NFL events - net revenue received from a promoter or other sponsor of any non-NFL event for the right to put on an event in the stadium.
- Non-NFL advertising revenue – net revenue received from transient electronic advertising on designated area of stadium scoreboards provided the advertising does not conflict with terms of any contracts for advertising for NFL events.

Team Revenue

Article 11 – Team revenue is comprised of:

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- All NFL event revenues – ticket revenues, premium seat revenues (includes suite and club seat revenues) and team service revenues from the delivery of services, equipment rental or the use of technology in connection with NFL events.
- All NFL advertising and sponsorship revenues from stadium related advertising and signage. Subject to the rights of existing tenants of City-owned property under ground lease, the City and Agency will commit that no other property owned or controlled by the City or Agency within an area designated as “Control Area for Display of Advertisements and Promotional Activities” (refer to aerial map - Attachment B of the Term Sheet, included in this report as Exhibit 5) will be used to display advertisements or be used for promotional activities during days of NFL events that conflict with NFL sponsor contracts or the rights of stadium concessionaires and other vendors, provided that the foregoing will not apply to any City or Agency advertising or similar contracts that pre-date such sponsor contracts or vendor contracts.
- All other NFL-related revenue streams resulting from NFL events, with a few exceptions.

Reimbursable Expenses

Article 12 – are essentially all costs of operating, maintaining and repairing the stadium and all costs attributable to NFL events and non-NFL events for all facilities under the control of the SA and for public safety costs as previously addressed. A listing of the various expense categories can be found in the Term Sheet, Article 12.1. There are a few expense categories excluded from Reimbursable Expenses, including Capital Expenditures except those defined as reimbursable; debt service on financing secured by NFL ticket surcharges and/or naming rights revenue; SA Discretionary Expenses including costs attributable to Civic Events; and any distribution of excess revenues.

Non-NFL Events and Civic Events

Article 13 - The SA will have the right to conduct events such as concerts and sporting events other than NFL games in the stadium when it is not scheduled for NFL games. The SA and the 49ers Stadium Company will establish an annual calendar of events in coordination with, and awareness of, the Theme Park’s busy periods. Events that are agreed to be scheduled are called non-NFL events. Net income from these events is called performance-based rent and is split 50%/50% between the SA and the City. The 49ers will assume responsibility for any non-NFL events losses in the form of net operating expenses. Any event(s) that can not be mutually agreed upon to be scheduled can still be held in the stadium by the SA, but they are called Civic Events and the 49ers do not have responsibility for losses from these events and the SA must bear the cost of all Civic Event expenses.

Non-NFL Ticket Surcharge

The SA will impose a \$4 per ticket surcharge on any non-NFL ticket. One-half of the surcharge proceeds will be included in Stadium Operating Revenue while the other half is deposited in a separate account under the control of the SA called the Discretionary Fund. This fund may be used to pay certain costs that the 49ers and SA do not agree on in the budget setting process, such as additional equipment purchases that can not be agreed to as stadium related, or the Special Events Public Safety Team after the 49ers funding expires or the expenses associated with having a Civic Event held in the stadium or unanticipated stadium-related costs (as defined by the City) that impact the General Fund. In the event the fund accrues to more than \$1 million in any year and the funds are not used by the SA for allowed discretionary expenses, then up to one-half of the excess amount may be transferred to the City’s General Fund while one-half of the excess is transferred to the SA’s operating fund to be included in SA operating revenue available to pay reimbursable expenses.

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Capital Reserves

Article 14 – The SA will deposit annually \$1.5 million into a Stadium Capital Expenditure Reserve (Cap X Reserve). This amount escalates 3% per year. The 49ers can add additional funding as they determine. If a permanent second team comes to play in the stadium an additional \$1 million per year will be added to the Cap X Reserve, also escalated at 3% annually.

The Cap X Reserve will be used by the SA for replacements and improvements to the stadium according to an agreed-to annual plan. Any remaining amounts in the Cap X Reserve upon termination of the stadium lease will be paid to the 49ers Stadium Company.

Second Team

Article 16 – The 49ers Stadium Company will have the right to enter into a sublease with a second NFL team who will then play their home games in the stadium with the 49ers. At the time a second team commences play in the stadium the 49ers will reimburse to the Agency/City an amount equal to the Agency's initial investment, currently estimated at \$28 million. Additionally, the 49ers Stadium Company will repay the principal amount of any advance the team made in support of the initial Agency financing to meet the Agency financing cap of \$40 million.

The SA will pay the City an additional fixed (guaranteed) ground rent of \$1 million per year in the first season of a second team playing in the stadium. This rent will increase to \$1.1 million in the 11th year and continue to escalate by \$100,000 every five years thereafter during the initial term of the lease. In each extension term of the lease the fixed rent will increase \$80,000 per extension term. The Agency/City will also be reimbursed by the 49ers for the share of development fees paid as a result of stadium construction (estimated at \$1.7 million).

The 49ers Stadium Company will be responsible for all additional capital costs necessary to make the stadium ready for use by a second team. Each year the second team plays in the stadium, the SA will fund an additional \$1 million per year, escalated by 3% per year, into the Capital Expenditure Reserve fund.

Temporary Second NFL Team Occupancy

Section 16.2 – In the event the 49ers Stadium company chooses to sublease to a second NFL team to play in the stadium for a period not to exceed two NFL seasons, then the reimbursement criteria above for a second team does not apply.

Theme Park

Section 17.1 – The stadium will be built and operated consistent with the Agency's obligations under the Ground Lease for California's Great America Theme Park, owned by Cedar Fair, or other arrangements acceptable to the Theme Park tenant. Discussions have occurred and are continuing with Theme Park management to work through issues involved with the possibility of having two major outdoor entertainment venues, the Theme Park and stadium, in close proximity, and at certain times in their respective seasons having overlapping operating days. While the 49ers are in discussions with Cedar Fair for the possible purchase of the Park, those discussions have not yet been concluded.

The ground lease for the Theme Park has always contemplated the possible future development of the overflow parking area, the proposed site for the stadium. In order to proceed with development of the overflow lot, the City needs to replace the parking that would be lost if the overflow lot was no longer available to the Theme Park. The City Manager recently met with Cedar Fair's Chairman of the Board,

Date: May 29, 2009

To: City Manager/Executive Director for City Council/Redevelopment Agency Action

Subject: Proposed Term Sheet Between the City of Santa Clara/Redevelopment Agency and the San Francisco 49ers for the Construction and Operation of an NFL Stadium

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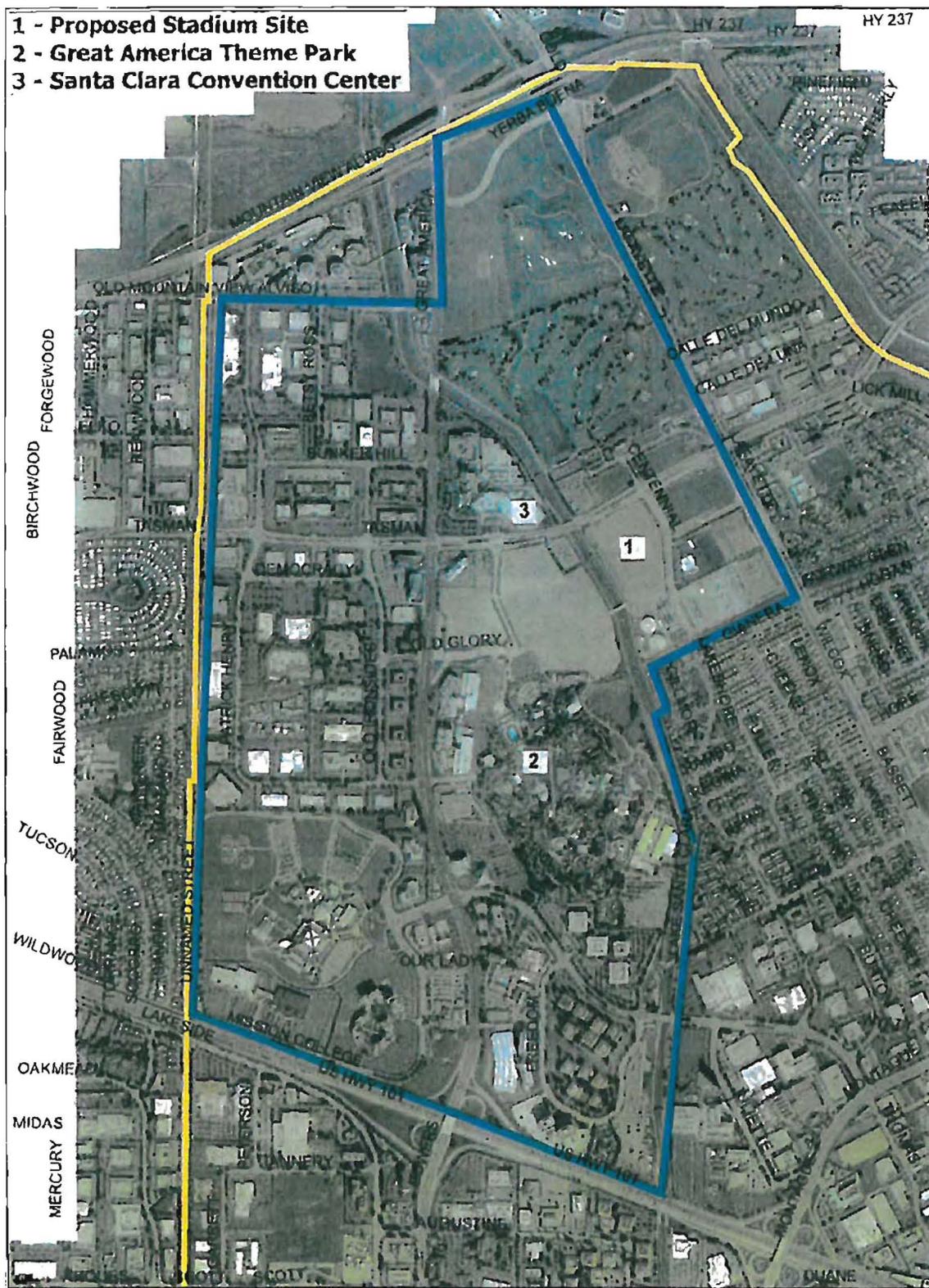
President and CEO to discuss a parking option that would replace parking lost to the proposed stadium located in what is currently the overflow lot. This parking lot renovation plan (Exhibit 17), provides parking spaces equivalent to the 8,100 parking spaces currently available. The renovation plan takes advantage of the possible electric substation relocation which would produce an additional 380 spaces in the Park's main lot. The existing main lot driveway to Tasman as well as selected areas around the main parking lot can be redesigned to add additional parking. There will be a small number of parking spaces created around the stadium for use by the Theme Park as overflow parking. Additionally, the Theme Park would have available the use of a certain number of spaces in the proposed new garage to be built on the north side of Tasman, adjacent to San Tomas Creek. Walking access to the Theme Park from the garage can be from the San Tomas Creek Trail, which runs under Tasman Drive. City staff and the 49ers will continue discussions with Cedar Fair to work on a plan whereby the Theme Park and Stadium can both benefit from the synergies created in an expanded Entertainment Zone area.

Other Stadium Area Property

Section 17.2 - Attached to the Term Sheet is an aerial map of the area adjacent to the proposed stadium (refer to aerial map - Attachment D of the Term Sheet, included in this report as Exhibit 5). Included in this area are three bare-land, City-owned properties, totaling approximately 9 acres, that have opportunity for future development. Under the Council's long-held policy it is anticipated that these three properties would be ground leased, rather than sold, by the City, thereby producing a long-term stream of income to the City's General Fund. If the City chooses to put these properties out for development, it will follow its practice of seeking competitive offers from the development community. The 49ers will be given notice of any proposed development opportunity on these three sites through the term of their stadium lease and will have the ability to compete as a potential developer under an open, competitive selection process.

49ers Training Facility Lease

Section 17.3 – The team's existing ground lease at 4949 Centennial Boulevard, used as the Team's headquarters and training facility, shall remain in full force with existing conditions except that the lease will be extended to be co-terminus with the stadium lease.



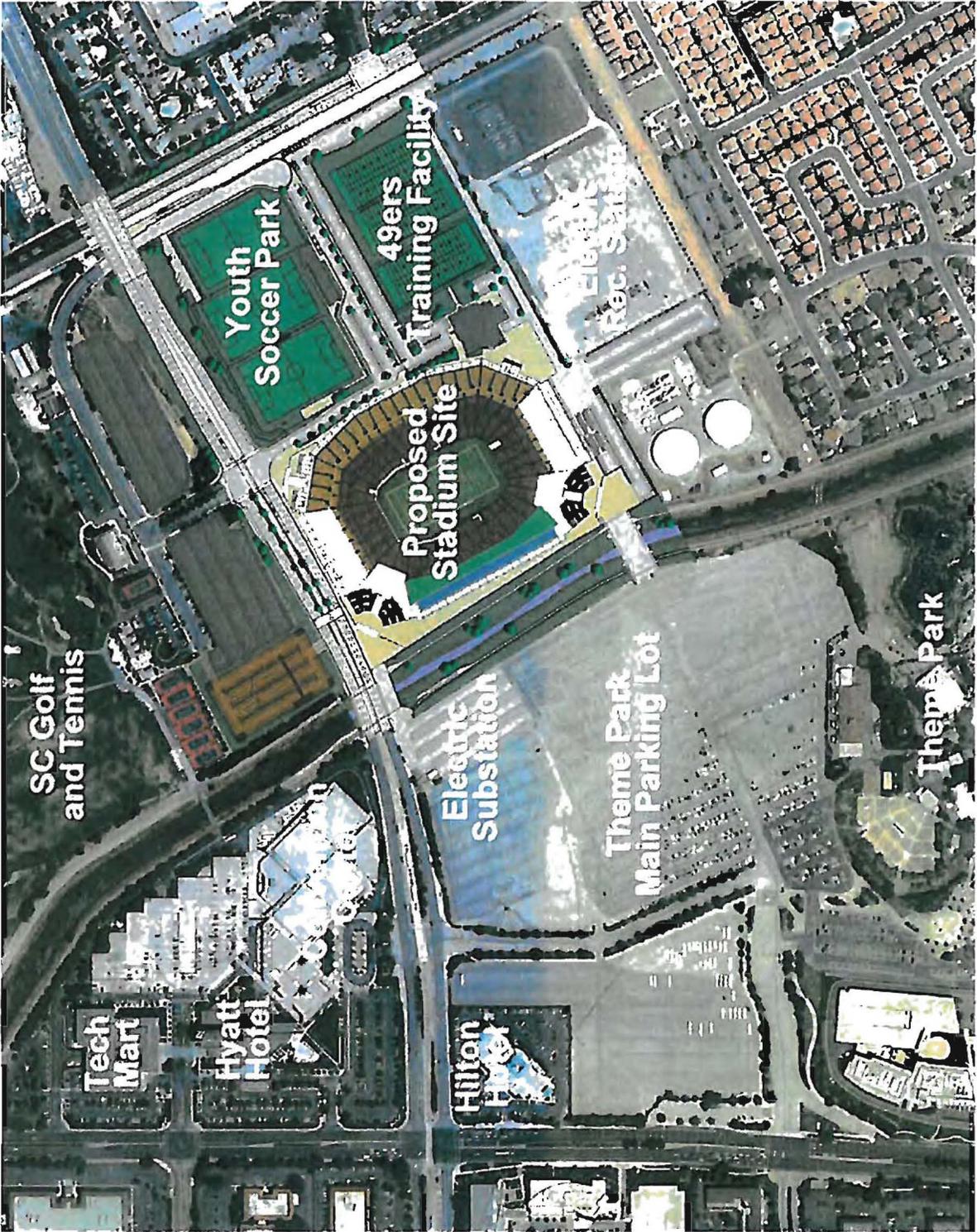
- 1 - Proposed Stadium Site
- 2 - Great America Theme Park
- 3 - Santa Clara Convention Center

Legend

-  RDA Boundary
-  City Limit

North Bayshore RDA Aerial Map





Map of Stadium Project Area



CITY'S GUIDING PRINCIPLES 49ERS STADIUM IN THE CITY OF SANTA CLARA

1. No use or obligation of General Fund monies.
2. Maintain integrity of all City funds per Charter.
3. Maintain Council's existing Industrial to Residential Conversion Policy.
4. No tax increase effecting residents, businesses or ratepayers to fund a stadium.
5. City Manager responsible for negotiations under policy direction of Council.
6. Team owners/employees must be directly involved in negotiations.
7. Cedar Fair must agree to and cooperate with any stadium proposal on their leasehold property.
8. The stadium should cause no financial loss from existing Cedar Fair lease payments.
9. Stadium proposal must undergo a visible, public process.
10. Stadium project would be subject to City-approved zoning and entitlements and CEQA review process.
11. The stadium should ensure a synergistic relationship with surrounding development.

Adopted January 9, 2007
Santa Clara City Council



SAN FRANCISCO 49ERS

7620 Market Street
Youngstown, Ohio 44512-6076
Telephone: 330-965-2066
Fax: 330-965-2074

January 4, 2007

Honorable Patricia Mahan
Mayor
City of Santa Clara
1500 Warburton Ave
Santa Clara, CA 95050

JOHN YORK
Owner

Re: New Stadium for San Francisco 49ers in the City of Santa Clara

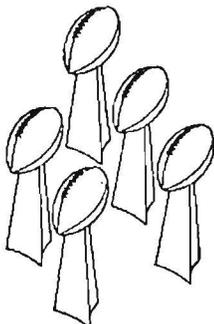
4949 Centennial Boulevard
Santa Clara, CA 95054-1229
Telephone: 408-562-4949
Fax: 408-567-0690
jyork@niners.nfl.com
www.49ers.com

Mayor Mahan and Members of the City Council:

As you know, several weeks ago we announced that the San Francisco 49ers intended to explore opportunities for development of a new stadium in the City of Santa Clara. Although much work remains to be done to determine if such a new stadium is feasible for both Santa Clara and for the 49ers, we believe the concept has great potential. We are eager to begin working with you and your staff to explore the feasibility of this opportunity.

The San Francisco 49ers have had a successful and longstanding partnership with the City of Santa Clara (the "City") that has spanned several decades. As the location of the 49ers practice facility for nearly 20 years, many players, coaches, front office staff and their families call Santa Clara home. Likewise, 49ers' players and staff are actively engaged in community outreach and with the 49ers Foundation programs that benefit local schools and non-profit organizations. Santa Clara has been a popular destination for 49ers fans during training camp, first at Santa Clara University in the late 1970s, and most recently at the Marie P. DeBartolo Sports Centre for the past three seasons. More than 30,000 visitors from throughout the Bay Area and beyond visited training camp last year and many dined at area restaurants, stayed in local hotels and enjoyed all that Santa Clara has to offer.

**SUPER BOWL
CHAMPIONS
XVI, XIX, XXIII,
XXIV, XXIX**



We propose that the City and our affiliate, Forty Niner Stadium LLC ("Stadium LLC") begin a cooperative, good faith effort to develop a conceptual development plan and a preliminary financing plan for the Stadium project, including conducting various economic feasibility analyses, so that we can each determine whether the Stadium can be developed, operated and maintained with mutually acceptable economic results. We suggest a goal of completing the initial feasibility analysis

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Mayor Patricia Mahan
January 4, 2007
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within six months, which may be adjusted by the parties (the "Feasibility Period").

Specifically, the project would include an approximately 68,000 seat state-of-the-art stadium and attendant accessory uses (the "Stadium"), which would be constructed in what is now the parking lot for Great America Amusement Park. The Stadium would be suitable for other events, such as international soccer matches, major concerts, college football games, and other entertainment uses. In addition, the Stadium would be designed to meet all NFL requirements to host the Super Bowl.

The following is a broad outline of 1) the guiding principles that would be important to this project from the 49ers' perspective and 2) our suggested approach to the discussions during the Feasibility Period. Obviously, all of these ideas are subject to change and refinement as we work together to test the feasibility of this concept:

Guiding Principles:

- The Stadium project must be feasible economically for City and Stadium LLC. The financing plan would be designed so that the Stadium has no negative net impact on City's general fund and no increase in taxes.
- The Stadium would be financed through a public/private partnership in a transaction structure that will be developed and evaluated during the Feasibility Period.
- City, or an affiliated governmental entity, would develop and own the Stadium and lease it to Stadium LLC for the exhibition of San Francisco 49ers home games and to other tenants and users.
- As the Stadium site is on land currently used to provide parking for Great America Amusement Park, any plans for development of the Stadium must address the parking needs of Great America Amusement Park and City's obligations to Great America under their existing lease.
- The Stadium would require access to at least 19,500 parking spaces on game days and during other major events, including use of existing parking resources in the area.
- The San Francisco 49ers would agree to play their home games in the Stadium, subject to NFL scheduling requirements, for a term

S A N F R A N C I S C O 4 9 E R S

Mayor Patricia Mahan

January 4, 2007

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to be determined as necessary to ensure the economic feasibility of the Stadium.

