# TERM SHEET
## *RELATED PROJECT - SANTA CLARA*

This term sheet (**"Term Sheet"**) is entered into as of February 11, 2014, by and between the City of Santa Clara, California (**"City"**), and Related Santa Clara, LLC (**"Developer"**). This Term Sheet sets forth basic expected potential terms and guiding principles that are intended to govern Developer's proposed mixed-use development (the **"Project"**) in the City of Santa Clara.

## RECITALS

A. The area that is the subject of this Term Sheet is shown on the attached Exhibit A (the **"Property"**), and comprises approximately 230 acres of land (APNs 097-01-039, 097-01-073, 104-03-036, 104-03-037, and 104-01-102) in the North of Bayshore Area, owned in fee by the City. The Property currently excludes approximately one and one half (1.5) acres of land to the north of the existing garage on Tasman Drive (the **"Excluded Land"**), as shown on Exhibit A). However, if at the time that the Project is being considered for approval by City, City reasonably determines that there are no concrete plans in existence to develop parking facilities on the Excluded Land, then the Property shall be expanded to include the Excluded Land. As shown in Exhibit A, most of the Property is the former site of a landfill (the **"Landfill"**). City intends to retain ownership of the Property and operational responsibility for the Landfill, and would ground lease the Property to Developer, subject to the terms of this Term Sheet.

B. The Property currently houses the following public and/or private uses (together, the **"Existing Uses"**): (i) the Santa Clara Golf and Tennis Club (and related facilities and businesses such as David's Restaurant and the club house/pro shop); (ii) the David's banquet facility; (iii) a Parks maintenance facility; (iv) a fire station; and (v) the BMX track operated by City's Police Activities League.

C. Developer, an experienced full-service real estate firm, has proposed to construct the Project on the Property. The Parties believe that the Project would be highly beneficial to City inasmuch as, when completed, it would create a new "city center" containing some or all of the following elements, among others: significant retail facilities, office buildings, rental and for sale residential facilities, hotel rooms that would support City's convention center, new parks and open space, and new roads and infrastructure. The Project would also convert the space over the Landfill to productive use, cause the modernizing of the recovery systems operated by City at the Landfill, and create a significant new tax base for City.

D. The Property is located adjacent to additional City-owned parcels (the **"Tasman Parcels"**) consisting of APNs 104-03-038 and 104-04-039. City is currently a party to an Exclusive Negotiation Agreement with the Montana Property Group for the development of the Tasman Parcels. This development is expected to consist of a mixed-use development that would include office, hotel, and retail space.

E. A new football stadium (the **"Levi's Stadium"**) is under construction across Tasman Drive at Centennial Boulevard. City has entered into an agreement (the **"Golf Course Parking Agreement"**) with the San Francisco 49ers to use the golf course on the Property for

stadium-related parking. A copy of the Golf Course Parking Agreement, which expires on February 25, 2016, is attached hereto as Exhibit B.

F. In April 2013, City and Developer (each individually referred to as a **"Party"** and together referred to as the **"Parties"**) entered into an Exclusive Negotiating Rights Agreement (the **"ENA"**) for the development of the Property. The ENA sets forth the procedures and standards for the negotiation by the Parties of: (1) a disposition and development agreement (**"DDA"**) pursuant to which the Developer would conduct specified development activities related to the Property; (2) a Development Agreement (**"DA"**); (3) one or more ground leases (collectively, the **"Ground Leases"**) for portions of the Property; and (4) any other necessary transaction documents for the conveyance, management, and development of the Property (these other documents, the Ground Leases, the DA, and the DDA are collectively referred to as the **"Transaction Documents"**). The goal of the Parties is to negotiate and finalize the proposed form and contents of the Transaction Documents by October 2014.