- The team would continue to be called the San Francisco 49ers.
- City and the San Francisco 49ers would cooperate and use their best efforts to bring the Super Bowl to Santa Clara as soon as possible after completion of the Stadium.

Feasibility Study Process:

- City will establish a working group, including senior City staff and representatives of the City Council, to work directly with Stadium LLC during the Feasibility Period.
- City and Stadium LLC will work with other stakeholders, such as the Convention Center, Great America Amusement Park, neighboring hotels, other local businesses, and members of the community to help achieve the goals of this proposal, including financing opportunities, maximizing use of existing resources, such as parking structures and lots, and working to address any issues that may arise from construction and operation of the Stadium.
- During the Feasibility Period, revenue streams will be identified that can be generated by the Stadium owner and used to help finance development of the Stadium, such as the sale of naming rights, founding corporate sponsorships, concession rights, user fees and other similar revenues associated with the Stadium that are paid in advance of Stadium development or can be readily capitalized.
- During the Feasibility Period, revenue streams will be identified that can be used for the operation and maintenance of the Stadium, such as rent from Stadium LLC and from other tenants and users of the Stadium, and portions of concession, parking and signage revenues.
- City and Stadium LLC will cooperate during the Feasibility Period to assure the adequacy of parking, public transit and public services for events at the Stadium.
- City and Stadium LLC will examine modification of the existing ground lease for the 49ers training camp and headquarters site (recognizing potential rezoning to capture development value).

S A N F R A N C I S C O 4 9 E R S

Mayor Patricia Mahan

January 4, 2007

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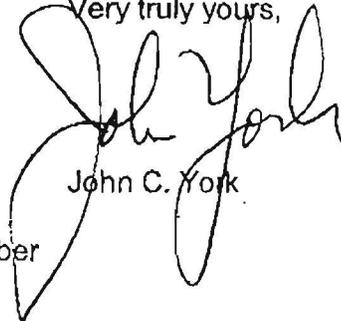
• City and Stadium LLC will cooperate in maximizing appropriate signage, including freeway signage on Highway 101, where appropriate.

If the Stadium project is initially determined to be feasible, it will be subject to in-depth environmental review and community planning processes. These processes will evaluate and address the impacts of the project on Santa Clara's residents and businesses, including effects on traffic, noise, and City services.

The San Francisco 49ers are committed to the development of a new state of the art stadium in the Bay Area that will provide our fans with a great experience. As you know, the San Francisco 49ers are the tenant under an existing lease at Monster Park in San Francisco and the team and its affiliates will continue discussions with the City and County of San Francisco regarding San Francisco's efforts to develop a suitable plan for a new stadium. That said, we believe that the site under discussion in the City of Santa Clara has tremendous potential to provide the fan experience that our fans deserve, and also to provide a facility that will be an asset to the City of Santa Clara and to the entire Bay Area.

We look forward to working with you and your staff to explore this exciting opportunity.

Very truly yours,



John C. York

cc: Dominic J. Caserta, Councilmember
Will Kennedy, Councilmember
Kevin Moore, Vice Mayor
Joe Kornder, Councilmember
Pat Kolstad, Councilmember
Jamie McLeod, Councilmember
Jennifer Sparacino, City Manager
Ronald E. Garrett, Assistant City Manager
Larry MacNeil

STADIUM TERM SHEET

This term sheet ("Term Sheet") is entered into as of June __, 2009, by and among the City of Santa Clara ("City"), the Redevelopment Agency of the City of Santa Clara ("Agency") and Forty Niners Stadium, LLC ("49ers Stadium Company"), an affiliate of the San Francisco 49ers NFL franchise ("Team"). The Term Sheet sets forth basic terms of a proposed transaction to develop a stadium ("Stadium") located in the City of Santa Clara that would be the home field of the San Francisco 49ers NFL franchise.

INTRODUCTION

The purpose of this Term Sheet is to memorialize the preliminary terms that have been negotiated among the parties, and to inform the public regarding the goals and principles identified by City Staff and City Council that will guide the proposal to develop the Stadium throughout the public review process. As further described below, the Stadium shall not proceed unless and until the parties have negotiated, executed and delivered mutually acceptable agreements based upon information produced from the CEQA environmental review process and on other public review and hearing processes and subject to all applicable governmental approvals.

The Stadium site is located in the Bayshore North Redevelopment Project Area (the "Redevelopment Project Area") on the south side of Tasman Drive at Centennial Boulevard (the "Stadium Site"). The Stadium will have a permanent seating capacity of approximately 68,500 seats with expansion to approximately 75,000 seats for larger events, such as an NFL Super Bowl.

The Stadium will be owned by a joint powers authority comprised of the City and the Agency (the "Stadium Authority"). The City, Agency, 49ers Stadium Company, and, upon its formation, the Stadium Authority, or a subset of such parties as the context requires, are hereinafter collectively referred to as the "Parties." The City will ground lease the Stadium Site to the Stadium Authority which will, in turn, enter into a lease of the Stadium to the 49ers Stadium Company (the "Stadium Lease"). The 49ers Stadium Company will sublease the Stadium to the Team. Each of these leases will have an initial term of 40 years, with extension options that could extend the term up to another 20 years.

The Stadium will further the City Council's goals of creating an entertainment destination in the Redevelopment Project Area, and will provide significant economic benefits to the City and its residents and businesses. The Team will play home games at the Stadium, including pre-season, regular season and post-season games for the term of the Stadium Lease and Team Sublease. The Stadium will also be used for Non-NFL Events (such as concerts and other sporting events), civic events and to provide additional meeting spaces for the City's convention center.

The Team has had its training facility and headquarters in the Santa Clara community for more than two decades and now wishes to strengthen its commitment to the City of Santa Clara by making a long-term investment in the City, including making a significant economic investment in the Stadium.

The Stadium will be developed and operated through a “public-private partnership” consistent with the following guidelines:

- The City will ground lease the Stadium Site for a fixed base rent and performance based rent which is projected to provide a fair market rent to the City’s general fund;
- No City general fund or enterprise funds will be used in or pledged to the development of the Stadium, except that if the City decides to relocate or reconfigure the substation from the property adjacent to the Stadium Site, the City will be responsible for the cost of such relocation or reconfiguration;
- Investment by the Agency in the construction of the Stadium shall not exceed Forty Million Dollars (\$40,000,000), exclusive of debt service and other financing costs and exclusive of payments to the City for certain development fees and costs;
- No new or increased taxes will be required for the Stadium, except that hotels in the Stadium area, if they vote to form a special district, will be subject to a special tax based on hotel room revenue which could be pledged to provide up to Thirty-Five Million Dollars (\$35,000,000), exclusive of debt service and other financing costs, toward development of the Stadium and related infrastructure;
- 49ers Stadium Company will be responsible for any construction cost overruns and for payment of rent that assures payment of the operating expenses of the Stadium related to NFL and Non-NFL Events, including reasonable costs incurred by the City in providing public safety and traffic management for NFL games and Non-NFL Events; and,
- Upon completion of Stadium construction, the Team will play its regular season and post-season home games in the City, except as may otherwise be prescribed by the NFL.

Capitalized terms contained in this Term Sheet are defined in Attachment A to this Term Sheet for convenience.

ARTICLE 1.

TERM SHEET NON-BINDING; CEQA COMPLIANCE REQUIRED

Section 1.1 Voter Approval. The Stadium will not be constructed unless and until the voters of the City approve a ballot measure endorsing the development of the Stadium consistent with the essential elements set forth in this Term Sheet.

Section 1.2 No Impact on CEQA Process. In order to comply with the California Environmental Quality Act (“CEQA”) and give the public the opportunity to be aware of the environmental consequences of the Stadium project, and to fully participate in the CEQA process, the City and the Agency retain the absolute sole discretion to (i) modify the transaction, create and enter into transactional documents, and modify the project as may, in their sole discretion, be necessary to comply with CEQA, (ii) select other feasible alternatives to avoid significant environmental impacts, (iii) balance the benefits of the Stadium project against any

significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided, and/or (iv) determine not to proceed with the Stadium project. No legal obligations will exist unless and until the parties have negotiated, executed and delivered mutually acceptable agreements based upon information produced from the CEQA environmental review process and on other public review and hearing processes, subject to all applicable governmental approvals.

Section 1.3 Effect of Term Sheet. This Term Sheet is intended to provide a general framework for the subsequent negotiation of definitive agreements regarding the development and operation of the Stadium and is not intended to create any binding contractual obligations on any Party or to commit any Party to a particular course of action. A transaction of this type involves many essential terms and conditions that have not yet been agreed upon, and it is expressly contemplated by the Parties that, in order to effectuate the Stadium project, binding agreements will have to be negotiated, agreed to by the Parties and ultimately submitted to the City Council for approval.

ARTICLE 2. **CITY RESPONSIBILITIES**

Section 2.1 City To Form Stadium Authority. The City and the Agency will enter into a joint powers agreement creating the Stadium Authority. The Stadium Authority's governing board will be the seven members of the City Council. The City Manager will be the Executive Director and the City Attorney will be the General Counsel of the Stadium Authority. The Stadium Authority will build, own and operate the Stadium, as further described below, and have all powers granted to it by the City and Agency. The Stadium Authority will be a separate and distinct legal entity, and neither the City nor the Agency will be liable for the debts or obligations of the Stadium Authority.

Section 2.2 City to Lease Stadium Site to Stadium Authority. The City will enter into a ground lease with the Stadium Authority ("Ground Lease"), pursuant to which the City will lease the Stadium Site to the Stadium Authority upon the terms and conditions contained in Article 4 and other terms and conditions acceptable to the Parties.

Section 2.3 Formation of Mello-Roos Communities Facilities District. The City will make reasonable good faith efforts to form a Mello-Roos Community Facilities District ("CFD") that will include all hotel properties in the vicinity of the Stadium (of which there are presently eight such hotel properties). If approved by a vote of the property owners included in the CFD, the properties in the district would be subject to a special tax based on hotel room revenue.

Section 2.4 Limitation of City Liability. No City funds, investments, contracts or property interests, including cash balances of and revenue streams to the City's general and enterprise funds, will be used for the construction or operations of the Stadium or pledged or loaned for the payment of any Stadium construction financing, at any time, except for activities undertaken at the City's discretion, including the City's relocation of the Tasman Substation to

meet the parking needs of the Great America Theme Park, the Stadium and the Convention Center area using City enterprise funds to pay the costs of the relocation.

ARTICLE 3.
DISPOSITION AND DEVELOPMENT AGREEMENT.

Section 3.1 DDA and Preconditions to Closing. The City and Stadium Authority will enter into a Disposition and Development Agreement (“DDA”) with 49ers Stadium Company. The DDA will set forth the predevelopment activities to be performed, the preconditions to commencement of construction of the Stadium and the amount and timing of Agency, CFD, Stadium Authority and 49ers Stadium Company funding of construction costs. The execution of the Ground Lease and the Stadium Lease (the “Closing”) will be conditioned on the satisfaction of various conditions (“Conditions to Closing”), including without limitation, the following:

- (a) The Parties’ approval of the design of the Stadium;
- (b) The Parties’ approval of a schedule for the commencement and completion of construction of the Stadium;
- (c) The Parties’ approval of a guaranteed maximum price design/build contract with a design/build contractor that is procured in accordance with applicable laws, which may include an amendment of the City Charter as described in Section 6.3 below (“Construction Contract”);
- (d) The Parties’ approval of the Development Budget and the Project Management Agreement;
- (e) The Parties’ approval of a detailed Finance Plan as described in Article 7 below;
- (f) The Parties’ approval of the Stadium Lease, Team Sublease and the Non-Relocation Agreement;
- (g) The Parties’ approval of line items to be included in the Reimbursable Expenses;
- (h) The Parties’ approval of a parking plan for NFL Events;
- (i) The Parties’ approval of the Public Safety Agreement; and,
- (j) All entitlements and other regulatory approvals necessary to commence construction are final, including but not limited to any necessary SB 211 Plan Amendment to the Bayshore North Redevelopment Plan, zoning amendment and street vacation.

Section 3.2 Leasing the Stadium Site and the Stadium. At such time as all Conditions to Closing, as more fully set forth in the DDA, are satisfied, the following will occur:

(a) **Execution of Ground Lease.** The City will lease the Stadium Site to the Stadium Authority pursuant to the Ground Lease and the Stadium Authority will commence construction of the Stadium;

(b) **Execution of Stadium Lease.** 49ers Stadium Company will concurrently lease the Stadium from the Stadium Authority, subject to the Stadium Authority's obligation to construct the Stadium;

(c) **Execution of Team Sublease.** The Team will concurrently sublease the Stadium from 49ers Stadium Company for the same initial term and option terms as contained in the Stadium Lease (the "Team Sublease"). The Team will also enter into an agreement with the Stadium Authority pursuant to which the Team will, after the completion of construction of the Stadium, commit to play in the Stadium not less than one pre-season game each year (so long as there are at least two scheduled pre-season home games in that year) and all of its regular season and post-season home games for the term of the Team Sublease, except as may be prescribed by the NFL or as may otherwise agreed upon by the Team, 49ers Stadium Company and the Stadium Authority (e.g., during reconstruction in the event of a casualty) (the "Non-Relocation Agreement").

ARTICLE 4. **GROUND LEASE.**

Section 4.1 Term. The Ground Lease will be for an initial term of forty (40) years, with five (5) separately exercisable options, each for an additional term of four (4) years, and will be co-terminous with the Stadium Lease and Team Sublease. Upon the 49ers Stadium Company's exercise of any extension option pursuant to the Stadium Lease, the Ground Lease will automatically be extended for the corresponding extension term.

Section 4.2 City's Interest Not Subordinated. The City will not subordinate its interest in any property, including the Stadium Site and surrounding land or parking areas, or in the Ground Rent to any financing for the Stadium.

Section 4.3 Ground Rent. During the term of the Ground Lease, the Stadium Authority will pay to the City, as ground rent ("Ground Rent"), the sum of (i) Fixed Ground Rent, (ii) any Performance-Based Rent and (iii) any SA Excess Revenue Payment, in accordance with the following:

(a) **Fixed Ground Rent.** For each year, commencing in the first year of Stadium operations (i.e., the first year in which NFL Games will be played in the Stadium), Ground Rent will include a fixed base rent as described in this Section 4.1(a), subject to increase in the event of a Second Team as described in Section 16.1(d) ("Fixed Ground Rent"). Fixed Ground Rent will be payable by the Stadium Authority to the City and will not be reduced by any payment of Performance-Based Rent or any SA Excess Revenue Payment as described

below. Fixed Ground Rent for the first (1st) year of Stadium operations will equal One Hundred Eighty Thousand Dollars (\$180,000). Beginning in the second (2nd) year of Stadium operations and annually thereafter through the tenth (10th) year of Stadium operations, the Fixed Ground Rent will increase annually by Thirty-Five Thousand Dollars (\$35,000). Beginning in the eleventh (11th) year of Stadium operations, Fixed Ground Rent will be increased to equal One Million Dollars (\$1,000,000), and thereafter will be increased by One Hundred Thousand Dollars (\$100,000) every five (5) years through the end of the initial term of the Ground Lease. If the term of the Ground Lease is extended, then, during the first extension term, the Fixed Ground Rent will equal One Million Five Hundred Eighty Thousand Dollars (\$1,580,000); and if and to the extent the Ground Lease is further extended, the Fixed Ground Rent will be increased by Eighty Thousand Dollars (\$80,000) every four (4) years thereafter through the expiration of the term of the Ground Lease. At the City's option, the Stadium Authority will pay in advance prior to opening of the Stadium (and 49ers Stadium Company will advance funds to the Stadium Authority for this purpose), as a credit against Fixed Ground Rent for the first two years of Stadium operations, up to the amount of Three Hundred Ninety Five Thousand Dollars (\$395,000).

(b) Performance Based Rent. For each year, in addition to Fixed Ground Rent, Ground Rent will include performance-based rent ("Performance-Based Rent") equal to (i) fifty percent (50%) of the Net Income from Non-NFL Events, less (ii) the sum of the following (collectively, "Performance-Based Rent Credits"):

- (1) Fifty percent (50%) of the Fixed Ground Rent (including the increase in Fixed Ground Rent in the event of a Second Team) payable for such year, plus
- (2) The Credited Public Safety Costs, if any, for such year, plus
- (3) Following expiration of the Agency's ability to collect tax increment in the Redevelopment Project Area, the portion of property tax revenue actually received by the City for that year on account of all possessory interests in the Stadium, plus
- (4) Any Permitted Credits Carry-forward (as defined below).

In no event may Performance-Based Rent be less than zero for any year. As used herein, the "Permitted Credits Carry-forward" means the total amount, if any, of the Performance-Based Rent Credits listed in subparagraphs (1), (2) and (3) above that have not previously been applied in the calculation of Performance-Based Rent in the preceding five (5) years. Performance-Based Rent Credits listed in subparagraphs (1), (2) and (3) above, if not used within the year incurred or the next five (5) succeeding years, will expire and will not be included within Permitted Credits Carry-forward thereafter.

(c) SA Excess Revenue Payment. In addition to Fixed Ground Rent and Performance-Based Rent, for each year in which the Stadium Authority has Excess Revenues after contribution to the Stadium Capital Expenditure Reserve as provided in clause (a) of Article 15 of the Term Sheet, Ground Rent will include the amount of the Stadium Authority's

payment to the City of such Excess Revenues in accordance with the priorities for payment set forth in clause (b) of Article 15 of the Term Sheet (“SA Excess Revenue Payment”).

Section 4.4 City of Santa Clara Senior and Youth Program Fee. In addition to Ground Rent, the Stadium Authority will pay the City the annual proceeds from the City of Santa Clara Senior and Youth Program Fee, up to a maximum amount of Two Hundred Fifty Thousand Dollars (\$250,000) per year. The amount of such fee paid to the City will fund City programs for parks and recreation and libraries, including, without limitation, senior activities and the Youth Championship Team Fund. The “City of Santa Clara Senior and Youth Program Fee” is a fee that the Stadium Authority will require be imposed on each ticket for NFL Games in the Stadium during the term of the Stadium Lease, equal to thirty-five cents (\$0.35) per ticket.

ARTICLE 5. **STADIUM LEASE AND TEAM LEASE**

Section 5.1 Term. The Stadium Lease and the Team Sublease will be for an initial term of forty (40) years, with five (5) separately exercisable options, each for an additional term of four (4) years. The same terms and conditions of the Stadium Lease will apply during each option term. 49ers Stadium Company may only exercise an option to extend the term of the Stadium Lease if the Team Sublease is concurrently extended for the same term as the option term and the Non-Relocation Agreement remains in full force and effect.

Section 5.2 NFL Events. 49ers Stadium Company will have the exclusive right to host professional football games in the Stadium (“NFL Games”), and the Stadium Authority will not allow other professional football games in the Stadium without the prior written permission of 49ers Stadium Company. Each year during the term of the Team Sublease, the Team will play its home games in the Stadium, as provided in Section 3.2(c) above. Use of the Stadium for NFL Games will include time reasonably necessary for practice or warm-ups by the home and visiting teams, the installation of equipment, including advertising and media equipment, and same day concerts and other special events in conjunction with the games. The Stadium will be available and ready for the playing of each NFL Game a minimum of forty-eight (48) hours before the game. In addition to the use of the Stadium for NFL Games, 49ers Stadium Company and the Team will be entitled to use the Stadium in connection with a reasonable number of community relations, promotional and corporate partner private events (together with NFL Games, “NFL Events”), provided that 49ers Stadium Company and the Team will coordinate the scheduling of NFL Events (other than NFL Games) with the Stadium Authority to avoid conflict with Non-NFL Events and Civic Events. In all events, however, the Stadium Authority will recognize that, during the NFL pre-season, regular season and post-season, the 49ers Stadium Company, the Team, any Second Team and all NFL Events will have scheduling priority over all Civic Events and Non-NFL Events in the Stadium as set forth in Article 13.

Section 5.3 Facility Rent to Stadium Authority; Net Operating Expenses. Following completion of the Stadium, 49ers Stadium Company will pay to the Stadium Authority, as rent for the Stadium: (i) an amount equal to Five Million Dollars (\$5,000,000) per year (“Facility Rent”); plus (ii) all Net Operating Expenses of the Stadium, as more particularly described in Article 9 below. 49ers Stadium Company will be entitled to a credit against its

obligation to reimburse Net Operating Expenses under the Stadium Lease for any new or amended local taxes imposed by the City and paid or collected by 49ers Stadium Company, the Team and/or a Second Team which disproportionately impact the Team, any Second Team or NFL Events.

Section 5.4 Demolition. At the end of the term of the Stadium Lease, 49ers Stadium Company, at the option of the Stadium Authority, will be operationally and financially responsible for the demolition of the Stadium. If the Stadium Authority elects not to require that the Stadium be demolished at the end of the term of the Ground Lease, the City will become the owner of the Stadium without payment to the Stadium Authority, 49ers Stadium Company or any other entity, except as provided in Section 14.2.

ARTICLE 6. **DESIGN AND CONSTRUCTION OF THE STADIUM**

Section 6.1 Application for Land Use Approvals. 49ers Stadium Company, with the cooperation of the City, Agency and Stadium Authority, will process an application for all City land use approvals necessary for construction of the Stadium. That process will include preparation of an environmental impact report in accordance with CEQA.