G. The development of the Project presents many opportunities for City, including: maximizing the production of housing and commercial space to the greatest extent possible to create a new and vibrant City neighborhood; providing new parks, public open spaces and other community benefits; and increasing City revenues. However, the development process presents numerous challenges that require many coordinated projects of significant scope. Further environmental review under the California Environmental Quality Act (**"CEQA"**) must occur, hazardous materials remediation must take place, and infrastructure and utility systems must be significantly upgraded and replaced. Some of the most significant challenges are as follows: (i) resolving issues of vehicle access, circulation, and parking; (ii) environmental remediation and ongoing maintenance of the Landfill; (iii) coordination of the Project with other development projects in the area in order to provide a seamless urban experience for visitors and residents; (iv) relocation, upgrading, and replacement of various public service facilities and utilities; and (v) attaining the economic feasibility to provide the level of infrastructure and public benefits necessary to achieve the Project guidelines and goals.

H. The existence of the Landfill would result in many extraordinary and unusual additional site development costs (together, the **"Extraordinary Costs"**) that would be incurred in connection with the Project, including but not limited to (i) the foundation premiums associated with pilings and other engineering solutions necessary to support the slabs, (ii) the need for a "structural slab" on which improvements would be constructed, (iii) the gas membrane, collection and active components at all structures, (iv) the need to provide all utilities to the site, (v) the cost of replacing the existing ground water monitoring network, leachate collection and removal system and landfill gas collection and removal systems, (vi) major pedestrian and vehicular entrances and roadway networks throughout the project site, and (vii) structured parking facilities to be built on the Landfill at various locations.

I. The purpose of this Term Sheet is to memorialize the key policy goals, basic development guidelines, financial framework, and other preliminary terms and conditions identified by the Parties that would form the basis for the negotiation and completion of the final Transaction Documents. As further described below, the Project shall not proceed unless and until the parties have negotiated, executed and delivered mutually acceptable agreements based upon information produced from the CEQA environmental process and from other public review

and hearing processes and subject to all applicable governmental approvals. Developer will expend significant resources in underwriting the CLU Plan (defined in Section III, below) and conducting the refinement process, including preparing drawings, consulting with City departments and officials, holding discussions with regulators, gathering community input, assessing financial feasibility, seeking equity and debt capital to support a development and working on the CEQA process. Thus, consensus of Developer and City to move forward with the CLU Plan represents an important step toward fulfilling the mutual desire of City and Developer for development of the Project, subject to Section I below.

J. This Term Sheet was presented to City Council on February 11, 2014. At that hearing, City Council voted 7-0 to adopt Resolution No. 14-8112 endorsing the Term Sheet. A copy of Resolution No. 14-8112 is attached hereto as Exhibit C.

I. TERM SHEET NON-BINDING; CEQA COMPLIANCE REQUIRED

A. 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 Project, and is not intended to create any binding contractual obligations on any Party or to commit any Party to any 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 Project, binding agreements would have to be negotiated, agreed to by the Parties and ultimately submitted to City Council (and other agencies as well) for approval.

B. No Impact on CEQA Process. In order to comply with CEQA and give the public and decision-makers the opportunity to be aware of the environmental consequences of the Project, and to fully participate in the CEQA process, the Parties acknowledge that City has no obligation to approve and Developer has no obligation to develop the Project unless and until the Parties have negotiated, executed and delivered mutually acceptable agreements based upon information produced from the CEQA environmental review process and any other public review and hearing processes, subject to all applicable governmental approvals. City retains the absolute, sole discretion to: (i) modify the transaction, create and enter into the Transaction Documents, and modify the Project as may, in its sole discretion, be necessary to comply with CEQA; (ii) select other feasible alternatives and/or impose mitigation measures to avoid or minimize significant environmental impacts; (iii) balance the benefits of the 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 Project.

C. CEQA Compliance. City will be responsible for compliance with CEQA, including the preparation of an environmental impact report ("**EIR**") with respect to the Project; provided, however, that nothing in this Term Sheet shall be construed to compel City to approve or make any particular findings with respect to such environmental documentation. Developer will assist City in this effort and pay for all City costs customarily charged to developers (but not City staff time that customarily would not be charged to developers) and third party costs incurred in connection with this responsibility, as set forth in the ENA. Developer acknowledges that City shall have the right, at its sole discretion, to prepare a single EIR that evaluates the environmental impacts of both the Project and the development of the Tasman Parcels, rather

than a separate EIR for each of the projects; in such an event, the costs of preparing such an EIR would be allocated fairly between the two projects. If two separate EIRs are prepared for the two projects, Developer would provide to City promptly upon request such information as would be reasonably necessary for the preparation of the EIR for the Tasman Parcels development.