Section 6.2 Project Management Agreement. 49ers Stadium Company will make a good faith effort to assist the Stadium Authority in completion of the Stadium. The Stadium Authority will enter into a project management agreement (the "Project Management Agreement") with 49ers Stadium Company pursuant to which 49ers Stadium Company will direct and manage all design and construction for the Stadium, subject to oversight of the Stadium Authority in accordance with procedures to be defined in the Project Management Agreement that recognize 49ers Stadium Company's responsibility for construction cost overruns. The design of the Stadium will be developed by 49ers Stadium Company in consultation with the Stadium Authority, City and Agency. The design will be presented at public meetings where the public will have the opportunity to comment on the design.

Section 6.3 Charter Review Committee. The City will form a Charter Review Committee to review and make recommendations to the Council to consider possible amendment to Section 13.10 of the City Charter (Contracts on Public Works), and if Council approves, to submit a proposed Charter amendment to the voters for approval. In accordance with the City's requirement that 49ers Stadium Company be responsible for any construction cost overruns, the proposed Charter Amendment could create a design-build process and contractor selection process that would allow the 49ers Stadium Company to properly manage the risk of overall construction costs. Such a process could allow for sole-sourcing (i.e., without public bidding) certain elements of the work unique to stadium construction, while assuring that the majority of the construction work is put out for public-bid on a best value basis (which could allow consideration of selection criteria other than the lowest responsible bid).

Section 6.4 Development Fees. 49ers Stadium Company will pay, as part of the Development Budget, (i) permit processing and inspection fees legally required for a public building, and (ii) one-half of the development fees required to be paid to the City's enterprise

funds as a result of the construction of the Stadium, estimated to be approximately One Million Seven Hundred Thousand Dollars (\$1,700,000). The Agency will pay the other one-half of the development fees required to be paid to the City's enterprise funds as of a result of the construction of the Stadium. A list of development fees to be paid to the City's enterprise funds as of a result of the construction of the Stadium is attached as Attachment E.

ARTICLE 7.
STADIUM CONSTRUCTION FINANCING.

Section 7.1 Financing Overview. Based on current projections, Stadium development costs will be in the range of Nine Hundred Million Dollars (\$900,000,000) assuming construction starts in 2012, and is completed in 2014. This cost projection will change as the Stadium design process moves forward. As further described in the succeeding Sections of this Article 7, funding for the development of the Stadium will be provided by the Agency, the CFD, the Stadium Authority and 49ers Stadium Company. The Agency investment will not exceed a total of Forty Million Dollars (\$40,000,000) (exclusive of debt service and other financing costs). The CFD investment will not exceed a total of Thirty-Five Million Dollars (\$35,000,000) (exclusive of debt service and other financing costs). No CFD funds will be used to pay debt service on the Tax Allocation Bonds or to repay the 49ers Agency Advance, as such terms are defined below. No Agency funds will be used to pay debt service on the Mello Roos Bonds or to repay the 49ers CFD Advance, as such terms are defined below. The Stadium Authority will raise funds through such methods as upfront payments and financings relating to the sale of naming rights contracts, vendor contracts and Stadium Builders Licenses. The Stadium Authority also intends to raise funds through a surcharge on NFL Game tickets. If all Conditions to Closing are satisfied, 49ers Stadium Company will be responsible to invest all the funds necessary to pay the costs to complete the Stadium which are not paid by the other sources.

Section 7.2 Finance Plan. The Parties understand and acknowledge that the actual amounts of the potential revenue streams that are planned to be used to finance the development of the Stadium, as generally described in this Article 7, and the specific requirements of the various bond underwriters and lenders that will provide financing in the future, are uncertain at this point in time and that no Party has committed to any specific amount to be raised from these funding sources nor has any Party made any representation that it will be financially feasible to capitalize these funding sources. In recognition of these facts, the Parties acknowledge that it is critical to maintain flexibility in the approach to financing of the Stadium construction, subject in all events to the limitations on the investment of the City, Agency and CFD as set forth herein. As provided in Section 3.1 above, it will be a Condition to Closing that the City, Agency and Stadium Authority approve a detailed plan for the financing of the Stadium, specifically including the maximum investment of the Agency and CFD and protection of the City's general and enterprise funds (the "Finance Plan"). The Finance Plan will set out in reasonable detail the amount and timing of the Stadium Authority Construction Sources, the Agency Upfront Investment, the Mello Roos Bonds, and the 49ers Stadium Company Investment, and will demonstrate, to the reasonable satisfaction of the City, Agency and Stadium Authority, that 49ers Stadium Company will have sufficient assets, credit and revenue streams to timely fund the 49ers Stadium Company Investment.

Section 7.3 Stadium Authority Investment. The Stadium Authority will provide funds for construction of the Stadium from the funding sources described below. The Stadium Authority will use good faith efforts, in cooperation with 49ers Stadium Company, to maximize the amount available for construction of the Stadium from these sources subject to fiscal prudence and consistent with the City's financial policies. Where used to secure debt of the Stadium Authority, the Stadium Authority Construction Sources may be pledged to separate financings or may be combined as collateral for a single financing or series of financings. Except as otherwise set forth in this Agreement, the recourse of any bondholder or lender of any Stadium Authority financing will be limited such that no City or Agency general funds or operating revenues or City enterprise funds will be used as collateral. The Stadium Authority will be liable for development costs of the Stadium only to the extent of Stadium Authority Construction Sources actually available. The Stadium Authority Construction Sources will be the sole property of the Stadium Authority. The funding sources to be used by the Stadium Authority to provide for the construction of the Stadium (the "Stadium Authority Construction Sources") may include:

(a) **Stadium Builders Licenses.** The Stadium Authority, in consultation with 49ers Stadium Company, will market and sell "Stadium Builders Licenses" ("SBLs"). The Stadium Authority, in consultation with 49ers Stadium Company, will identify and select an entity experienced in the marketing and sales of SBLs, provided that the Team or an affiliate of the Team may act as the Stadium Authority's marketing agent in the sale of SBLs, including in marketing to the Team's current season ticket holders. SBLs will provide buyers with the right to purchase season tickets for as long as the Team plays its home games at the Stadium and a preferential right to purchase tickets for Non-NFL Events.

(b) **Naming Rights.** The Stadium Authority, in consultation with 49ers Stadium Company, will market and sell the naming rights to the Stadium. The Stadium Authority will receive all net revenues from the sale of naming rights to the Stadium itself pursuant to a naming rights contract ("Naming Rights Revenue"). The Stadium Authority will make a good faith effort to issue bonds or enter into other financing arrangements secured by and paid from Naming Rights Revenue. The timing of the actual issuance of the bonds will be determined by mutual agreement of the Parties. The Stadium Authority will continue to receive Naming Rights Revenue even after any financing secured by Naming Rights Revenues is repaid. The Parties acknowledge that the naming rights sponsor may also enter into a separate sponsorship contract with the Team or any Second Team, and revenue under such separate sponsorship contract will be Team Revenue (as defined in Article 11 below). Unless otherwise agreed by 49ers Stadium Company, Naming Rights Revenue will not include revenue from rights to name or sponsor components of the Stadium, or from advertising or promotional activities, all of which are included in the Team Revenue.

(c) **Ticket Surcharge.** The Stadium Authority will impose, and will require 49ers Stadium Company to collect on the Stadium Authority's behalf, a surcharge ("NFL Ticket Surcharge") on the price of admission to all NFL Games occurring at the Stadium. The Stadium Authority will also impose, and will require any event promoter to collect on the Stadium Authority's behalf, a ticket surcharge on the price of admission to all Non-NFL Events occurring at the Stadium, as described in Section 13.5 below. The NFL Ticket Surcharge is intended to be a

percentage of the price of all tickets sold in that year (excluding the amount of suite, club and other premiums attached to the tickets). The Stadium Authority will make a good faith effort to issue bonds or enter into other financing arrangements secured by and paid from the annual revenue derived from the NFL Ticket Surcharge. The timing of the actual issuance of the bonds will be determined by mutual agreement of the Parties. The proceeds of the NFL Ticket Surcharge financing will be used by the Stadium Authority to fund the construction of the Stadium. The rate of the NFL Ticket Surcharge will initially be set by the Stadium Authority and 49ers Stadium Company such that the proceeds generated by the NFL Ticket Surcharge will not be less than the debt service and coverage amounts required by the NFL Ticket Surcharge financing, and such rate may be adjusted from time to time in accordance with the requirements of such financing. The NFL Ticket Surcharge will terminate upon repayment of the NFL Ticket Surcharge financing.

(d) Upfront Vendor Payments. The Stadium Authority, subject to the approval of 49ers Stadium Company, may use for Stadium construction any upfront payment(s) made by the concessionaire and/or other vendors for the Stadium.

Section 7.4 Agency Investment in Stadium Construction. The Agency will invest an amount not to exceed a total of Forty Million Dollars (\$40,000,000) (exclusive of debt service and other financing costs and exclusive of payments to the City for development fees pursuant to Section 6.4 above) toward the construction of the Stadium which investment will be derived from the following sources:

(a) Available Funds. The Agency will invest cash on hand from existing unallocated Agency funds not otherwise needed to make any State mandated payments to offset State budget shortfalls, currently estimated to be approximately Seven Million Dollars (\$7,000,000).

(b) Tax Allocation Bonds. The Agency will invest the proceeds from one or more new tax allocation bond issuances (the "Tax Allocation Bonds"). The Agency tax increment available for payment on these bonds will be from "Net Tax Increment." For purposes of this subsection 7.4(b), Net Tax Increment will mean tax increment received by the Agency from the Redevelopment Project Area net of the following amounts (i) legally required set asides, (ii) existing debt service payments on bonds and City loans, (iii) pass-through payments, and other State mandated payments, (iv) debt service on a new tax allocation bond issuance with net proceeds of Twenty-Five Million Dollars (\$25,000,000) for future Agency projects other than the Stadium; and (v) Agency administrative costs at the fiscal year 2008/2009 level escalated by four percent (4%) annually. The Agency will endeavor to generate the maximum proceeds, subject to fiscal prudence and consistent with the City's financial policies, from the issuance of new Tax Allocation Bonds. Under current economic conditions, the Agency estimates that the Tax Allocation Bonds could yield upfront proceeds of approximately Twenty-One Million Dollars (\$21,000,000), however, the Parties recognize that the proceeds from the Tax Allocation Bonds could be substantially less depending on the market conditions and the amount of Net Tax Increment available to the Agency and the Parties have not set a minimum amount of proceeds to be derived from the Tax Allocation Bonds.

(c) 49ers Agency Advance. The total amount of the Agency investment contained in subsection 7.4(a) (funds on hand) and subsection 7.4(b) (proceeds of the Tax Allocation Bonds) will be referred to as the “Agency Upfront Investment.” 49ers Stadium Company will advance the difference between the maximum Agency investment of Forty Million Dollars (\$40,000,000) and the Agency Upfront Investment (the difference referred to herein as the “49ers Agency Advance”). Under current economic conditions, the Agency estimates that a 49ers Agency Advance of approximately Twelve Million Dollars (\$12,000,000) would be required. The 49ers Agency Advance, including annual compound interest at an annual fixed rate equal to the lower of the rate on 30-year BB-rated corporate bonds (as determined by an appropriate index to be determined) or eight and one-half percent (8½%), calculated as of the date of the first funding by 49ers Stadium Company of the 49ers Agency Advance, will be repayable only from the Net Tax Increment remaining after payment of debt service on the Tax Allocation Bonds. In addition, prior to making a payment on the 49ers Agency Advance, the Agency will make, based on an annual election by the Agency, an additional deposit into the Agency Housing Fund of up to ten percent (10%) of gross tax increment (after excluding tax increment generated from the Stadium), with such additional deposit ceasing on December 2016 with the termination of the Redevelopment Plan for the Redevelopment Project Area. Upon the expiration of the Agency’s ability to collect tax increment, any amount of the 49ers Agency Advance that is outstanding will be forgiven by 49ers Stadium Company.

Section 7.5 CFD Investment in Stadium Construction. If approved by the hotel owners, the CFD will be formed to collect special taxes in an amount projected to raise Thirty-Five Million Dollars (\$35,000,000) (exclusive of debt service and other financing costs) in Mello Roos Bonds. The rate imposed on the hotel owners through the CFD may not exceed a rate equal to a two percentage point increase in the City’s transient occupancy tax (“TOT”). The term of the CFD will not exceed forty (40) years.

(a) Mello Roos Bonds. The CFD will endeavor to generate maximum proceeds up to Thirty-Five Million Dollars (\$35,000,000) in net proceeds, subject to fiscal prudence and consistent with the City’s financial policies, including the repayment of CFD formation costs, for the construction of the Stadium from the issuance of bonds secured by and paid from a special tax on hotels within the CFD (the “Mello Roos Bonds”).

(1) Under current economic conditions, the Agency estimates that the Mello Roos Bonds would yield upfront proceeds of approximately Fifteen Million Dollars (\$15,000,000).

(2) 49ers Stadium Company will advance the difference between the maximum CFD investment to construction of Thirty-Five Million Dollars (\$35,000,000) and the total proceeds of the Mello Roos Bonds (the “49ers CFD Advance”). Under current economic conditions, the Agency estimates that a 49ers CFD Advance of approximately Twenty Million Dollars (\$20,000,000) would be required. The 49ers CFD Advance, including annual compound interest at an annual fixed rate equal to the lower of the rate on 30-year BB-rated corporate bonds (as determined by an appropriate index to be determined) or eight and one-half percent (8½%), calculated as of the date of the first funding by 49ers Stadium Company of the 49ers CFD Advance, would be repayable only from the CFD’s special tax revenue received from the hotels

in the CFD (as reduced by CFD administrative expenses), and only to the extent such revenues exceed debt service on the Mello Roos Bonds. The actual tax rate and the funds to be raised will be determined at the time the CFD would be created.

(b) Remaining Mello Roos Proceeds. If the CFD has repaid the Mello Roos Bonds and the 49ers CFD Advance prior to the expiration of the forty (40) year term of the CFD, the Stadium Authority may use any remaining CFD proceeds for CFD eligible expenditures.

(c) TOT Credit. If the CFD has repaid the Mello Roos Bonds and the 49ers CFD Advance prior to the expiration of the forty (40) year term of the CFD and the City has increased the TOT from its current rate of nine and one-half percent (9½%) at any time during the term of the CFD, then, for the remaining term of the CFD, each hotel in the CFD will receive a credit against its CFD payment in the amount by which the City TOT paid by such hotel exceeds the current rate of nine and one-half percent (9½%). Nothing in this paragraph (c) is intended to restrict the City's ability to increase the TOT from time to time.

Section 7.6 49ers Stadium Company Investment

(a) Determination of 49ers Investment. The amount of the investment from 49ers Stadium Company required in order for construction to proceed ("49ers Stadium Company Investment") will be determined at such time as the following have been accomplished:

(1) The Stadium Authority and 49ers Stadium Company have each approved a guaranteed maximum price Construction Contract and a development budget (the "Development Budget") which includes the guaranteed maximum price as well as provision for other project costs not covered by the Construction Contract; and

(2) The Stadium Authority and 49ers Stadium Company have approved the Finance Plan identifying the amount of proceeds expected to be available from the Stadium Authority Construction Sources, the Agency Upfront Investment and the amount of the Mello Roos Bonds.

(b) Payment of 49ers Stadium Company Investment, Including Cost Overruns. In addition to the 49ers Agency Advance and the 49ers CFD Advance, 49ers Stadium Company will pay when due any actual costs of construction of the Stadium that exceed Stadium Authority Sources, the Agency Upfront Investment and the amount of the Mello Roos Bonds, including any actual costs of construction of the Stadium in excess of the Development Budget.

(c) Investments Separate. 49ers Stadium Company will fund its investment from its own funds and in no event will any Stadium Authority Construction Sources, including, without limitation, proceeds from the sale of SBLs or Naming Rights, be used to fund any obligations of 49ers Stadium Company.

Section 7.7 Agency and CFD Investment. The Parties recognize that, by the time the Tax Allocation Bonds and the Mello Roos Bonds are issued, the bonds may generate greater net proceeds than currently projected and thus would potentially reduce the amount of the 49ers

Agency Advance and/or the 49ers CFD Advance required from 49ers Stadium Company. Furthermore, 49ers Stadium Company acknowledges that the ability of the Agency to repay the 49ers Agency Advance is limited to actual receipt of Net Tax Increment and will depend on a number of factors beyond the control of the Agency, including future growth in tax increment in the Redevelopment Project Area and future changes in law affecting the Agency's receipt or use of tax increment revenue. 49ers Stadium Company also acknowledges that the ability of the CFD to repay the 49ers CFD Advance is limited to actual receipt of special taxes paid by the hotels in the CFD and will depend on a number of factors beyond the control of the CFD, including occupancy and room rates in area hotels. In no way will the City's general fund or enterprise funds be responsible for any shortfall in repayment of the 49ers Agency Advance or the 49ers CFD Advance.

Section 7.8 Disbursement of Construction Financing. There will be an equitable schedule, to be agreed upon in the DDA, for Agency, CFD, Stadium Authority and 49ers Stadium Company funding Stadium construction costs. 49ers Stadium Company, City and Agency will be reimbursed from construction draws for reasonable documented Stadium pre-development costs.

ARTICLE 8. **STADIUM OPERATIONS**

Section 8.1 Stadium Operations Generally. The Stadium Authority will be responsible for the management and operation of the Stadium for NFL Events, Non-NFL Events and Civic Events, and 49ers Stadium Company will cooperate with the Stadium Authority in the operation of the Stadium. Certain operational standards will be negotiated by the Parties and will be set forth in a mutually agreed operation and maintenance plan for the Stadium designed to achieve a safe and well-maintained Stadium (the "Stadium Operation and Maintenance Plan"). The Stadium Operation and Maintenance Plan and a Capital Expenditure Plan will be adopted annually by the Stadium Authority, subject to the mutual approval of the Stadium Authority and 49ers Stadium Company. The Capital Expenditure Plan will include an annual projection of capital expenditures, as well as a five (5) year projection of anticipated expenditures. An annual budget for the Stadium operations (the "Annual Stadium Operating Budget") will be adopted annually by the Stadium Authority, in consultation with 49ers Stadium Company. Each year, 49ers Stadium Company will have the right to reasonably identify the costs and expenses in the Annual Stadium Operating Budget that will be included in Reimbursable Expenses (as defined in Article 12 below) and, therefore, be subject to 49ers Stadium Company reimbursement. Any costs or expenses in the Annual Stadium Operating Budget that will not be included in Reimbursable Expenses and, therefore, not be subject to 49ers Stadium Company reimbursement, including the costs and expenses of Civic Events (collectively, "Stadium Authority Discretionary Expenses") will be paid for by another funding source, such as the Stadium Authority's Discretionary Fund, or will not be incurred. If the Stadium Authority and 49ers Stadium Company cannot agree on the costs and expenses in the Annual Stadium Operating Budget that will be included in Reimbursable Expenses and, therefore, be subject to 49ers Stadium Company reimbursement, then senior management of each of the parties will meet and confer in a good faith effort to resolve such disagreement; and, if not resolved, may submit the dispute to non-binding mediation.

(a) Management Company. The Stadium Authority may, after consultation with 49ers Stadium Company, contract with a Stadium management firm to oversee the day-to-day operations of the Stadium. The Parties will identify a mutually acceptable process for selecting the management firm.

(b) Concessionaire. The Stadium Authority may, after consultation with 49ers Stadium Company, contract with an experienced and responsible concessionaire to operate the concessions within the Stadium. The Stadium Authority, in cooperation with 49ers Stadium Company, will be responsible for managing the concessionaire. The Parties will identify a mutually acceptable process for selecting the concessionaire.

Section 8.2 Stadium Parking. Parking for Stadium events will be located in parking areas owned by the City and the Agency as well as in private lots in commercial areas that contract with the Stadium Authority to provide parking. The Stadium Authority, in cooperation with 49ers Stadium Company, will be responsible for managing and operating parking for the Stadium.

(a) Parking Operator. The Stadium Authority, in cooperation with 49ers Stadium Company, will be responsible for managing and operating parking areas that are owned by the City or Agency as well as private parking lots that are contracted to the Stadium Authority. The Stadium Authority, after consultation with 49ers Stadium Company, may contract with an experienced and responsible parking operator to manage the parking areas contracted to the Stadium Authority. The Parties will identify a mutually acceptable process for selecting the parking operator.

(b) Private Parking. The Stadium Authority, in cooperation with 49ers Stadium Company, will contract with private parking lot owners in the area surrounding the Stadium with the goal of having approximately 21,000 parking spaces available for NFL games and other events that fill the Stadium. These arrangements are expected to provide for the sharing of revenue between the parking lot owner and the Stadium Authority.