## II. LIMITATION OF CITY LIABILITY

No City funds, investments, contracts or property interests, including cash balances of and revenue streams to City's general and enterprise funds, would be used for the construction of the Project, used to fund Project-specific operations, or pledged or loaned for the payment of any Project construction financing, at any time. However, City may consider at any time a Developer request for consideration of specific financial assistance or participation in the Project, it being understood that any decision of City to so provide financial assistance or participation shall be in City's sole and absolute discretion. Except as otherwise provided in Section IV of this Term Sheet, the terms of this Section II are not intended to apply to (i) standard City services (such as street sweeping) that customarily are provided to all areas or residents of City, or (ii) public financing vehicles that require the cooperation of City but do not require City to be responsible (either primarily or otherwise) for the payment of expenses or the repayment of debt obtained in the name of City.

## III. LAND USE

A. Conceptual Land Use Plan and Program. The Conceptual Land Use Plan and Program for the Project (the **"CLU Plan"**), a copy of which is attached hereto as Exhibit D, was presented to City Council on October 30, 2013. The CLU Plan contemplates the development of an aggregate area of 5,247,700 gross square feet (**"gsf"**) comprised of residential uses (974,000 gsf), commercial uses (1,443,700 gsf), office uses (2,670,000 gsf), and hotel uses (160,000 gsf). Members of City Council have indicated that the CLU Plan is generally acceptable to City, subject to the terms of Section I, above. However, it is anticipated that Developer may work with City staff and decision-makers to refine the CLU Plan, including adding additional square footage to the overall program, increasing the density of the Project. The adjusted CLU Plan would be the basis for the Project description to be utilized in the EIR.

B. Multiple Development Scenarios. The CLU Plan contemplates significant residential uses that would be subject to regulatory approvals due to the existence of the Landfill. These regulatory approvals have not yet been sought or obtained. Since the final uses and the size of the development would depend upon the CEQA process and obtaining these approvals, alternate development scenarios would be incorporated into the CLU Plan. The Parties anticipate that several of these scenarios would be included in the EIR analysis; however, Developer acknowledges that City strongly encourages the incorporation of residential uses as part of the Project.

C. Development Variations. The Parties acknowledge that City remains interested in the potential expansion of the nearby existing convention center. City may be interested in negotiating with Developer to establish this use on a portion of the Property. The Parties acknowledge that the EIR analysis may include one or more entitlement scenarios that include this use, as well as any other scenarios reasonably deemed necessary or desirable by City.

## IV. INFRASTRUCTURE

A. Infrastructure Master Plan. The Parties shall work together to create a conceptual infrastructure master plan (the **"Infrastructure Master Plan"**) for the necessary infrastructure to support both the development of the Project and the development of the Tasman Parcels, including but not limited to: (i) demolition and deconstruction of existing buildings and infrastructure; (ii) environmental remediation; (iii) geotechnical and site stabilization; (iv) construction of new streets; (v) landscaping; (vi) creation of parks, open space, and recreation facilities; and (vii) construction of new wet and dry utilities, including improving offsite connections where necessary. The Parties would make reasonable, good-faith efforts to incorporate input from the developer of the Tasman Parcels with respect to infrastructure elements that would affect development of the Tasman Parcels. The Infrastructure Master Plan would address the construction, financing, operation, and maintenance of each infrastructure component. The City would require the developer of the Tasman Parcels to pay its fair share of the costs to prepare the Infrastructure Master Plan. One or more Transaction Documents would require completion of infrastructure (on a phased basis as warranted) within a specified period of time, including environmental remediation activities and geotechnical and seismic stabilization.

B. Cumulative Infrastructure Needs. Certain Project infrastructure systems would be extensive and closely interrelated with the existing and future infrastructure needs of neighboring areas and developments. The Parties acknowledge that the Infrastructure Master Plan should include and analyze, where warranted, the cumulative infrastructure needs of the area in order to ensure that existing and future infrastructure systems are as comprehensive and efficient as possible.