(c) Publicly Owned Parking. The City and Agency will provide reasonable assurance that the same number of parking stalls currently anticipated for Stadium use that are owned or controlled by the City or Agency will, subject to the City and Agency's existing contractual commitments, continue to be made available for NFL game day parking during the term of the Stadium Lease. In the event the Agency or City seeks to develop such parcels, the City or Agency will work with 49ers Stadium Company to negotiate in good faith a mutually acceptable plan to replace any potentially lost parking.

(d) Parking Overlay Zone. The City will consider in good faith amending its zoning ordinance to create a parking overlay zoning district for the area around the Stadium to require a conditional use permit for paid public use of off-street parking for Stadium events. Any such conditional use permit may be subject to requirements that the use be conducted in a manner consistent with the approved Public Safety Plan, and that such parking use reimburse the Stadium Authority for its fair share of costs related to traffic management and public safety.

Section 8.3 Police, Traffic and Emergency Services. The Stadium Authority will enter into an agreement with the City consistent with the principal terms summarized in Attachment C (the “Public Safety Agreement”) pursuant to which the Stadium Authority will reimburse the City for Public Safety Costs. For NFL Games and other large events, staffing for police services will be provided by the City as well as pursuant to agreements with surrounding jurisdictions.

ARTICLE 9. **NET OPERATING EXPENSES**

Section 9.1 Budget Overview. As provided above, the Stadium Operation and Maintenance Plan, including the Annual Stadium Operating Budget and a Capital Expenditure Plan, will be adopted annually by the Stadium Authority, provided that, each year, 49ers Stadium Company will have the right to reasonably identify the costs and expenses in the Annual Stadium Operating Budget that will be included in Reimbursable Expenses and, therefore, be subject to 49ers Stadium Company reimbursement. The Annual Stadium Operating Budget will include a projection of the Stadium Operating Revenue (as defined in Article 10 below) and overall Stadium expenses for that year, and will itemize those costs and expenses that will constitute Reimbursable Expenses (i.e., costs and expenses subject to 49ers Stadium Company reimbursement) and those that will constitute Stadium Authority Discretionary Expenses (i.e., costs and expenses not subject to 49ers Stadium Company reimbursement). The Stadium Authority Discretionary Expenses will be paid for by another funding source, such as the Stadium Authority Discretionary Fund, or will not be incurred.

Section 9.2 Calculation and Reimbursement of Net Operating Expenses. For each year during the term of the Stadium Lease, 49ers Stadium Company will, as part of the annual rent payable under the Stadium Lease, reimburse the Stadium Authority for the Net Operating Expenses applicable to such year. For purposes hereof, “Net Operating Expenses” for each year will be the amount, if any, by which Reimbursable Expenses exceed Stadium Operating Revenue; provided, however, that Net Operating Expenses will be reduced by amounts paid out of the reserve for operating expenses, described in clause (c) of Article 15 below.

ARTICLE 10. **STADIUM OPERATING REVENUE**

Except as provided herein, the Stadium Authority will be entitled to and will receive all “Stadium Operating Revenue,” which means, for each year during the term of the Stadium Lease, all revenue from operation of the Stadium, excluding Team Revenue and any revenue from Civic Events. Stadium Operating Revenue will include, without limitation, the following:

Section 10.1 Ticket Surcharges. NFL Ticket Surcharge proceeds not needed to pay debt service or other costs of the NFL Ticket Surcharge financing, including releases from any NFL Ticket Surcharge bond reserves, if any. Non-NFL Ticket Surcharges will be included in Stadium Operating Revenue when and to the extent provided in Section 13.5 below.

Section 10.2 City of Santa Clara Senior and Youth Program Fee. The annual proceeds from the City of Santa Clara Senior and Youth Program Fee, to the extent such proceeds exceed Two Hundred Fifty Thousand Dollars (\$250,000) per year.

Section 10.3 Naming Rights Revenue. Naming Rights Revenue not needed to pay debt service or other costs of the Naming Rights Revenue financing, including releases from any Naming Rights Revenue bond reserves, if any. The Stadium Authority is entitled to and will continue to receive all Naming Rights Revenue even after any financing secured by Naming Right Revenues is repaid. The Parties acknowledge that the naming rights sponsor may also enter into a separate sponsorship contract with the Team or a Second Team, and revenue under such separate sponsorship contract will be Team Revenue, which, as provided herein, is excluded from Stadium Operating Revenue. Further, Naming Rights Revenue will not include revenue from rights to name or sponsor components of the Stadium, or from advertising or promotional activities, all of which are included in Team Revenue.

Section 10.4 SBLs Revenue. All net revenues from the sale or transfer of SBLs, except to the extent used to pay initial development costs of the Stadium.

Section 10.5 Additional CFD Amounts. All proceeds of Mello-Roos special taxes and any other funds generated by the CFD in excess of debt service on, and all such funds following the full repayment of, the Mello Roos Bonds and the 49ers CFD Advance.

Section 10.6 Facility Rent. The Facility Rent payable by 49ers Stadium Company in the amount of Five Million Dollars (\$5,000,000).

Section 10.7 Parking Revenue. Except as otherwise agreed by the Stadium Authority and 49ers Stadium Company, all net revenues from the operation of surface lots or in parking structures owned or controlled by the Stadium Authority, and revenue sharing or parking surcharge revenues generated from contracts with private parking lots in the vicinity of the Stadium, provided, however, that a certain amount of parking in designated areas agreed upon by 49ers Stadium Company and the Stadium Authority will be made available at no charge for 49ers Stadium Company use. Pricing of parking for NFL Events will be subject to the approval of 49ers Stadium Company and the Stadium Authority.

Section 10.8 Concession Revenue. Except as otherwise agreed by the Stadium Authority and 49ers Stadium Company, all net revenues from concessionaires authorized by the Stadium Authority to engage in the sale of food, beverages and other goods in the Stadium or on parking lots or structures owned or controlled by the Stadium Authority (“Concession Revenue”), provided, however, that Concession Revenue does not include any of the following, which will constitute Team Revenue: (i) revenues from retail activities associated with the retail store(s) in the Stadium designated as a “Team Store,” (ii) Team Service Revenue (defined below); or (iii) NFL Advertising and Sponsorship Revenue (defined below).

Section 10.9 Third-Party Rent. Except as otherwise agreed by the Stadium Authority and 49ers Stadium Company, the Stadium Authority will receive all net rent from the lease of other leasable space in the Stadium, but excluding any and all space occupied or controlled by

49ers Stadium Company or the Team, including, without limitation, the suites and the Team's locker rooms, offices, Team Store and other areas to be specified in the Stadium Lease for the exclusive use of 49ers Stadium Company. Any such leases to third parties of other leasable space in the Stadium will be subject to the reasonable approval of 49ers Stadium Company, including to assure consistency with the terms of the Sponsor Contracts.

Section 10.10 Revenue from Non-NFL Events. Net revenue received from the promoter or other sponsor of any Non-NFL Event for the right to occupy the Stadium for such Non-NFL Event, including ticket sales to Non-NFL Events sponsored by the Stadium Authority; provided, however, that 49ers Stadium Company will have the exclusive right to market and to authorize the right to occupy suites and similar specified facilities for Non-NFL Events upon purchase of admissions tickets for such Non-NFL Events, and the premium charged, if any, by 49ers Stadium Company to occupy such suites or similar facilities for Non-NFL Events will constitute Team Revenue.

Section 10.11 Non-NFL Event Advertising Revenue. Net revenue received from transient electronic advertising on designated areas of the Stadium scoreboards that is purchased exclusively for and displayed exclusively during Non-NFL Events as well as promotional events and activities occurring exclusively during Non-NFL Events ("Non-NFL Event Advertising Revenue"). To the extent legally and operationally feasible, the Stadium Authority will not engage in or authorize at any time, including during Non-NFL Events, any advertising or promotional activities in or around the Stadium or on parking lots or structures owned or controlled by the Stadium Authority that conflict with the terms of contracts that 49ers Stadium Company, the Team or any Second Team negotiates with its advertisers or sponsors ("Sponsor Contracts"), provided that the foregoing will not apply to any Stadium Authority advertising or similar contracts that pre-date such Team or Second Team Sponsor Contracts.

ARTICLE 11. **TEAM REVENUE**

Section 11.1 Definition of Team Revenue. 49ers Stadium Company, the Team, any Second Team or their affiliates will receive all Team Revenue; and, as provided in Article 10 above, Stadium Operating Revenue will expressly exclude all Team Revenue. As used herein, "Team Revenue" means (a) all NFL Events Revenue, including Team Service Revenue, (b) all NFL Advertising and Sponsorship Revenue and (c) except as expressly provided herein, all other NFL-related revenue or revenue from NFL operations, whether or not occurring at the Stadium, including, without limitation, all revenue from any broadcast or other dissemination of the sound, visual or written depiction of NFL Events and all revenues from retail activities associated with the retail store(s) in the Stadium designated as a "Team Store."

Section 11.2 NFL Events Revenue. As used herein, "NFL Events Revenue" means any and all revenue arising directly or indirectly out of NFL Events, including, without limitation, the following:

(a) **Ticket Revenue.** All revenue, excluding the amount of the NFL Ticket Surcharge, from the sale of tickets to NFL Games or other NFL Events;

(b) Premium Seat Revenue. All revenue from the sale of the rights to occupy suites, boxes, club seats or other similar Stadium facilities for NFL Events and the premium charged, if any, by 49ers Stadium Company to occupy suites or similar facilities for Non-NFL Events; and

(c) Team Service Revenue. All revenue from the delivery of services, rental of any equipment, goods or devices, or the use of technology at or in connection with any NFL Events at the Stadium or provided by 49ers Stadium Company, the Team, any Second Team or their affiliates (collectively, "Team Service Revenue").

Section 11.3 NFL Advertising and Sponsorship Revenue.

(a) Right to Sell. Except for advertising and promotional activities included in the Stadium Authority's Non-NFL Event Advertising Revenue, 49ers Stadium Company, the Team or its affiliates will have the exclusive right to sell advertising and space for promotional displays and activities and other marketing media in or on the Stadium and on Stadium-related signage, whether fixed or otherwise, and sponsorships and promotional activities within the Stadium or associated with the Team and/or the NFL ("NFL Advertising and Sponsorships"), including without limitation, (i) the sale of rights to name or enhance components of the Stadium, including, without limitation, Stadium gates, levels, plazas and concession areas, and (ii) the sale of promotional displays, kiosks or similar facilities in the Stadium or on parking lots or structures owned or controlled by the Stadium Authority. Subject to the rights of existing tenants, the City and the Agency will commit that no property owned or controlled by the City or Agency within the area designated on Attachment B hereto will be used to display advertisements or be used for promotional activities during days of NFL Events that conflict with Sponsor Contracts or the rights of Stadium concessionaires and other vendors, provided that the foregoing will not apply to any City or Agency advertising or similar contracts that pre-date such Sponsor Contracts or vendor contracts. Notwithstanding the foregoing, the Convention Center may schedule events on NFL game days with entities that may conflict with Sponsor contracts or vendor contracts as long as any exterior advertising is limited to standard welcoming signage.

(b) Revenue from NFL Advertising and Sponsorship. 49ers Stadium Company, the Team, any Second Team or their affiliates will receive exclusive rights to any and all revenue, except for Naming Rights Revenue, from NFL Advertising and Sponsorships ("NFL Advertising and Sponsorships Revenue"). NFL Advertising and Sponsorship Revenue will not include any Non-NFL Event Advertising Revenue.

ARTICLE 12. **REIMBURSABLE EXPENSES**

Section 12.1 Definition of Reimbursable Expenses. For purposes of calculating Net Operating Expenses, "Reimbursable Expenses" means, for each year during the term of the Stadium Lease, subject to the exclusions set forth in Section 12.2 below, all costs of operating, maintaining and repairing the Stadium and all costs attributable to NFL Events and Non-NFL Events of operating parking lots and structures under the control of the Stadium Authority and

for Public Safety Costs, all in accordance with the approved Stadium Operation and Maintenance Plan, Annual Stadium Operating Budget and Public Safety Plan, including, without limitation, the following:

(a) Day-to-day expenses of operating and maintaining the Stadium, including, without limitation, costs of cleaning, sweeping, repairs, painting, removing garbage and landscaping;

(b) Charges for heat, water, sewer, gas, electricity and other utilities used or consumed in the Stadium;

(c) Expenses of operating the Stadium for NFL Events and Non-NFL Events, including, without limitation, security and field preparation;

(d) Expenses of operating parking under the control of the Stadium Authority for NFL Events and Non-NFL Events;

(e) Amounts the Stadium Authority pays the City for Public Safety Costs, including a charge for capital expenditures, subject to and in accordance with the Public Safety Agreement;

(f) The charge to the Stadium Capital Expenditure Reserve described in Section 14.1(a) below, in the amount of \$1.5 million in the second year of operation of the Stadium, and escalating 3% per year each year thereafter, plus any additional amount agreed by 49ers Stadium Company, and any Second Team Capital Reserve Deposit pursuant to Section 14.1(c) below;

(g) Insurance expenses for liability, casualty and other insurance;

(h) Possessory interest taxes assessed on account of the possessory interest held by 49ers Stadium Company, the Team or any Second Team, which will be paid by the Stadium Authority (but which, by virtue of being included in Reimbursable Expenses, will be subject to reimbursement by 49ers Stadium Company);

(i) The portion of the Ground Rent payable to the City under the ground lease of the Stadium site consisting of the Fixed Ground Rent and the Performance-Based Rent. The SA Excess Revenue Payment is not a Stadium Operating Expense; and

(j) Amounts paid to the Stadium management company pursuant to its management agreement.

Section 12.2 Excluded Expenses. The following costs and expenses will not be included in Reimbursable Expenses:

- (a) Capital expenditures; provided, however, that charges for capital expenditures will be included in Reimbursable Expenses as provided in subsections 12.1(e) and (f) above;
- (b) Debt service on financing secured by NFL Ticket Surcharges and/or Naming Rights Revenues;
- (c) Stadium Authority Discretionary Expenses, including costs and expenses attributable to Civic Events; and
- (d) Distributions of Excess Revenues pursuant to Article 15 below.

ARTICLE 13.
NON-NFL EVENTS

Section 13.1 Annual Non-NFL Event Plan. The Stadium Authority will have the right to conduct events in the Stadium, such as concerts and sporting events other than NFL Games (“Non-NFL Events”) pursuant to a plan and schedule established each year in consultation with 49ers Stadium Company (the “Annual Non-NFL Event Plan”); provided, however, that, in all events, the Stadium Authority will recognize that, during the NFL pre-season, regular season and post-season, 49ers Stadium Company, the Team, any Second Team and all NFL Events will have scheduling priority over all Civic Events and Non-NFL Events in the Stadium, including scheduling priority necessary to accommodate any “flexible scheduling” of NFL Events that may be imposed by the NFL from time to time. In recognition of the fact that 49ers Stadium Company is responsible for payment of Net Operating Expenses, potentially including losses on Non-NFL Events, the Annual Non-NFL Event Plan will be subject to the mutual approval of 49ers Stadium Company and the Stadium Authority. Subject to 49ers Stadium Company’s scheduling priority, the Stadium Authority will also have the right to conduct events that are not included in the Annual Non-NFL Event Plan approved by 49ers Stadium Company, but any such event will be considered a Civic Event. Expenses for Civic Events will be paid by the Stadium Authority from the Discretionary Fund or from another funding source, as further described in Section 13.6.

Section 13.2 Net Income from Non-NFL Events. As provided in Section 2.2 above, each year, the Stadium Authority will, subject to certain Performance-Based Rent Credits, pay to the City fifty percent (50%) of the Net Income from Non-NFL Events. “Net Income from Non-NFL Events” means, for each year, the Non-NFL Event Revenue for such year, minus the Non-NFL Event Expenses for such year.

Section 13.3 Non-NFL Event Revenue. “Non-NFL Event Revenue” means the total revenue received by the Stadium Authority from Non-NFL Events, excluding the proceeds of the Non-NFL Ticket Surcharge (except as provided in Section 13.5 below). Non-NFL Event Revenue will include, without limitation, net revenue received from the promoter or other sponsor of any Non-NFL Event for the right to occupy the Stadium for such Non-NFL Event,

including any share of ticket sales to Non-NFL Events received by the Stadium Authority, Concession Revenue from Non-NFL Events, Non-NFL Event Advertising Revenue, all net revenues from the operation of surface lots or in parking structures owned or controlled by the Stadium Authority and used for Non-NFL Events, and all revenue sharing or parking surcharge revenues generated from contracts with private parking lots in the vicinity of the Stadium during Non-NFL Events.

Section 13.4 Non-NFL Event Expenses. “Non-NFL Event Expenses” means the direct costs and expenses of any Non-NFL Event, and all incremental costs and expenses attributable to Non-NFL Events, including the Stadium Authority’s administrative and marketing expenses related to obtaining Non-NFL Events and any other overhead as agreed upon by the Stadium Authority and 49ers Stadium Company. All Non-NFL Event Expenses, including any losses from Non-NFL Events, will be included in Reimbursable Expenses.

Section 13.5 Non-NFL Ticket Surcharge. The Stadium Authority will impose, and will require the promoter of any Non-NFL Events to collect on its behalf, a surcharge of Four Dollars (\$4) per ticket (the “Non-NFL Ticket Surcharge”). Except as provided in the last sentence of this Section 13.5, the proceeds of the Non-NFL Ticket Surcharge will be excluded from Non-NFL Event Revenue. One-half of the proceeds of the Non-NFL Ticket Surcharge will be included in Stadium Operating Revenue in the year received, and will be available to pay Reimbursable Expenses. The other one-half of the proceeds of the Non-NFL Ticket Surcharge will be deposited in a separate account under the management and control of the Stadium Authority (the “Discretionary Fund”), which may be used by the Stadium Authority to pay Stadium Authority Discretionary Expenses, including the costs and expenses of Civic Events. In the event the Stadium Authority accrues more than One Million Dollars (\$1,000,000) in the Discretionary Fund (whether in one year or successive years) that is not used by the Stadium Authority for Stadium Authority Discretionary Expenses, then the Stadium Authority will first determine if adequate provision has been made, such as through a sinking fund, for replacement of and upgrades to capital improvements contemplated under the Public Safety Plan; and, if not, will reserve funds in the Discretionary Fund for such purpose. If the remaining balance in the Discretionary Fund still exceeds One Million Dollars (\$1,000,000) after adequate provision has been made for replacement of and upgrades to capital improvements contemplated under the Public Safety Plan, then up to one-half of such excess may be transferred in the discretion of the Stadium Authority from the Discretionary Fund to the City’s General Fund, in which event an equal amount to that transferred to the City’s General Fund will be transferred from the Discretionary Fund to the Stadium Authority’s operating fund and will be included in Stadium Operating Revenue in the year transferred. The amount so included in Stadium Operating Revenue will be available to pay Reimbursable Expenses.

Section 13.6 Civic Events. As described above, the Stadium Authority may schedule events that are not included in the approved Annual Non-NFL Event Plan (“Civic Events”). Civic Events may include civic or other events in the Stadium, or provision of meeting space in the Stadium for community groups and non-profits; provided, however, that the scheduling of any Civic Events will recognize the scheduling priority for NFL Events described above. Unless otherwise agreed upon by 49ers Stadium Company, all costs and expenses attributable to Civic Events (“Civic Event Expenses”) will be paid by the Stadium Authority from the Discretionary

Fund or another funding source, or will not be incurred. In no event will any such Civic Event Expenses constitute Reimbursable Expenses. The Stadium Authority shall be entitled to all revenues attributable to Civic Events and any profits from Civic Events may be transferred in the discretion of the Stadium Authority to the City's General Fund.

ARTICLE 14.
CAPITAL RESERVES

Section 14.1 Reserve Deposits. The Stadium Authority will fund a capital reserve maintained by the Stadium Authority (the "Stadium Capital Expenditure Reserve") with the following amounts:

(a) An annual deposit to the Stadium Capital Expenditure Reserve in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000), escalating three percent (3%) per year, beginning in the second year of operation of the Stadium, and continuing each year thereafter for the term of the Stadium Lease, plus any additional amounts agreed by 49ers Stadium Company;

(b) In any year in which Stadium Authority has Excess Revenues, the Stadium Authority will make a payment to the Stadium Capital Expenditure Reserve in an amount up to One Million Dollars (\$1,000,000) in accordance with the priorities for payment set forth in clause (b) of Article 15 below; and

(c) Each year that a Second Team plays its home games in the Stadium, other than in connection with temporary Second Team Occupancy, the Stadium Authority will fund the applicable Second Team Capital Reserve Deposit as an additional Stadium Operating Expense. The amount of the "Second Team Capital Reserve Deposit" for any year shall equal One Million Dollars (\$1,000,000) in the year the Second Team plays its first home game in the Stadium, and will escalate at a rate of three percent (3%) per year thereafter.

Section 14.2 Use Of Reserve. The Stadium Capital Expenditure Reserve will be used by the Stadium Authority for replacements and capital improvements to the Stadium as provided in the annual Capital Expenditures Plan. Any remaining amounts of the Stadium Capital Expenditure Reserve upon termination of the Stadium Lease will be paid to 49ers Stadium Company to fund any required demolition of the Stadium and as partial reimbursement for capital costs incurred by 49ers Stadium Company in the construction of the Stadium.

ARTICLE 15.
USE OF EXCESS REVENUES

If Stadium Operating Revenues exceed Reimbursable Expenses for any year, resulting in no Net Operating Expenses required to be reimbursed by 49ers Stadium Company for that year ("Excess Revenues"), such Excess Revenues will be distributed as follows (in calculating the Excess Revenues in any year, all dollar amounts in this Article 15 will be escalated at a rate of three percent (3%) per year commencing in the year the Stadium first opens for NFL Events):

(a) First, One Million Dollars (\$1,000,000) will be transferred to the Stadium Capital Expenditure Reserve; provided, however, that for any year in which a Second Team Capital Reserve Deposit is made pursuant to Section 14.1(c) above, no transfer to the Stadium Capital Expenditure Reserve will be made under this clause (a);

(b) Second, One Million Dollars (\$1,000,000) will be paid to the City as additional Ground Rent;

(c) Third, Two Million Dollars (\$2,000,000) will be retained by the Stadium Authority to fund future Reimbursable Expenses; and

(d) Fourth, the remainder, if any, will be disbursed one-third each to the City, to the Stadium Capital Expenditure Reserve, and to the Stadium Authority to fund future Reimbursable Expenses.

ARTICLE 16. **SECOND TEAM**

Section 16.1 Second Team. 49ers Stadium Company will have the right to enter into a sublease with a second NFL team ("Second Team"), on terms and conditions consistent with and subject to the Stadium Lease to allow the Second Team to play its home games in the Stadium, subject to the following conditions:

(a) **Repayment of Upfront Investment.** Prior to the date that the Second Team plays its first home game in the Stadium, the Agency will receive an amount equal to the Agency Upfront Investment, which, as provided in Section 7.4 above, is estimated under current economic conditions to be approximately Twenty-Eight Million Dollars (\$28,000,000).

(b) **Repayment of Advance.** 49ers Stadium Company will pay to the City or Agency prior to the date that the Second Team plays its first home game in the Stadium an amount equal to all the tax increment previously paid to 49ers Stadium Company as payment on the principal amount of the 49ers Agency Advance.

(c) **Forgiveness of 49ers Agency Advance.** From and after the date the Second Team plays its first home game in the Stadium, 49ers Stadium Company will have no further right to receive tax increment and will forgive all principal and interest of any outstanding 49ers Agency Advance.

(d) **Additional Fixed Ground Rent.** Commencing in the first year the Second Team plays its home games at the Stadium, the Stadium Authority will pay to the City, as additional Fixed Ground Rent ("Second Team Fixed Ground Rent"), One Million Dollars (\$1,000,000) per year. Beginning in the eleventh year of Second Team occupancy, the Second Team Fixed Ground Rent will equal One Million One Hundred Thousand Dollars (\$1,100,000) per year, and such amount will, provided the Second Team continues to play its home games at the Stadium, increase One Hundred Thousand Dollars (\$100,000) every five (5) years thereafter during the initial term of the Stadium Lease. For each extension of the Ground Lease, the Second

Team Fixed Ground Rent payment will increase by Eighty Thousand Dollars (\$80,000) for the term of the extension. As Second Team Fixed Ground Rent will be included in Fixed Ground Rent, such amount will be taken into account in calculating Reimbursable Expenses as provided in Section 12.1(i) above, and a portion thereof will be credited against Performance-Based Rent as provided in Section 4.3(b)(i) above.

(e) Reimbursement of Developer Fees. 49ers Stadium Company will reimburse the Agency for the share of development fees paid by the Agency to the City's enterprise funds as of a result of the construction of the Stadium as provided in Section 6.4 above, estimated to be approximately One Million Seven Hundred Thousand Dollars (\$1,700,000).

(f) Capital Costs. 49ers Stadium Company will be responsible for all additional capital costs and additional Reimbursable Expenses required to accommodate a Second Team, except that the Capital Expenditure Reserve may be used to the extent consistent with the Capital Expenditure Plan. There would be no additional investment required by the City or Agency.

(g) Additional Capital Expenditure Reserve Deposit. As provided in Section 14.1(c) above, each year that a Second Team plays its home games in the Stadium, the Stadium Authority will fund, as an additional Stadium Operating Expense, the Second Team Capital Reserve Deposit in the initial amount of One Million Dollars (\$1,000,000), escalated at the rate of three percent (3%) per year thereafter.

Section 16.2 Temporary Second Team Occupancy. In the event 49ers Stadium Company enters into a sublease to allow a Second Team to play its home games at the Stadium for a temporary period not to exceed two NFL seasons (plus up to one (1) additional NFL season as may be required solely to accommodate delays in the construction or reconstruction of the Second Team's stadium), then 49ers Stadium Company will not be required to make the payments or reimbursements described in Sections 16.1(a), 16.1(b) or 16.1(e) above, nor shall the forgiveness of the 49ers Agency Advance or the Additional Capital Expenditure Reserve Deposit be required. However, if a Second Team plays more than two NFL seasons at the Stadium, then, subject to the foregoing exception, all the provisions of Section 16.1 will apply.

Section 16.3 Sublease Subject to Stadium Lease. Any sublease to a Second Team shall be subject to all of the terms of the Stadium Lease. Although the terms of any sublease to a Second Team are not subject to approval of the Stadium Authority, both 49ers Stadium Company and the Second Team shall certify to the Stadium Authority that such sublease is subject to all of the terms of the Stadium Company Lease, and the Stadium Authority may retain an independent third party to review the sublease to confirm such certification.

ARTICLE 17.
ADJACENT PROPERTY

Section 17.1 Theme Park. The Stadium will be built and operated consistent with the Agency's obligations under the Ground Lease with First Refusal Purchase Rights for the Great America Theme Park, or other arrangements acceptable to the Theme Park tenant.

Section 17.2 Other Stadium Area Property. If the City or Agency offers for sale or lease for private development any real property owned by either of them identified on Attachment D, the City or Agency, as applicable, shall give notice to 49ers Stadium Company that such property is being offered for sale or lease, and 49ers Stadium Company shall have the right to participate as a potential buyer or lessee in any Request for Proposals or other similar City or Agency process to determine the disposition of the property.

Section 17.3 49ers Training Facility Lease. The Team's existing ground lease of the property at 4949 Centennial Boulevard, used as the Team's headquarters and training facility, shall remain in full force and effect on its existing terms and conditions, except that it will be extended to be co-terminous with the Stadium Lease, the leased premises will be adjusted to exclude property included in the Stadium Site, and the non-economic terms may be coordinated with the Stadium Lease.

[Signatures follow on Page 27]

By signing below, the Parties evidence their general agreement with the provisions of this Term Sheet and agree to use this Term Sheet as the framework for the good faith negotiations of binding definitive agreements. Any agreements resulting from negotiations will become effective only if and after such agreement has been considered and approved by the Agency and the City following conduct of all legally required procedures.

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

APPROVED AS TO FORM:

HELENE L. LEICHTER
City Attorney

JENNIFER SPARACINO
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”

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA
a redevelopment agency, a public body, corporate and politic, organized and existing in the
County of Santa Clara, under and by virtue of the laws of the State of California

APPROVED AS TO FORM:

HELENE L. LEICHTER
Agency General Counsel

JENNIFER SPARACINO
Executive Director

ATTEST:

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

ROD DIRIDON, JR.
Agency Secretary

“Agency”

FORTY NINERS STADIUM LLC

APPROVED AS TO FORM:

“49ers Stadium Company”

ATTACHMENT A

DEFINED TERMS

“49ers Agency Advance” has the meaning set forth in Section 7.4(c).

“49ers CFD Advance” has the meaning set forth in Section 7.5(a)(2).

“49ers Stadium Company” has the meaning set forth in the introductory language of the Term Sheet.

“49ers Stadium Company Investment” has the meaning set forth in Section 7.6(a)

“Agency” has the meaning set forth in the introductory language of the Term Sheet.

“Agency Upfront Investment” has the meaning set forth in Section 7.4(c).

“Annual Non-NFL Event Plan” has the meaning set forth in Section 13.1.

“Annual Stadium Operating Budget” has the meaning set forth in Section 8.1.

“CEQA” has the meaning set forth in Section 1.2.

“CFD” has the meaning set forth in Section 2.3.

“City” has the meaning set forth in the introductory language of the Term Sheet.

“City of Santa Clara Senior and Youth Program Fee” has the meaning set forth in Section 4.4.

“Civic Event Expenses” has the meaning set forth in Section 13.6.

“Civic Events” has the meaning set forth in Section 13.1.

“Closing” has the meaning set forth in Section 3.1.

“Concession Revenue” has the meaning set forth in Section 10.8.

“Conditions to Closing” has the meaning set forth in Section 3.1.

“Construction Contract” has the meaning set forth in Section 3.1(c).

“Credited Public Safety Costs” has the meaning set forth on Attachment C to the Term Sheet.

“DDA” has the meaning set forth in Section 3.1.

“Development Budget” has the meaning set forth in Section 7.6(a)(1).

“Discretionary Fund” has the meaning set forth in Section 13.5.

“Excess Revenues” has the meaning set forth in Article 15.

“Expedited ADR” has the meaning set forth on Attachment C to the Term Sheet.

“Facility Rent” has the meaning set forth in Section 5.3.

“Finance Plan” has the meaning set forth in Section 7.2.

“Fixed Ground Rent” has the meaning set forth in Section 4.3(a).

“Ground Lease” has the meaning set forth in Section 2.2.

“Ground Rent” has the meaning set forth in Section 4.3.

“Mello Roos Bonds” has the meaning set forth in Section 7.5(a).

“Naming Rights Revenue” has the meaning set forth in Section 7.3(b).

“Net Income from Non-NFL Events” has the meaning set forth in Section 13.2.

“Net Operating Expenses” has the meaning set forth in Section 9.2.

“Net Tax Increment” has the meaning set forth in Section 7.4(b).

“NFL Advertising and Sponsorships” has the meaning set forth in Section 11.3(a).

“NFL Advertising and Sponsorships Revenue” has the meaning set forth in Section 11.3(b).

“NFL Events” has the meaning set forth in Section 5.2.

“NFL Events Revenue” has the meaning set forth in Section 11.2.

“NFL Games” has the meaning set forth in Section 5.2.

“NFL Ticket Surcharge” has the meaning set forth in Section 7.3(c).

“Non-NFL Events” has the meaning set forth in Section 13.1.

“Non-NFL Event Advertising Revenue” has the meaning set forth in Section 10.11.

“Non-NFL Event Expenses” has the meaning set forth in Section 13.4.

“Non-NFL Event Revenue” has the meaning set forth in Section 13.3.

“Non-NFL Ticket Surcharge” has the meaning set forth in Section 13.5.

“Non-Relocation Agreement” has the meaning set forth in Section 3.2(c).

“Parties” has the meaning set forth in the introductory language of the Term Sheet.

“Performance-Based Rent” has the meaning set forth in Section 4.3(b).

“Performance-Based Rent Credits” has the meaning set forth in Section 4.3(b).

“Permitted Credits Carry-forward” has the meaning set forth in Section 4.3(b).

“Per Game Factor” has the meaning set forth on Attachment C to the Term Sheet.

“Project Management Agreement” has the meaning set forth in Section 6.2.

“Public Safety Agreement” has the meaning set forth in Section 8.3.

“Public Safety Capital Expenditures” has the meaning set forth on Attachment C to the Term Sheet.

“Public Safety Costs” has the meaning set forth on Attachment C to the Term Sheet.

“Public Safety Plan” has the meaning set forth on Attachment C to the Term Sheet.

“Redevelopment Project Area” has the meaning set forth in the Introduction.

“Reimbursable Expenses” has the meaning set forth in Section 12.1.

“SA Excess Revenue Payment” has the meaning set forth in Section 4.3(c).

“SBLs” has the meaning set forth in Section 7.3(a).

“Second Team” has the meaning set forth in Section 16.1.

“Second Team Capital Reserve Deposit” has the meaning set forth in Section 14.1(c).

“Second Team Fixed Ground Rent” has the meaning set forth in Section 16.1(d).

“Sponsor Contracts” has the meaning set forth in Section 10.11.

“Stadium” has the meaning set forth in the Introduction.

“Stadium Authority” has the meaning set forth in the Introduction.

“Stadium Authority Construction Sources” has the meaning set forth in Section 7.3.

“Stadium Authority Discretionary Expenses” has the meaning set forth in Section 8.1.

“Stadium Capital Expenditure Reserve” has the meaning set forth in Section 14.1.

“Stadium Lease” has the meaning set forth in the Introduction.

“Stadium Operation and Maintenance Plan” has the meaning set forth in Section 8.1.

“Stadium Operating Revenue” has the meaning set forth in Article 10.

“Stadium Site” has the meaning set forth in the Introduction.

“Tax Allocation Bonds” has the meaning set forth in Section 7.4(b).

“Team” has the meaning set forth in the Introduction.

“Team Revenue” has the meaning set forth in Section 11.1.

“Team Service Revenue” has the meaning set forth in Section 11.2(c).

“Team Store” has the meaning set forth in Section 10.8(i).

“Term Sheet” has the meaning set forth in the introductory language of the Term Sheet.

“Team Sublease” has the meaning set forth in Section 3.2(c).

“Threshold” has the meaning set forth on Attachment C to the Term Sheet.

“TOT” has the meaning set forth in Section 7.5.

ATTACHMENT B

**CONTROL AREA FOR DISPLAY OF ADVERTISEMENTS
AND PROMOTIONAL ACITVITIES DURING NFL EVENTS**



Term Sheet Section 12.2 (b) - Advertising

ATTACHMENT C

PRINCIPAL TERMS OF PUBLIC SAFETY AGREEMENT

Capitalized terms not otherwise defined in this Attachment C shall have the meanings ascribed to them in the Term Sheet.

1. Public Safety Facilities in Stadium. The Stadium will include a temporary holding facility on the ground floor, constructed in accordance with state and local building codes, including Title 15 and Title 24 of the California Code of Regulations, and a security command center at the press level, both of which will be available for use by the City's public safety personnel during Stadium events. These areas will be designed and equipped in consultation with the City's Chief of Police. Development costs of these areas will be included in the Development Budget.

2. Public Safety Plan. The City (including, without limitation, its Chief of Police) and the Stadium Authority, in consultation with 49ers Stadium Company, will develop and continuously update as needed, a public safety plan describing procedures for traffic management, security and public safety at NFL Games and other large events at the Stadium, which will include police and fire personnel stationed in and around the Stadium, as well as private security (the "Public Safety Plan").

3. Reimbursement of City Costs. The Stadium Authority will reimburse the City for the actual and reasonable costs of police, traffic control, fire, emergency services and similar services attributable to Stadium events incurred by the City in implementing the approved Public Safety Plan, including the fair share of reasonable capital expenditures required for public safety for the Stadium as described below ("Public Safety Costs"). The Public Safety Costs to be reimbursed by the Stadium Authority each year will be agreed upon by the Stadium Authority, the City and 49ers Stadium Company or will otherwise be resolved by Expedited ADR, as described in Section 8 below. Capital expenditures required for public safety for the first year of operation of the Stadium, including the cost of equipment that is reasonably necessary for dedicated use at the Stadium only, will be included in the Development Budget. During operation of the Stadium, Public Safety Costs will be allocated as follows: (i) Public Safety Costs in connection with NFL Events will be included in Reimbursable Expenses subject to Paragraph 4 below, (ii) Public Safety Costs in connection with Non-NFL Events will also be included in Reimbursable Expenses, and, for purposes of calculating Net Income from Non-NFL Events, will also be included in Non-NFL Event Expenses, and (iii) Public Safety Costs in connection with Civic Events will be included in Civic Event Expenses.

4. NFL Games. For the first season of NFL Games at the Stadium, Public Safety Costs attributable to NFL Games, including a charge for capital expenditures as described below, will be included in Reimbursable Expenses up to a maximum amount equal to the product of One Hundred Seventy Thousand Dollars (\$170,000) ("Per Game Factor") multiplied by the total number of pre-season, regular season and post-season NFL Games played at the Stadium for that NFL season (the "Threshold"). Assuming ten (10) home games during the first NFL season at the Stadium, the Threshold for that season will be One Million Seven Hundred Thousand Dollars

(\$1,700,000). For each NFL season thereafter, the Per Game Factor referenced above will be increased by four percent (4%) per year, subject to adjustment as provided in Section 7(ii) below. If Public Safety Costs attributable to NFL Games in any year exceed the Threshold, the excess will be treated in accordance with Section 6 below. In determining costs subject to the Threshold, the following will apply:

(i) The Stadium Authority will reimburse the City up to \$500,000 for each of the first two years of Stadium operations for the actual total compensation of a police lieutenant and sergeant to establish a special events unit and to develop procedures and protocols for the implementation of the Public Safety Plan as well as agreements with surrounding jurisdictions, and these costs will be considered Reimbursable Expenses, but will not count toward the Threshold;

(ii) Rental from third parties of barricades and radios will be negotiated by the Stadium Authority or 49ers Stadium Company, and the cost of such rental will be separately included in Reimbursable Expenses and will not count toward the Threshold;

(iii) Any police escorts or additional security requested for Team and visiting team players will be the responsibility of the Team or the visiting team, and will not count toward the Threshold;

(iv) The charge for capital expenditures, which may be for amortization or for deposits to a sinking fund, will be in an amount equal to the fair share of reasonable capital expenditures required for public safety for the Stadium, which charge will be equitably allocated between NFL Events and Non-NFL Events. The portion of such charge that is attributable to NFL Events will be subject to the Threshold.

5. Possible Adjustment of Threshold.

(i) If the NFL mandates specific new or expanded security measures that substantially increase Public Safety Costs in connection with NFL Games, and the reasonable cost of such new or expanded measures will cause the Threshold to be exceeded, then, at the request of the City, the Threshold shall be increased so that such new or expanded measures will not cause the Threshold to be exceeded. If the Stadium Authority, 49ers Stadium Company and the City are unable to agree on the amount of such increase, determination of the adjustment may be subject to arbitration pursuant to Section 8 below.

(ii) If due to unanticipated circumstances other than new or expanded security measures mandated by the NFL, Public Safety Costs paid by the Stadium Authority to the City for NFL Games exceed the Threshold over any three (3) consecutive years, then, at the request of the City, the Stadium Authority, 49ers Stadium Company and the City will engage in good faith negotiations with respect to possible increase in the Threshold; provided, however, that 49ers Stadium Company will not be obliged to agree to any increase in the Threshold pursuant to this clause (ii) and the issue shall not be subject to arbitration pursuant to Section 8 below.

6. Public Safety Costs in Excess of Threshold. Any Public Safety Costs attributable to NFL Games paid by the Stadium Authority to the City in excess of the Threshold in any year,

unless paid out of the Discretionary Fund, will be considered "Credited Public Safety Costs" and will be credited against Performance-Based Rent as provided in Section 4.3 of the Term Sheet.

7. Second Team. If a Second Team will play its home games at the Stadium as provided in Article 16 of the Term Sheet (other than a temporary occupancy as described in Section 16.2), the following additional provisions will apply:

(i) The Stadium Authority will reimburse the City up to \$250,000 for each of the first two years of Second Team operations for the actual total compensation of a police lieutenant and sergeant to update procedures and protocols for the implementation of the Public Safety Plan as well as agreements with surrounding jurisdictions, and such reimbursement will not count toward the Threshold;

(ii) Commencing after the first year a Second Team plays its home games at the Stadium, the Per Game Factor described in Section 4 above will be increased by 6% per year, rather than 4% per year.

8. Dispute Resolution. If the City, Stadium Authority and 49ers Stadium Company cannot agree on any Public Safety Cost, the allocation of such costs among NFL Events, Non-NFL Events and Civic Events, or any adjustment of the Threshold pursuant to Section 5(i) above, then, prior to the adoption of the Annual Stadium Operating Budget (or, if such disagreement arises after the adoption of the Annual Stadium Operating Budget, promptly after notice of such disagreement is given to all parties), senior management of each of the Parties will meet and confer in a good faith effort to resolve such disagreement. If such disagreement is not resolved through such good faith discussions, it may be submitted to expedited final alternative dispute resolution ("Expedited ADR"). The Expedited ADR shall be conducted by a panel of three arbitrators, one selected by the City, one selected by 49ers Stadium Company, and the third selected by the first two arbitrators. The decision of the Expedited ADR panel will be limited to (i) whether or not the particular cost is a Public Safety Cost subject to reimbursement by the Stadium Authority, (ii) determining the allocation of the particular costs among NFL Events, Non-NFL Events and Civic Events, and/or (iii) the amount of any increase in the Threshold required under Section 5(i) above.

ATTACHMENT D

OTHER STADIUM AREA PROPERTY



Term Sheet Section 17.2 - Other Stadium Area Property

ATTACHMENT E

LIST OF DEVELOPMENT FEES

Water Main Fee:

Developer shall pay the City a water main fee for the existing water main along the Tasman Drive frontage of the property (Centennial frontage is considered satisfied). This fee shall be computed at the rate of \$60 per foot of street frontage of the property. Based on the 926 feet of frontage of the property along Tasman Drive, the fee would be calculated as:
 $926 \text{ feet} \times \$60/\text{foot} = \mathbf{\$55,560.00}$.