C. Public versus Private Ownership. Eventual title to areas being developed with public uses, such as roads, remains to be discussed, although the Parties acknowledge that Developer would prefer that City own and maintain the public streets and access ramps and roads within the Project. City is willing to explore this possibility, so long as funding for the construction and maintenance of these facilities would be provided by financing districts or an equivalent mechanism.

D. Major Entranceways and Bridges. The Parties agree that the Project would require the construction and operation of several major entranceways from existing City streets at various locations. The Infrastructure Master Plan would include the modification of the existing configurations of those areas, both on the Project site and off, as may be reasonably necessary to accommodate the new vehicular, bicycle, and pedestrian-oriented project entranceways. Those major entranceways are depicted in the CLU Plan and are currently contemplated to be located on Tasman Drive, Great America Parkway, and Lafayette Street. In addition, City would make good faith efforts to cooperate with the Developer to incorporate one or more vehicular bridges across Lafayette Street, as depicted in the CLU Plan.

E. Parking. Developer would be responsible for providing adequate parking for use by the Project.

F. Utility Services. The Parties would work cooperatively to assure that all necessary public and private utility services would be provided to the Property, including

electricity, water, gas, internet access and cable, and to provide such easements to the utility providers as are customary. Developer acknowledges that some utility systems (such as natural gas and telecommunications) are not within the control of City; however, the Parties would work together to explore for key elements of the Project such discounts, rebates and related assistance from publicly owned utilities as may be available under the circumstances.

G. Public Services. The Infrastructure Master Plan would include provisions for the establishment and maintenance of adequate fire, police, public works and other City services and facilities to be provided to the Project. These services and facilities may include, but are not limited to, the provision of additional police officers, fire fighters, or other public works personnel, as necessary, as well as the construction or relocation of fire and police facilities and the purchase of additional equipment to serve the Project.

H. Financing. The Parties would address the financing associated with the Infrastructure Master Plan, and the final agreement as to financing would be memorialized in the DDA and/or DA. The Parties acknowledge that some costs associated with the Infrastructure Master Plan would be allocable entirely to the Project, and would be borne entirely by the Project; other costs would be allocable to multiple projects (including the development of the Tasman Parcels), in which case the Project parcels would be assessed their fair shares of those costs according to a formula that would be set forth in the DDA and/or DA.

V. FINANCIAL PLAN AND PROJECT PRO FORMA

As noted in subsequent Section VII of this Term Sheet, the Transaction Documents would include the amount, timing, responsible party, and methods for funding construction and infrastructure costs, and ground rent Developer will be paying to City.

A. Project Pro Forma. Developer has prepared and delivered to City a preliminary pro forma for the Project (the **"Project Pro Forma"**), which contains Developer's best estimate, based on independent analyses, of the cost to develop and construct the Project, including detailed cost estimates and market studies. It incorporates the Extraordinary Costs discussed in Recital H, above. The Parties acknowledge that the Project Pro Forma would need to be refined as Developer and City clarify Project use, density, phasing, and other issues. Also, agreement would need to be reached on ground rent and financing mechanisms as specified below in this Section V, and that agreement would need to be incorporated into the final Project Pro Forma.

B. Rent Considerations. Rent to be paid to City would be intended to achieve a balance between City's need to achieve a fair return for its property, the public policy objectives of the Project, and Developer's need for a market return (with recognition of project component risks) on Project cost. The Parties acknowledge that the density of the Project as reflected in the CLU Plan may need to be adjusted upward in order to achieve these goals.

C. Rent Schedule. Base rent shall be payable as follows:

1. Minimum Payments. Commencing upon the start date of the first Ground Lease term to commence, Developer would pay to City an annual minimum fee in an amount to be determined pursuant to paragraph D, below (the "Minimum Payment").

2. Base Rent Assessments and Annual Rent. Upon completion of certain vertical improvements of each phase of development listed in the Schedule of Performance (see Section VII.A, below), base rent (in the amounts determined pursuant to paragraph D, below) would be assessed for that phase of development. After base rent assessments have commenced pursuant to this clause 2, the amount of annual rent payable by Developer to City for the Project would be equal to the greater of: a) the Minimum Payment; or b) the aggregate amount of base rents then assessed for the Project under the Ground Lease(s) then in effect.