Sanitary Sewer Conveyance Fee:

Developer shall pay the City a sanitary sewer outlet charge. The revenue from the sanitary sewer conveyance fee shall be used for the acquisition, construction, replacement and debt retirement of off-site sewerage facilities as described in Resolution No. 07-7415 - Exhibit A (Sanitary Sewer Capacity Assessment Study by RMC Water & Environment Inc.). Pursuant to said resolution, this fee shall be computed at the rate of \$5.50 per gallon per day of the estimated sanitary sewer effluent. Based on the estimated effluent of 233,000 gallons per day from this development, the fee would be calculated as: $233,000 \text{ GPD} \times \$5.50/\text{GPD} = \mathbf{\$1,281,500.00}$.

Sanitary Sewer Connection Fee (Sewage Treatment Plant Expansion Connection Charge):

Developer shall pay the City a sanitary sewer connection fee to finance capital and debt retirement costs associated with the sewage treatment facilities which are allocated to unused or future capacity. The fee shall be computed at the rate of \$4.30 per gallon per day of the estimated sanitary sewer effluent. Based on the estimated effluent of 233,000 gallons per day from this development, the fee would be calculated as: $233,000 \text{ GPD} \times \$4.30/\text{GPD} = \mathbf{\$1,001,900.00}$.

Street Lighting (UG over 10 Acres):

Developer shall pay the City a street lighting fee to cover the cost for the installation of electric facilities used to provide street lighting in and around the property development. The unit basis for the street lighting is the number of acres of development property. The developer is also responsible for providing and installing underground substructures (conduits, manholes, and splice boxes) required for the street light installation in accordance with Silicon Valley Power requirements. The street light fee is calculated by multiplying the number of acres of development by the current fee rate of \$1,763.75. Based on the prorated acreage of the project of 9.93 acres, the fee would be calculated as: $9.93 \text{ acres} \times \$1,763.75/\text{acres} = \mathbf{\$17,514.00}$ (rounded to nearest dollar).

Electric Load Development:

Developer shall pay the City an electric load development fee to cover the cost for the installation of electric facilities used to deliver electric energy to the new or upgraded development. The unit basis for the Load Development fee is the electric demand increase measured in Kilovolt Amperes (KVA). The developer is also responsible for providing and installing along the property public frontage all underground substructures (conduits, manholes, and splice boxes) required for current and future electric facility installation in accordance with Silicon Valley Power requirements. The Load Development fee is calculated by multiplying the

electric demand increase (KVA) by the current fee rate of \$92.60. Based on the estimated demand increase (KVA) of 9,000 from this development, the fee would be calculated as: 9,000 KVA X \$92.60/KVA = \$833,400.

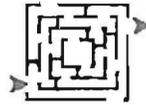
Public Works Engineering and Inspection Fee:

Developers shall pay an engineering and inspection fee , which includes all charges except overtime, for engineering and inspection services rendered by the City. The engineering and inspection fee shall be computed at the rate of eight percent (8%) of the total construction cost of all public works facilities and improvements (except water facilities), installed by the developer. The developer shall pay all payroll costs for engineering and inspection services requested by the developer outside of the regular City work hours. Such fees shall be due and payable upon demand of the City. Inasmuch as the cost of public works facilities and improvements to be installed by the developer is unknown at this time, **this fee is still to be determined.**

Water Engineering and Inspection Fee:

Developers shall pay a water engineering and inspection fee , which includes all charges except overtime, for water engineering and inspection services rendered by the City. The water engineering and inspection fee shall be computed at the rate of eight percent (8%) of the total construction cost of all water facilities (domestic, fire protection and recycled) and improvements installed by the developer. The developer shall pay all payroll costs for water engineering and inspection services requested by the developer outside of the regular City work hours. Such fees shall be due and payable upon demand of the City. Inasmuch as the cost of water facilities and improvements to be installed by the developer is unknown at this time, **this fee is still to be determined.**

Total Development Fees (excluding Engineering & Inspection Fees): \$3,189,874.00



KEYSER MARSTON ASSOCIATES
 ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORIES
 REAL ESTATE
 REDEVELOPMENT
 AFFORDABLE HOUSING
 ECONOMIC DEVELOPMENT

SAN FRANCISCO
 A. JERRY KEYSER
 TIMOTHY C. KELLY
 KATE EARLE TUNK
 DEBBIE M. KERN
 ROBERT J. WETMORE
 REED T. KAWALARA

SAN ANGELES
 KATHLEEN H. HEAD
 JAMES A. JURE
 PAUL C. ANDERSON
 GREGORY D. SOO-HOON
 KEVIN L. ENGSTROM
 JUDIT L. ROMNEY
 DENISE BICKERSTAFF

SAN DIEGO
 GERALD M. TRIMBLE
 PAUL C. MARRA

To: Ron Garratt, Assistant City Manager
 City of Santa Clara

From: Keyser Marston Associates, Inc.

Date: May 28, 2009

Subject: Stadium Economic and Fiscal Impacts Recap

Two studies on the economic and fiscal impact of the proposed San Francisco 49ers ("49ers") Stadium have been prepared by Conventions Sports and Leisure (CS&L) (consultant to the 49ers) and each were subsequently evaluated by Keyser Marston Associates, Inc. (KMA) (consultant to the City). This memo is a recap of the major findings of the two studies as evaluated and adjusted by KMA:

April 2007 CS&L Study¹ ("2007 Study") - addressed economic and fiscal impacts of the Stadium and the existing 49er headquarters and training facility to the City, County, and State. KMA evaluated the CS&L study focusing only on the City benefits and made certain refinements to the study's findings² ("2007 KMA Evaluation").

January 2009 CS&L Synergy Study³ ("2009 Synergy Study") - addressed potential fiscal benefits from event synergies between the Stadium and the Santa Clara Convention Center. KMA prepared a memo summarizing and concurring with the study's findings⁴. The Synergy Study, the results of which are summarized herein, will be released publicly in June.

¹ Economic and Fiscal Impacts of a New State-of-the-Art Stadium in Santa Clara. CS&L. April 4, 2007.

² 49ers Stadium – Evaluation off CS&L Economic and Fiscal Benefits Study. KMA. June 1, 2007.

³ Analysis of Potential Event Synergies Between the Santa Clara Convention Center and a New San Francisco 49ers Stadium. CS&L. January 5, 2009.

⁴ Event Synergy Potential Between Convention Center and Stadium. KMA. May 19, 2009

To: Ron Garratt, Assistant City Manager
Subject: Stadium Economic and Fiscal Impacts Recap

May 28, 2009
Page 2

2007 Study Recap

The 2007 Study concluded that the Stadium and existing headquarters and training facility would generate the following annual economic impacts within the City of Santa Clara:

Annual Economic Impacts* Within City of Santa Clara \$2007 Dollars	Stadium	Existing Headquarters & Training Facility	Total Existing + New from Stadium
Economic Activity**	\$41 Million/Yr	\$44 Million/Yr	\$85 Million/Yr
Personal Income	\$17 M/Yr	\$21 M/Yr	\$38 M/Yr
Employment***	515	313	828

*Inclusive of direct, indirect, and induced impacts

**also referred to as economic output. Equates to gross receipts for businesses in Santa Clara

***expressed as full time equivalents or FTEs (i.e. 20 hours per week = 0.5 FTE)

The 2007 Study, with refinements by KMA, included an estimate of fiscal revenues that would accrue to the City of Santa Clara's General Fund of \$650,000 per year consisting of hotel transient occupancy taxes, sales taxes, and property tax in-lieu of vehicle license fees (VLF), and projected to escalate at 3% per year. Revenues are generated primarily from expenditures inside and outside of the Stadium by the estimated 1.2 million attendees of 49er games and Non-NFL events. In contrast to the projection of economic benefits, the estimate of fiscal revenue does not include existing revenue from the headquarters and training facility. The estimate was assumed to constitute net revenue to the City given the 49er proposal to reimburse City costs to provide services to the Stadium. Over the proposed 40 year base lease term for the stadium, the fiscal revenues equate to approximately \$13 million on a net present value (NPV) basis.

Subsequent to the 2007 Study, the 49ers indicated a desire to incorporate the potential for a second team into the Term Sheet. KMA estimates additional fiscal revenues from a second team of approximately \$6 million NPV if the 2nd Team were to occupy the stadium in the 6th year of the lease.

2009 Synergy Study Recap

The 2009 Synergy Study determined that there is the potential for additional fiscal revenues generated by event synergies with the Santa Clara Convention Center not captured in the 2007 Study. These synergies result from unique event spaces within the Stadium that could be used in conjunction with events at the Convention Center. The

To: Ron Garratt, Assistant City Manager
Subject: Stadium Economic and Fiscal Impacts Recap

May 28, 2009
Page 3

availability of these spaces would add to the attractiveness and versatility of the Convention Center in booking events.

The 2009 Synergy Study estimated the benefit to the City's General Fund from potential event synergies at \$333,000 annually, or nearly \$7 million on a net present value basis over 40 years. The revenue is comprised of \$176,000 in additional net revenue for the Convention Center (effectively accrues to the City General Fund) and \$157,000 in additional hotel transient occupancy taxes and is projected to escalate at 3% per year. Estimates are based on a projected increase in the number of events of less than 10%. KMA concurred with the study's findings.

Fiscal Revenue Summary – 2007 Study + Synergy Study

Total projected fiscal revenues to the City's General Fund inclusive of the findings of both studies are as follows:

	Annual Fiscal Revenue \$2009 Dollars*	Net Present Value Over 40 Year Lease**
Total One Team	\$1 Million/Year	\$20 Million
Total If 2 nd Team in Year 6	\$1.4 Million/Year	\$26 Million

*2007 study adjusted to 2009 dollars by CPI

**Net present value in FY 2008-09 discounted at 6%

Preliminary Estimate of Return After Investment from Stadium Project - Net Present Value (NPV) in 2008-09 ⁽¹⁾
49er Stadium Term Sheet
Santa Clara, CA

NPV in 2008-09 ⁽¹⁾

	<u>City of Santa Clara</u>		<u>Redevelopment Agency</u>		<u>Note</u>
	<u>One Team</u>	<u>Two Teams</u>	<u>One Team</u>	<u>Two Teams</u>	
I. Return to City					
Fixed Ground Rent	\$8 M	\$18 M	N/A	N/A	Reduced in first 10 yrs; then \$1 M/yr with 100k bumps every 10 years
Performance-Based Rent	\$18 M	\$15 M	N/A	N/A	Performance rent after credits discounted at 10%
Senior / Youth Program Fee	<u>\$3 M</u>	<u>\$3 M</u>	<u>N/A</u>	<u>N/A</u>	From \$0.35 Ticket Fee
Subtotal	\$29 M	\$36 M	N/A	N/A	
Repay Investment w / 2nd Team	N/A	\$21 M	N/A	N/A	Payback \$28 M upfront investment, forgive advance and pay back principal
Property Taxes	\$2 M	\$4 M	\$6 M	\$8 M	RDA: TI from stadium; City: pass thru+prop tax after 2026 from stadium
Sales Tax, VLF, TOT	\$20 M	\$26 M	N/A	N/A	Per CS&L with refinements by KMA and including impact of synergy with convention center; two team estimate assumes 2nd team in 6th year.
Total	\$51 M	\$87 M	\$6 M	\$8 M	
II. Investment (excluding Garage)	\$20 M	\$20 M	\$36 M	\$36 M	City Investment = relocate substation; RDA investment = (\$28 M bonds & cash + \$12 M Advance + \$1.7 M Dev Fees = \$42 M but NPV = \$36 M), Excludes CFD (Hotel Mello)
III. Return After Investment (excluding Garage)	\$31 M	\$67 M	(\$30 M)	(\$28 M)	
Investment in Garage (40% allocation)	N/A	N/A	\$15 M	\$15 M	NPV in 2008-09 of \$17 M allocable share of parking garage cost
IV. Return After Investment (Including Garage)	\$31 M	\$67 M	(\$45 M)	(\$43 M)	

Notes:

(1) Revenues and expenses over 40 year initial lease term are converted to present value in 2008-09 for comparison purposes using a discount rate of 6% except performance rent discounted at 10%. Revenues were inflated at 3% per year except property taxes and tax increment inflated at 2% per year. Revenues and expenses from one-time or periodic events (i.e. super bowl) or an incremental increase in development near the stadium are difficult to predict and have not been included in the analysis.

Sources: San Francisco 49ers, City of Santa Clara, KMA

Prepared by Keyser Marston Associates, Inc.

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**Ground Rent
49er Stadium Term Sheet
Santa Clara, CA
(\$000's Omitted)**

	1	6	11	16	21	26	31	36	40
	2014-15	2019-20	2024-25	2029-30	2034-35	2039-40	2044-45	2049-50	2053-54

ONE TEAM

Fixed Ground Rent	\$180	355	1,000	1,100	1,200	1,300	1,400	1,500	1,500
Projected Performance-Based Rent	2,390	2,697	2,833	2,988	3,520	4,146	4,882	5,745	6,581
Senior / Youth Programs Fee	<u>228</u>								
Total	2,798	3,280	4,060	4,316	4,947	5,673	6,509	7,472	8,308

TWO TEAMS

2nd Team --->>

Fixed Ground Rent - Team 1	\$180	355	1,000	1,100	1,200	1,300	1,400	1,500	1,500
Fixed Ground Rent - Team 2	<u>0</u>	<u>1,000</u>	<u>1,000</u>	<u>1,100</u>	<u>1,200</u>	<u>1,300</u>	<u>1,400</u>	<u>1,500</u>	<u>1,500</u>
Subtotal Fixed Rent	180	1,355	2,000	2,200	2,400	2,600	2,800	3,000	3,000
Projected Performance-Based Rent	\$2,390	2,197	2,333	2,243	2,704	3,258	3,919	4,705	5,517
Senior / Youth Programs Fee	<u>228</u>	<u>250</u>							
Total	2,798	3,802	4,583	4,693	5,354	6,108	6,969	7,955	8,767

Fair Market Rent (\$1.8 M / year inflated at 3%)	\$2,087	2,419	2,804	3,251	3,769	4,369	5,065	5,872	6,609
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Projected Ground Rent to City - One Team
 49er Stadium Term Sheet
 Santa Clara, CA
 (\$000's Omitted)

ONE TEAM

Selected Years Shown

FY Beginning	A.	B. Projected Performance-Based Rent to City ⁽¹⁾				F.		G. (= A. + E. + F.)	
	Fixed Ground Rent to City	50% of Non-NFL Net Revenue	Credit 50% Fixed Rent	Credit PIT	Net Perform. Rent To City	Senior and Youth Program Fee \$0.35/ticket ⁽³⁾	fee	Projected Total to City	
40 Year Lease									<u>\$2009s</u>
2014	\$180	\$2,480	(\$90)	\$0	\$2,390	\$0.35	\$228	\$2,798	2,413
2019	355	2,875	(178)	0	2,697	\$0.35	228	3,280	2,441
2024	1,000	3,333	(500)	0	2,833	\$0.35	228	4,060	2,606
2026	1,000	3,536	(500)	(307)	2,729	\$0.35	228	3,957	2,394
2029	1,100	3,864	(550)	(325)	2,988	\$0.35	228	4,316	2,390
2034	1,200	4,479	(600)	(359)	3,520	\$0.35	228	4,947	2,363
2039	1,300	5,193	(650)	(397)	4,146	\$0.35	228	5,673	2,337
2044	1,400	6,020	(700)	(438)	4,882	\$0.35	228	6,509	2,313
2049	1,500	6,978	(750)	(483)	5,745	\$0.35	228	7,472	2,291
2053	1,500	7,854	(750)	(523)	6,581	\$0.35	228	8,308	2,263
Nominal Total	40,875	186,995	(20,438)	(11,359)	155,199		9,100	205,174	
NPV (rounded) ⁽²⁾	\$8.5 M			(but City still receives its share of PIT)	\$17.9 M		\$2.6 M	\$28.9 M	
Discount Rate	6%				10%		6%		

(1) Public safety costs are assumed to be within the agreed upon cap, so no deduction from performance rent for "credited public safety" is reflected.
 (2) Discounted to 2008-09
 (3) On NFL tickets up to a maximum of \$250,000 per year.

Projected Ground Rent to City - Two Teams
 49er Stadium Term Sheet
 Santa Clara, CA
 (\$000's Omitted)

TWO TEAMS

Selected Years Shown

FY Beginning	A. Fixed Ground Rent to City			D. Projected Performance-Based Rent to City ⁽¹⁾				H. Senior and Youth Program Fee \$0.35/ticket ⁽³⁾		I. = (C. + G. + H.) Projected Total Rent to City	
	Team One	Added with 2nd Team	Total Both Teams	50% Non-NFL Net Revenue	E. Credit: 50% Fixed Rent	F. Credit PIT	G. Net Perform. Rent To City	fee		\$2009s	
	40 Year Lease										
2014	\$180	\$0	\$180	\$2,480	(\$90)	\$0	\$2,390	\$0.35	\$228	\$2,798	2,413
2019 2nd Team	355	1,000	1,355	2,875	(678)	0	2,197	\$0.35	250	3,802	2,829
2024	1,000	1,000	2,000	3,333	(1,000)	0	2,333	\$0.35	250	4,583	2,942
2026	1,000	1,000	2,000	3,536	(1,000)	(491)	2,045	\$0.35	250	4,295	2,599
2029	1,100	1,100	2,200	3,864	(1,100)	(521)	2,243	\$0.35	250	4,693	2,599
2034	1,200	1,200	2,400	4,479	(1,200)	(575)	2,704	\$0.35	250	5,354	2,557
2039	1,300	1,300	2,600	5,193	(1,300)	(635)	3,258	\$0.35	250	6,108	2,516
2044	1,400	1,400	2,800	6,020	(1,400)	(701)	3,919	\$0.35	250	6,969	2,477
2049	1,500	1,500	3,000	6,978	(1,500)	(773)	4,705	\$0.35	250	7,955	2,439
2053	1,500	1,500	3,000	7,854	(1,500)	(837)	5,517	\$0.35	250	8,767	2,388
Nominal Total	40,875	42,500	83,375	186,995	(41,688)	(18,174)	127,134		9,888	220,396	
NPV (rounded) ⁽²⁾	\$8.5 M	\$9.1 M	\$17.5 M				(but City still receives its share of PIT)	\$15.5 M	\$2.7 M	\$35.8 M	
Discount Rate	6%	6%	6%				10%		6%		

(1) Public safety costs are assumed to be within the agreed upon cap, so no deduction from performance rent for "credited public safety" is reflected.

(2) Discounted to 2008-09

(3) On NFL tickets up to a maximum of \$250,000 per year.



Exhibit 11

San Francisco 49ers Stadium

Non-NFL Event Revenue



- The pro-forma assumes there will be 17 major events per year. Certain events occur more than once (e.g. there are two international soccer games) and certain events occur over a number of days (e.g. each a car show is a 4 day event). As a result the 17 major events would result in 26 total event days at the stadium.

	College Football	Concerts	Festival / Antique Shows	Int'l Soccer	Super Cross	X-Game (4 day event)	Car Show (4 dy, 3K/dy)	College Bowl Game	Subtotal Major Events	Non-Major Events	Grand Total
Number of events	1	1	8	2	1	1	2	1	17	> 250	
Number of days per event	1	1	1	1	1	4	4	1			
Number of event days	1	1	8	2	1	4	8	1	26		
Estimated Attendance	37,500	37,500	200,000	80,000	42,500	50,000	24,000	25,000	496,500		
Non-NFL Event Revenue Promoter fees, concessions, parking, rent, expense reimbursements	\$ 590	\$ 820	\$ 1,930	\$ 1,490	\$ 910	\$ 910	\$ 330	\$ 680	\$ 7,660	\$ 2,125	\$ 9,785
Non-NFL Event Expenses Utilities, Public Safety, Staffing, etc.	210	210	1,710	430	210	440	230	260	3,700	1,125	4,825
Net Income from Non-NFL Events	\$ 380	\$ 610	\$ 220	\$ 1,060	\$ 700	\$ 470	\$ 100	\$ 420	\$ 3,960	\$ 1,000	\$ 4,960
Net Revenue per event	\$ 380	\$ 610	\$ 28	\$ 530	\$ 700	\$ 470	\$ 50	\$ 420	\$ 233		

Note: All dollar amounts are in 000's.



Hypothetical Calendar of Events

Date	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1			Sa			S 10-8	T 10-10	F 10-10	M 10-8		Sa 10-5:30	
2		Sa			F 10-8	M 10-8	W 10-10	Sa 10-10			S 10-5:30	
3						Sa 10-8	T 10-8	Th 10-10		F 10-7		
4				F 10-6	S 10-7	W 10-8	F 10-10	M 10-10		Sa 10-5:30		
5	Sa			Sa 10-8		Th 10-8	Sa 10-10	T 10-10		S 10-5:30		
6				S 10-7		F 10-8	S 10-10	W 10-10	Sa 10-8			Sa
7						Sa 10-8	M 10-10	Th 10-10	S 10-7			S
8			Sa			S 10-8	T 10-10	F 10-10			Sa	
9					F 10-6	M 10-8	W 10-10	Sa 10-10		Th 10-7	S	
10					Sa 10-8	T 10-8	Th 10-10	S 10-10		F 10-7		
11				F 10-6	S 10-7	W 10-8	F 10-10	M 10-10		Sa 10-5:30		
12				Sa 10-8		Th 10-8	Sa 10-10	T 10-10		S 10-5:30		
13	S			S 10-7		F 10-8	S 10-10	W 10-10	Sa 10-8			
14		Th				Sa 10-8	M 10-10	Th 10-10	S 10-7			S
15		F	Sa			S 10-8	T 10-10	F 10-10			Sa	
16		Sa	S 10-7		F 10-6	M 10-8	W 10-10	Sa 10-10				
17		S			Sa 10-8	T 10-8	Th 10-10	S 10-10		F 10-7		
18				F 10-6	S 10-7	W 10-8	F 10-10	M 10-6		Sa 10-5:30		
19				Sa 10-8		Th 10-8	Sa 10-10	T 10-10		S 10-5:30		
20	S			S 10-7		F 10-8	S 10-10	W 10-6	Sa 10-8	M 10-6		
21			F 10-7			Sa 10-8	M 10-10	Th 10-6	S 10-7			
22			Sa 10-8			S 10-8	T 10-10	F 10-6				
23			S 10-7		F 10-6	M 10-8	W 10-10	Sa 10-10			S	
24		M 10-6			Sa 10-10	T 10-8	Th 10-10	S 10-10		F 10-7		
25		T 10-6	F 10-6		S 10-10	W 10-8	F 10-10	M 10-6		Sa 10-5:30		
26	Sa		W 10-6	Sa 10-8	M 10-8	Th 10-10	Sa 10-10			S 10-5:30		
27			Th 10-6	S 10-7	T 10-8	F 10-10	S 10-10		Sa 10-8			Sa Bowl
28			F 10-6		W 10-8	Sa 10-10	M 10-10		S 10-7			S
29			Sa 10-8		Th 10-8	S 10-10	T 10-10	F 10-6				
30			S 10-7		F 10-8	M 10-10	W 10-10	Sa 10-10				
31					Sa 10-10		Th 10-10	S 10-10		F 10-7		

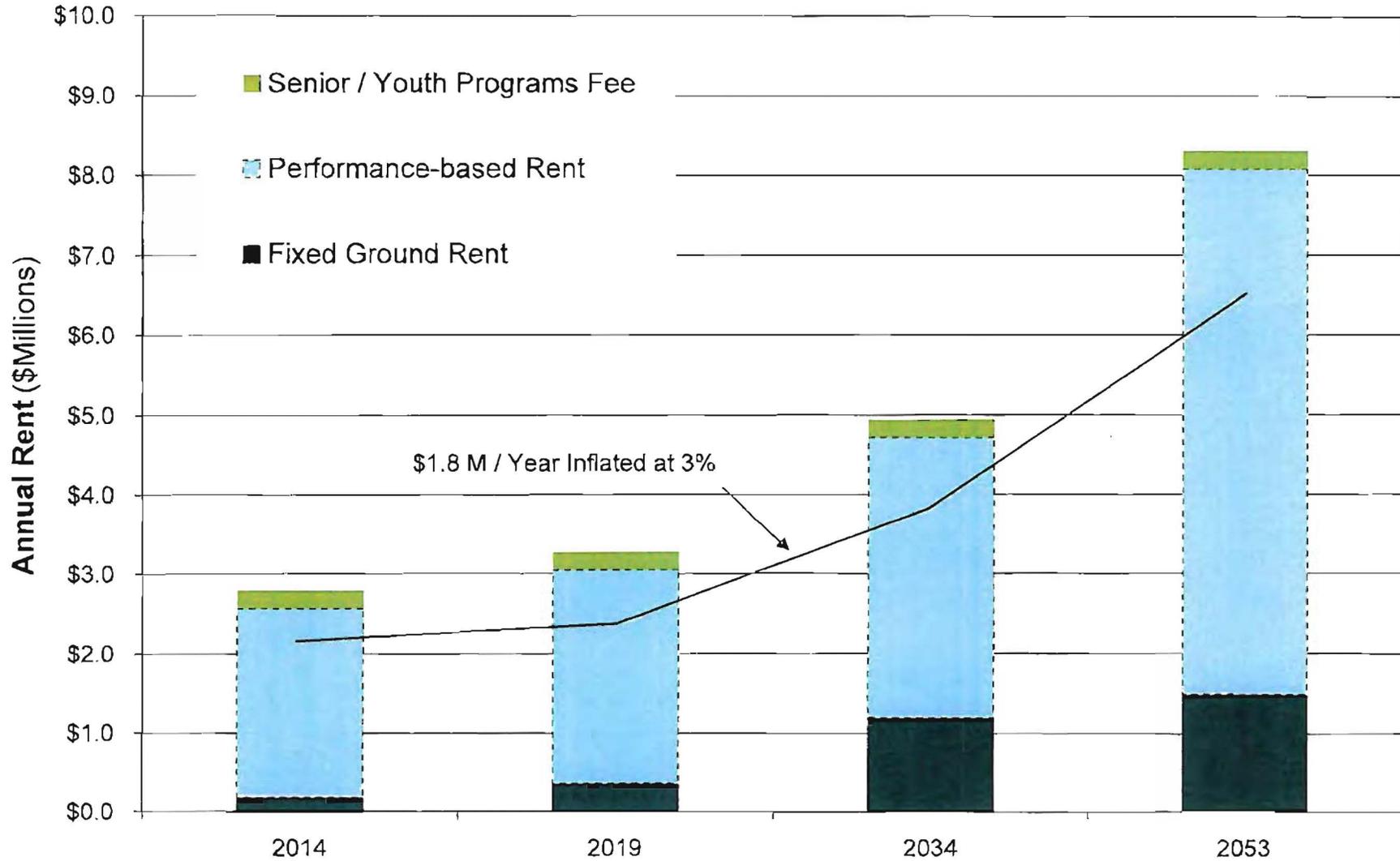
Night Event 6-11:30

Event

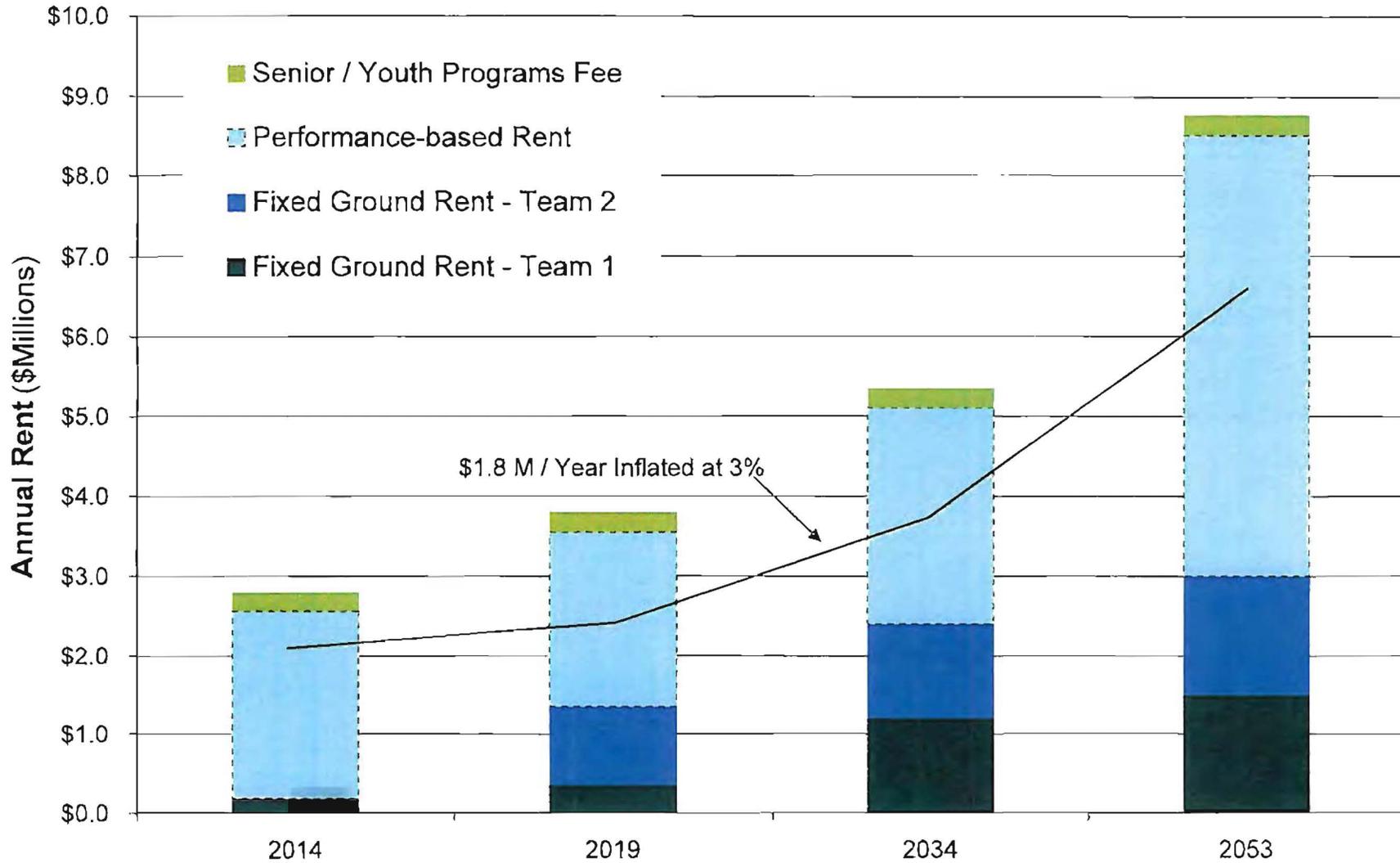
- Great America only
- NFL Post Season
- NFL Reg Season
- NFL Pre Season
- Concert
- Int'l Soccer
- Supercross
- X Games
- College Football
- Festival / Antique Show
- Car Show

This overlays a hypothetical 2014 stadium event calendar with a typical operating calendar for the theme park. The theme park is generally open every day from Memorial Day through late August. It is generally open weekends only in April and May, and September and October. It is generally closed from November to March, but they often open the park for Spring Break. The numbers in the schedule above indicate the approximate theme park operating hours for each day during 2008 (i.e. 10-7 indicates the park is open from 10am to 7pm).

Ground Rent Projection with One Team



Ground Rent Projection With Two Teams



**Stadium Construction Financing
49er Stadium Term Sheet
Santa Clara, CA**

\$Millions

I. Stadium Capital Cost ¹	\$900	
 II. Funding Sources for Stadium		
Stadium Authority	\$330	
Naming Rights, Ticket Surcharge Financing, Stadium Builders Licenses, Corporate Founding Partners, Concessionaire Equity, Pouring Rights		
 Redevelopment Agency		
Bonds and cash	\$28	} Principal repaid with 2nd Team in Stadium
49er Advance to RDA	<u>\$12</u>	
Subtotal	\$40	
Development Fees by RDA (50% of Utility/Enterprise Fund fees) ²	<u>\$2</u> \$42	
 CFD (Hotel Mello)		
Bonds	\$15	
Team Advance to CFD	<u>\$20</u>	
	\$35	
 Team / NFL (funds balance)	\$493	
 Total Funding Sources	<hr/> <hr/> \$900	¹
 III. Related Costs		
Substation Relocation	\$20	
Parking Garage (40% allocable share) ³	<u>\$17</u>	
	\$37	
 IV. Total Including Related Costs	<hr/> <hr/> \$937	

Notes:

¹ Includes development fees. Not including substation relocation or allocable share of parking garage.

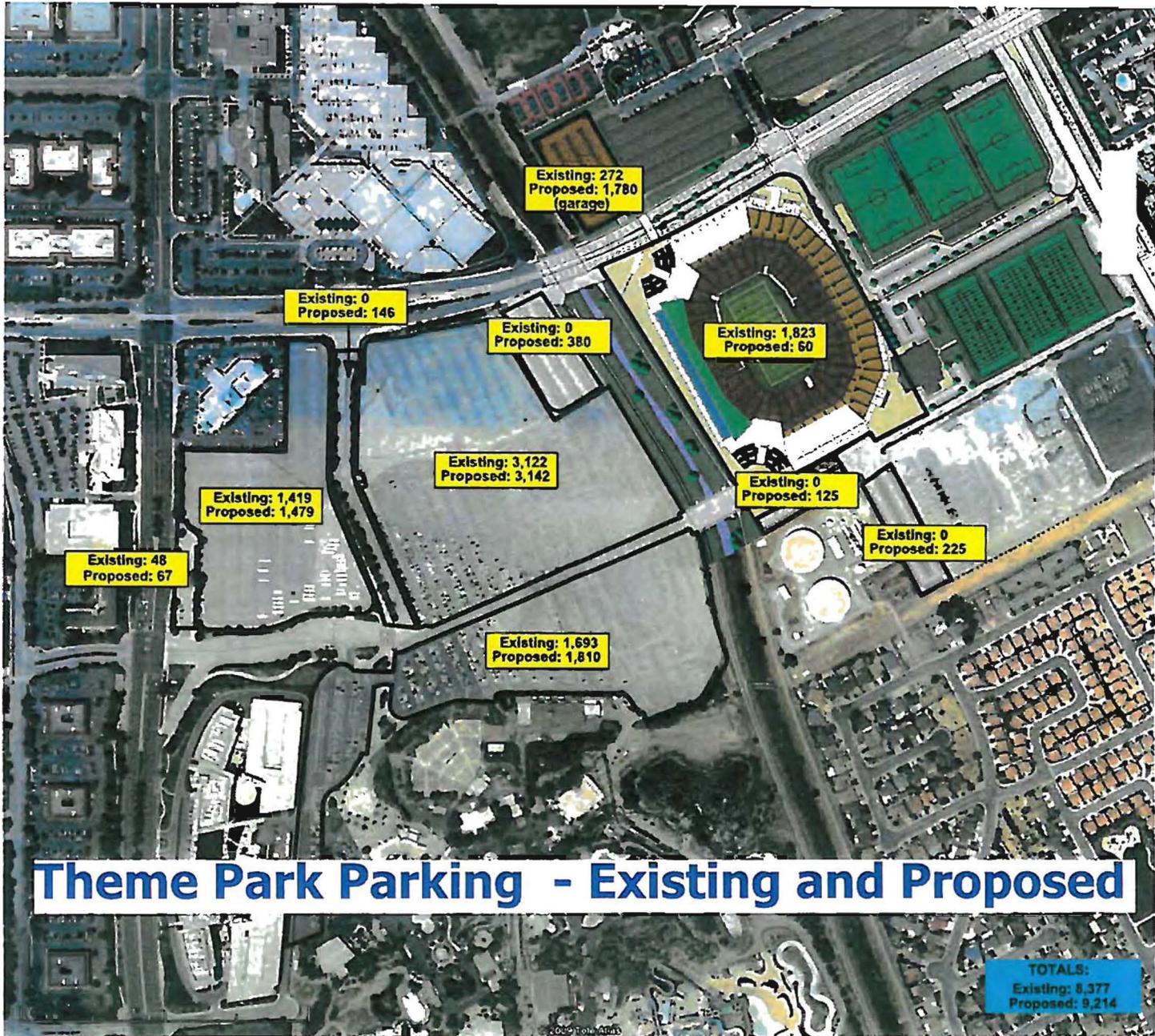
² \$4 M total development fee estimate consists of approximately 85% utility and enterprise fund items 50% of which are to be funded by the RDA and 50% by the Team. The balance of the development fees are City General Fund items to be forgone by the City (not collected) consistent with the City's policy for public buildings.

³ Based on 700 of 1,700 spaces allocable to project.

Public Safety Costs
 49er Stadium Term Sheet
 Santa Clara, CA

		<u>Annual Estimate</u>	
		2014 / Initial Year	<u>Note</u>
I. On-Going Expenses			
	<i>Reasonable Costs Up To Maximum of</i>		
a. Game Day Public Safety Santa Clara and other JPA jurisdictions	<div style="border: 1px solid black; display: inline-block; padding: 2px;">\$170,000 / Game</div> X 10 games = escalated at 4%/yr or 6% with Two Teams	\$1,700,000	If costs exceed maximum: a) fund with \$2 Discretionary Fund b) fund from Performance Rent
b. Barricade Services		\$283,000	outside of cap
c. Police Escorts - Team / Visiting Team		\$3,000	outside of cap
d. Radios		TBD	
Subtotal On-Going Expenses		\$1,986,000	
II. Startup Costs: Special Events Unit, to Develop Procedures and Protocols			
		<i>First Two Years Only:</i>	
Total With Startup Costs / first two years		\$500,000	maximum, separate from per game max.
		\$2,486,000	
III. Public Safety Capital Costs			TBD included in construction budget
<hr/>			
IV. Additional Startup costs / 2nd Team	First Two Years of 2nd Team	\$250,000	maximum, separate from per game max.

Source: City of Santa Clara, San Francisco 49ers



06/02/09

3A / 2A
Agency

**City of
Santa Clara**

The seal of the City of Santa Clara is circular with a white border. Inside the border, the text "THE CITY OF SANTA CLARA" is written in a semi-circle at the top, and "INCORPORATED 1852" is at the bottom. The center of the seal features a yellow mission building with a bell tower, set against a blue sky with white clouds and a green field.

**Stadium Project
Term Sheet**

June 2, 2009

1

**Council Direction from
Feasibility Study:**

Negotiate a "Term Sheet," subject to the EIR process, to outline key understandings, obligations, responsibilities and financial arrangements between the City, Agency and the 49ers.

2

Purpose of Meeting

To Provide:

- A. Overview & Key Elements of Deal
- B. Term Sheet Details
 - 1. Deal Structure
 - 2. Economics
- C. Staff Recommendation for Council Consideration
- D. Next Steps

3

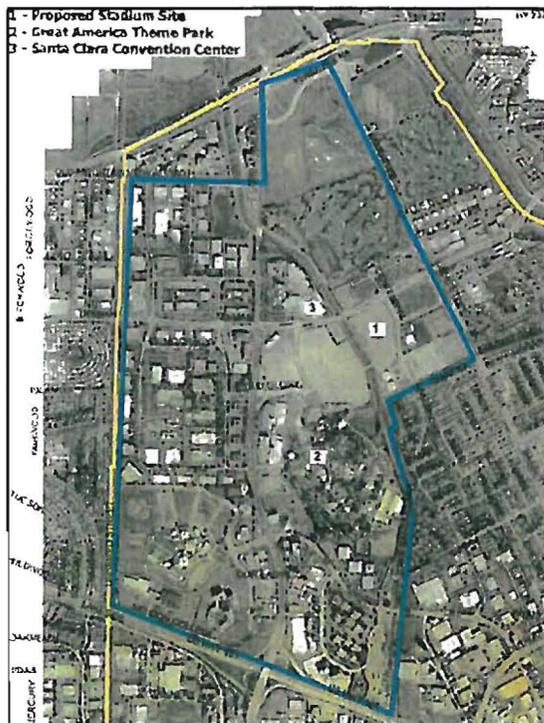
Key Dates

- ❖ April 2007: Stadium economic proposal presented by 49ers
- ❖ December 2007: City proposal for stadium financing
- ❖ January 2008: Feasibility study concluded
- ❖ June 2009: Term Sheet negotiations concluded
- ❖ 29 public meetings held during this time

4

Overview and Key Elements

5

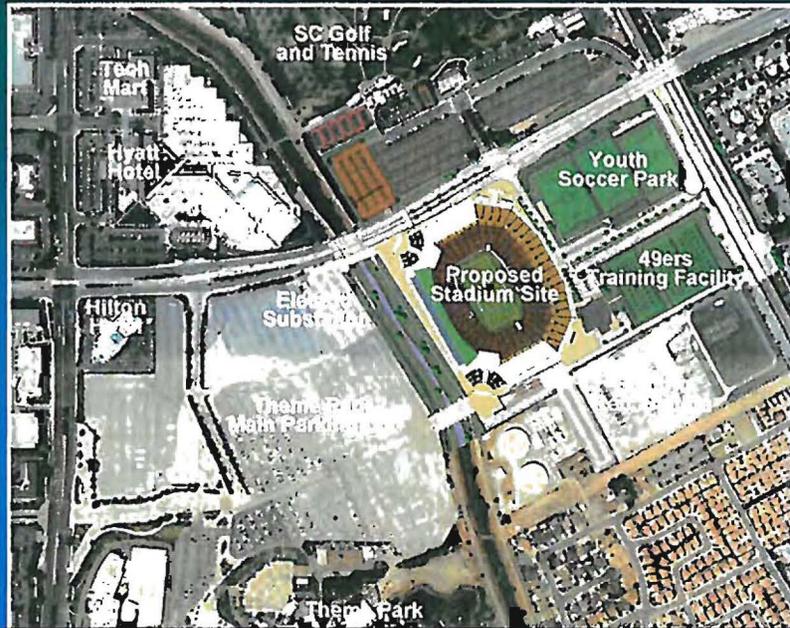


North Bayshore Redevelopment Project Area

- City Limits
- Redevelopment Project Area

6

Map of Stadium Project Area



Overview & Key Elements

City's Guiding Principles

- ❖ No use or obligation of General Fund monies
- ❖ Maintain integrity of all City Funds
- ❖ Maintain Industrial to Residential Conversion policy
- ❖ No tax increase on residents, businesses, ratepayers
- ❖ Address Theme Park issues

City's Guiding Principles

- ❖ No loss of ground lease payments from Theme Park
- ❖ Open, visible process
- ❖ Project subject to zoning, entitlements, CEQA review
- ❖ Synergy with surrounding development
- ❖ Code of Ethics & Values: fiscal responsibility

Key Deal Points

- ❖ City principles maintained
- ❖ No General Fund or Enterprise Fund monies used or pledged to project, except substation
- ❖ Fair market value return for stadium site
- ❖ Economic benefit to City and community
- ❖ New Senior & Youth Program Fund, funded with 35 cent surcharge on NFL tickets
- ❖ Theme Park options available

Key Deal Points

- ❖ Agency investment capped at \$42 million
- ❖ No floor on Agency contribution
- ❖ No new or increased taxes (hotel CFD only by vote of eight affected hotels)
- ❖ 49ers responsible for construction cost overruns
- ❖ Charter Review Committee
- ❖ 49ers to pay reasonable operating costs for stadium

Key Deal Points

- ❖ \$2 ticket fee on non-NFL events to fund Discretionary Fund
- ❖ Dispute resolution process for disputed expenses
- ❖ 49ers to cover losses from non-NFL events
- ❖ Profit from non-NFL events shared 50/50, subject to some credits
- ❖ 49ers responsible for demolition of stadium at end of lease term
- ❖ Agency investment repaid in the event of 2nd team

Structure of Deal

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Structure of Deal

Stadium

- ❖ Publically owned building and operated by Stadium Authority

Stadium Authority (SA)

- ❖ Joint powers authority formed by the City of Santa Clara and the Redevelopment Agency of the City of Santa Clara
- ❖ Separate legal entity authorized under Government Code

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Stadium Authority (SA) (cont.)

- ❖ Governing board will be seven member City Council
- ❖ City Manager will be Executive Director and City Attorney will be General Counsel
- ❖ Neither City nor Agency will be liable for the debts or obligations of the Stadium Authority
- ❖ SA may contract with professional, major venue management company to oversee day-to-day operations

Leases

- ❖ City will ground lease Stadium site to SA for an initial period of 40 years
- ❖ SA will lease Stadium to 49er Stadium Company, LLC
- ❖ 49er Stadium Company will sublease Stadium to 49er's NFL Franchise (the "Team")
- ❖ Team will sign agreement to play its home games at Stadium for the 40 year term of sublease

Terms of City Ground Lease

- ❖ Initial term of 40 years with 5 options of 4 years each
- ❖ City to receive annual fixed rent payment of \$180,000 in first year escalating to \$1 million in year 11 up to \$1.5 million in year 36
- ❖ City will receive 50% of Net Income from Non-NFL Events, subject to certain credits
- ❖ In addition to Ground Rent, the City will receive City of Santa Clara Senior & Youth Program Fee of up to \$250,000 per year

Design and Construction of Stadium

- ❖ SA will construct Stadium
- ❖ SA will enter into project mgmt. agreement with 49er Stadium Company to manage design and construction of Stadium
- ❖ Council to consider forming Charter Review Committee to consider amending Charter to allow design-build process for development of Stadium
- ❖ Agency and 49er Stadium Company will share certain development fee costs payable to City's Enterprise Funds

Stadium Construction Financing

- ❖ Stadium Development costs estimated to be \$900 million
- ❖ SA must approve Finance Plan prior to commencement of construction
- ❖ The Stadium will be financed from four sources
 - Stadium Authority
 - Redevelopment Agency - \$42 million cap
 - Mello-Roos CFD - \$35 million construction cap
 - 49er Company/NFL investment

Stadium Construction Financing (cont.)

- ❖ Stadium Authority
 - Stadium Builders Licenses
 - Naming Rights Revenue (Bonds)
 - Ticket Surcharge (Bonds)
 - Upfront vendor payments

Structure of Deal

Stadium Construction Financing (cont.)

- ❖ Redevelopment Agency - \$42 million cap
 - Unallocated cash on-hand, est. at \$7 million
 - Agency Bonds paid by Net Tax Increment, estimated at \$21 million
 - 49er Agency Advance, estimated at \$12 million, paid with Net Tax Increment after paying Bonds and making add'l Housing Fund deposits
 - Unpaid 49er Agency Advance at the end of Project Area will be forgiven
 - \$2 million Agency share of development fees

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Structure of Deal

Stadium Construction Financing (cont.)

- ❖ Mello-Roos CFD - \$35 million construction cap
 - CFD formed by vote of hotels near Stadium
 - 40 year term
 - Mello Roos Bonds paid with special tax from CFD, estimated at \$15 million
 - 49er Advance, estimated at \$20 million, to be repaid with Mello-Roos funds
 - Remaining Mello-Roos funds after repayment of bonds & 49er Advance may be used by SA for expenses

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Stadium Operations

- ❖ SA to operate Stadium
- ❖ SA may contract with a professional, major venue management company to oversee day-to-day operation
- ❖ SA will contract with an experienced, private parking operator to provide game-day parking
- ❖ SA will pay the City for Stadium related Public Safety Costs

Stadium Budgeting

- ❖ SA to adopt annual budget
- ❖ Stadium expenses will be composed of Reimbursable Expenses and SA Discretionary Expenses
- ❖ 49er Company pays Reimbursable Expenses if the SA does not receive enough revenue to pay them

Stadium Budgeting (cont.)

- ❖ Examples of Reimbursable Expenses
 - Day-to-day Stadium expenses
 - Cost of utilities
 - Insurance
 - Deposits in capital expenditure reserves
 - Public Safety Costs

Stadium Budgeting (cont.)

- ❖ Expenses not considered Reimbursable Expenses will be considered SA Discretionary Expenses and paid by other sources such as the SA Discretionary Fund, or not incurred
- ❖ Meet and confer process if SA and 49ers disagree on Reimbursable Expenses

Structure of Deal

Non-NFL Events

- ❖ SA and 49er Company will agree on an annual plan for non-NFL events
- ❖ City will receive 50% of Net Income from non-NFL events, subject to certain credits
- ❖ SA/49ers to cover losses from non-NFL events
- ❖ SA to receive \$2 per ticket on non-NFL events to fund SA Discretionary Fund

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Structure of Deal

Civic Events

- ❖ Events scheduled by SA that are not included in annual plan for non-NFL Events
- ❖ Any profits from Civic Events may be transferred to the City
- ❖ Any losses from Civic Events may be paid from SA Discretionary Fund or other sources

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Second Team

- ❖ 49er Company may sublease to a Second Team
- ❖ If a Second Teams comes, 49er Company repays Agency's cash investment and Agency bond proceeds
- ❖ 49er Company repays principal amount paid on 49er Agency Advance & forgives unpaid balance, but not interest

Second Team (cont.)

- ❖ 49er Company repays development fees funded by Agency
- ❖ Fixed Ground Rent increases by \$1 million per year and escalates every 5 years
- ❖ Additional \$1 million per year for capital expenditure reserves

Terms of Public Safety Agreement

- ❖ Definition of Public Safety Cost:
 - ◆ Costs agreed to by City and the 49er Company (or determined by an arbitrator) as reasonable and Stadium-related public safety costs
- ❖ The SA will pay the City all Public Safety Costs (costs will be subject to reimbursement by the 49er Company)

Terms of Public Safety Agreement (cont.)

- ❖ 49er Company receives credit against Performance-Based Rent for Public Safety Costs which exceed annual cap
 - ◆ Annual cap equals \$170,000 x number of home games played in the season (ex. \$1.7 million for a 10-game season)
 - ◆ \$170,000 escalates over time
- ❖ Alternative dispute resolution process to resolve disagreement over Public Safety Costs

Economics

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Economics

Stadium Construction Financing

<u>Stadium</u>	<u>Total</u>	<u>Percent</u>
Stadium Authority (SBLs, Ticket Surcharge, Naming/Concession Revenue)	\$330 Million	37%
Team / NFL	\$493 Million	55%
Redevelopment Agency Maximum	\$42 Million	5%
CFD (Hotel Mello Roos)	\$35 Million	4%
Total for Stadium	\$900 Million	100% (Rounded)
<u>Related Costs</u>		
City: Substation Relocation	\$20 Million	
RDA: Parking Garage for Stadium	\$17 Million	
Total for Related Costs	\$37 Million	
Stadium + Related Costs	\$937 Million	

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Economics

Public Contribution & CFD

Public Contribution:

Redevelopment Agency Maximum	\$42 Million
Substation Relocation	\$20 Million
Parking Garage for Stadium	\$17 Million
Total Public Contribution	\$79 Million

CFD (Hotel Mello Roos)	\$35 Million
------------------------	--------------

Total Public Contribution & CFD	\$114 Million
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Economics

Payment To Stadium Authority By 49ers

	(\$Millions)	
	2014	2024
Stadium Operating Revenue		
49er Base Payment to SA	\$5.0	\$5.0
Concessions & Merchandise and Parking Operations / Tax	7.2	9.8
Admiss. Surcharge & Naming Rights Avail for Operations	6.8	8.8
Non-NFL Events Profit	5.0	6.7
Total Revenues	24.0	30.3
Stadium Reimbursable Operating Expenses		
Game Day Pub Safety	2.5	2.9
Other SA Operating Expenses Incl. 49ers Possessory Interest Taxes	21.0	30.8
Ground Rent to City From 49ers / Non NFL Profit	2.8	4.1
Total Expense	26.3	37.8
Net SA Expense Funded by 49ers	2.3	7.5
Payment to SA by 49ers	7.3	12.5

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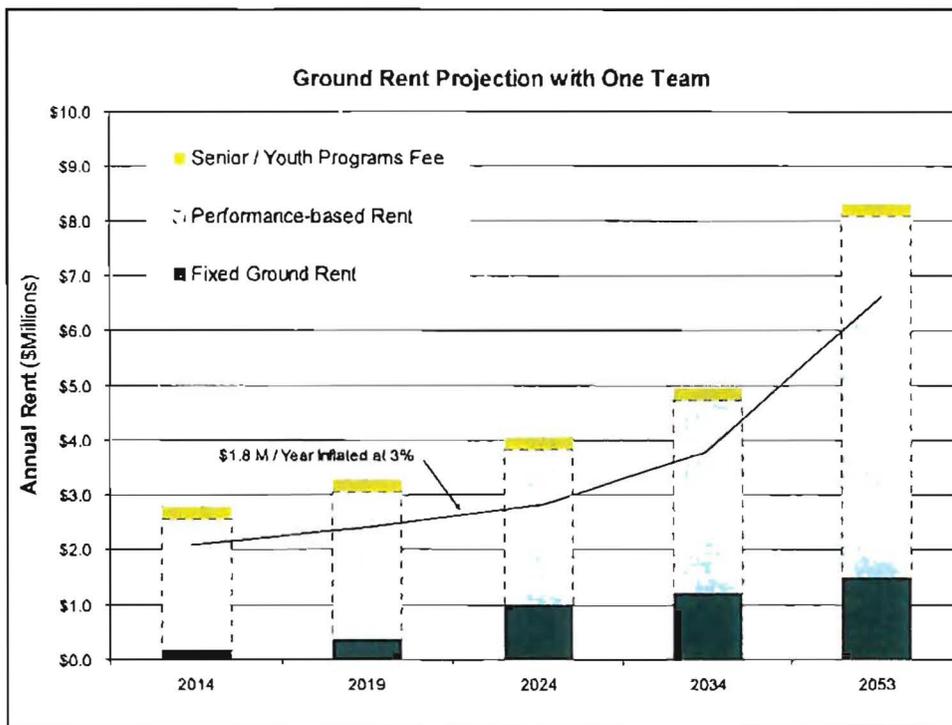
Economics

Ground Rent to City (One Team)

(\$Thousands)

	2014	2019	2024	2034	2053
Fixed Rent	\$180	355	1,000	1,200	1,500
Performance Rent	2,390	2,697	2,833	3,520	6,581
Senior/Youth Fee	<u>228</u>	<u>228</u>	<u>228</u>	<u>228</u>	<u>228</u>
Total	2,798	3,280	4,060	4,947	8,308
Fair Market Rent					
Unencumbered Site	2,087	2,419	2,804	3,769	6,609
\$1.8 M / yr inflated at 3%					

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Economics

Ground Rent to City (Two Teams)

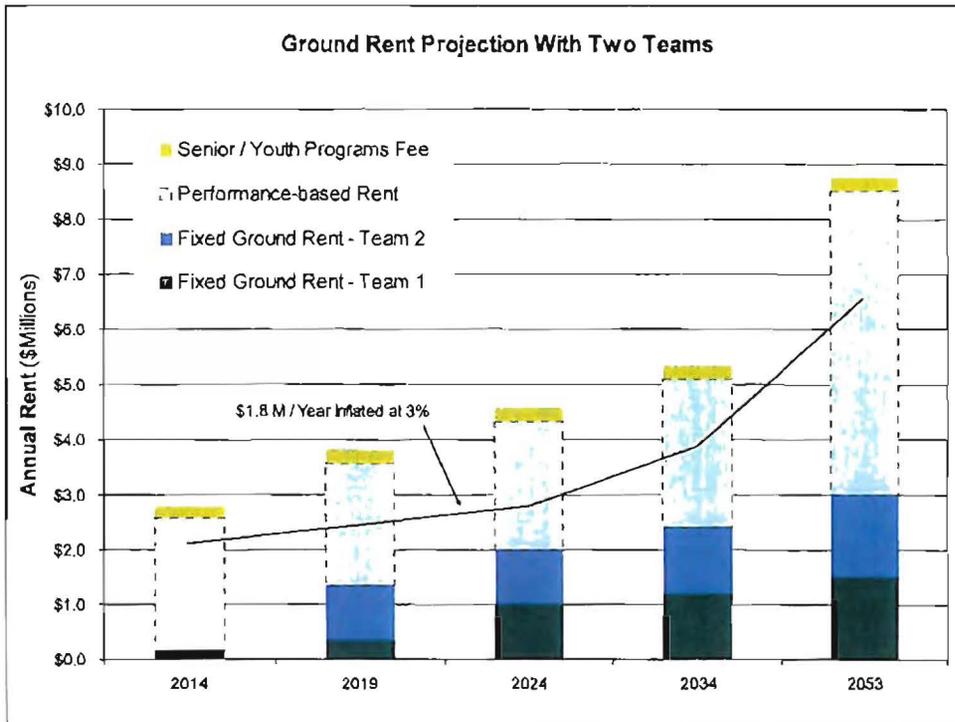
(\$Thousands)

2nd Team->

	2014	2019	2024	2034	2053
Fixed Rent	\$180	1,355	2,000	2,400	3,000
Performance Rent	2,390	2,197	2,333	2,704	5,517
Senior/Youth Fee	<u>228</u>	<u>250</u>	<u>250</u>	<u>250</u>	<u>250</u>
Total	2,798	3,802	4,583	5,354	8,767
Fair Market Rent Unencumbered Site	2,087	2,419	2,804	3,769	6,609

\$1.8 M / yr inflated at 3%

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Performance-Based Rent

- ❖ High Probability of Achieving Performance-Based Rent
 - ◆ 49ers participate in 50% of profits from non-NFL events
 - ◆ Projections consistent with other large outdoor mild-climate venues
 - ◆ Thorough research

Sources of Information for Performance Projections

- ❖ Anshutz Entertainment Group
- ❖ Other Venue Operators
- ❖ INVESCO (Denver Broncos)
- ❖ Gillette (New England Patriots)
- ❖ University of Phoenix (Arizona Cardinals)
- ❖ Convention, Sports and Leisure International
- ❖ Glen Mon – Venue Consultant / Formerly SVP of Major Venue Operator

Economics

Rent Credit Structure at Projection

Performance Rent Calculation: 2034 Example

Fixed Rent	} <i>One Team</i>	\$1,200,000
Senior / Youth Fee		\$230,000
50% Non-NFL Revenue (before credits)		\$4,480,000
Credit for Fixed Rent: 50%		(\$600,000)
Credit for City Share of property taxes		(\$360,000)
Credit for Public Safety Cost		Assume \$0
Performance Rent After Credits		<u>\$3,520,000</u>
Total Rent		\$4,950,000

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Economics

Rent Credit Structure if Under Perform

Performance Rent Calculation: 2034 Example

Fixed Rent	} <i>One Team</i>	\$1,200,000
Senior / Youth Fee		\$230,000
50% Non-NFL Revenue (Before Credits)		\$800,000
Credit for Fixed Rent: 50%		(\$600,000)
Credit for City Share of property taxes		(\$360,000)
Credit for Public Safety Cost		Assume \$0
Performance Rent After Credits		<u>\$0</u>
Total Rent		\$1,430,000

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Economics

Return to Agency (NPV/2008-09)*

	<u>One Team</u>	<u>Two Teams</u>
Return to Agency		
Tax Increment From Stadium (including housing TI)	\$6 M	\$8 M
Investment (Excluding Garage): <i>\$42 M but NPV is \$36 M</i>	\$36 M	\$36 M
Net Return to Agency (Before Garage)	(\$30 M)	(\$28 M)
Garage Expense (40% allocation) <i>\$17 M but NPV is \$15 M</i>	\$15 M	\$15 M
Net Return to Agency (After Garage)	(\$45 M)	(\$43 M)

*Presented in terms of Net Present Value in 2008-09 based on a 6% discount rate

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Economics

Projected Impact on Affordable Housing 30% Policy Target (Nominal Dollars)

	<i>No Stadium</i>	<i>With Stadium</i>
Projected 20% set-aside not including stadium (to 2026 Agency end date)	\$160 Million	\$160 Million
Projected 20% set-aside added by stadium	N/A	\$6 Million
Projected additional 10% set-aside (to 2016 legal limit)	\$29 Million	\$17 Million
Total Housing Funds	\$189 Million <i>(Achieves 30%)</i>	\$183 Million <i>(Achieves 26%)</i>
Net Impact	N/A	(\$6 Million)

Note: All figures are rounded to the nearest \$Million.

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Economics

Return to City (NPV/2008-09)*

Return to City	One Team	Two Teams
Fixed Ground Rent	\$8 M	\$18 M
Performance-Based Rent	\$18 M	\$15 M
Senior / Youth Program Fee	\$3 M	\$3 M
Subtotal	\$29 M	\$36 M
Property Taxes	\$2 M	\$4 M
Sales Tax, VLF, TOT Incl.		
Convention Center Synergy	\$20 M	\$26 M
Repay Investment w / 2nd Team	N/A	\$21 M
Total Return	\$51 M	\$87 M
Investment	\$20 M	\$20 M
Net Return to City	\$31 M	\$67 M

*Presented in terms of Net Present Value in 2008-09 based on a 6% discount rate
Not including RDA

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Economics

City General Fund Considerations

\$NPVs 2008-09

	One Team	Two Teams
MAX. General Fund Potential – No Stadium		
Cooperation Agreement repayment from TI	\$67 M	\$67 M
General Fund Property tax – if no SB 211	\$8 M	\$8 M
City land for stadium site	\$23 M	\$23 M
Total	\$98 M	\$98 M
General Fund Return After Investment with Stadium	\$31 M	\$67 M
As Percent of Estimated Maximum General Fund Potential Without Stadium	32%	68%

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Economics

Economic Benefits within City of Santa Clara

Per CS&L as Evaluated & Confirmed by KMA (\$2007s and Not Including Additional Benefits From Convention Center Synergy)

	<u>Stadium</u>	<u>Training Facility (Existing)</u>	<u>Annual Total</u>
Economic Activity	\$41	\$44	\$85 Million
Employment (FT)	515	315	830 Employees
Personal Earnings	\$17	\$21	\$38 Million

Note: includes direct, indirect, and induced benefits.

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Additional Items

- ❖ Letter from Santa Clara Unified School District
- ❖ Cedar Fair Letter

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Staff Recommendation

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Staff Recommendation

Staff Recommends Option 3:

- ❖ Approve the Term Sheet between City, Agency and 49ers
- ❖ Direct the City Manager to return to Council on June 23 with:
 - ◆ Request for Council to create Charter Review Committee
 - ◆ Information on ballot measure timing

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Staff Recommends Option 3 (cont.):

- ❖ Direct the City Manager to return to Council on July 14 with:
 - ◆ Presentation by 49ers on stadium design
 - ◆ Negotiating agreement amendment
 - ◆ Proposed consultant budget for next phase of negotiations

Next Steps

- ❖ EIR
- ❖ Ballot measure
- ❖ Approve DDA
- ❖ 2011: Secure financing
- ❖ 2012: Begin construction
- ❖ 2014: Stadium opening

Questions?