D. Base Rent. The Parties are engaging in the following process to determine the initial base rent structure:

1. City is working with Keyser Marsten Associates to develop a proposed rent structure, which it would share with Developer;

2. City intends immediately to engage the services of an independent construction manager to evaluate all economic aspects of the Project;

3. To further its independent analysis of the economics of site development, City intends immediately to engage the services of an engineering firm with thorough experience in the design and cost of all systems and components necessary to develop on a site similar in scale and character to the Property;

4. No later than twenty (20) days after the date of this Term Sheet, representatives of City and Developer would meet to discuss the Project Pro Forma, including its assumptions, estimated costs, and the scope of work, with particular emphasis on Extraordinary Costs;

5. Within sixty (60) days after the date of this Term Sheet (which time period may be extended by mutual agreement of the Parties), the Parties would use their joint best efforts to formulate an initial base rent and base rent structure, taking into account the analyses of their respective experts; and

6. As soon as feasible after the initial base rent and base rent structure are formulated, City would present such initial base rent and rent structure proposal to its City Council for review and direction to facilitate completion of the Transaction Documents.

E. Fee Interest. Developer and City would also agree to explore the possibility of Developer acquiring a fee interest in portions of the Project, especially in order to attract desirable developers, owners and tenants who would not populate the Project in the absence of acquiring a fee interest.

F. Financing Plan. Developer would be responsible for obtaining all necessary private financing, both debt and equity. City would work with Developer to explore sources of public financing for the Project, such as Mello Roos (i.e., "CFDs"), consistent with City's goals

set forth in Recital G, above, and the limitations in Section II, above, of this Term Sheet. Developer and City would work together to create landscape, lighting, and maintenance districts, in order to pay infrastructure capital and maintenance costs. The costs to establish such districts would be borne by Developer, and ongoing funding for each district would be borne by the constituent properties of that district. A final Financing Plan (the **"Financing Plan"**) would be negotiated by the Parties and attached to one or more of the Transaction Documents. The Financing Plan would include details regarding expected sources and timing of equity and debt, as well as anchor tenant identification and other evidence of financial and market feasibility of the Project.

VI. APPROVAL PROCESS

The Parties agree that all portions of the approval process described in this Section VI are subject to the terms of Section I, above.

A. Schedules for Completing Transaction Documents and Obtaining Approvals. As noted in Recital F, above, the Parties' goal is to negotiate and finalize the proposed form and contents of the Transaction Documents by October 2014, to complete the required CEQA review for the Project, and to finalize basic Project entitlements (including holding a hearing to consider the approval of both the Transaction Documents and the primary – or first level – City land use approvals) by June 30, 2015.

B. Land Use Approvals. The Parties would work cooperatively to identify the scope of land use approvals required for the Project to proceed. These land use approvals may include, but would not be limited to: (i) a General Plan amendment; (ii) a Specific Plan; (iii) design guidelines; (iv) one or more conditional use permits; and (v) subdivision maps.

C. Regulatory Process for Landfill. The Parties have generated a "road map," attached hereto as Exhibit E, which describes the process that would be followed to obtain all relevant approvals from other regulatory agencies for the development activities affecting the post-closure operation and maintenance of the Landfill, and the roles and responsibilities of the relevant regulatory agencies in issuing such approvals. With City's leadership, the Parties intend to work cooperatively to obtain the concurrence of the relevant regulatory agencies with the process, and the agency roles and responsibilities set forth in the road map.

D. Facilitation of Approval Process. City and Developer acknowledge their common objective to establish a special program and plan for effectively and efficiently administering the execution of the Project, given its large scale and unusual complexities. The DDA would provide that the relevant City departments and agencies would cooperate with Developer in reviewing Project submittals and providing counsel to Developer in order to facilitate the prompt and orderly entitlement and progress of the Project, and Developer in turn promptly would cooperate with City in revising Project submittals and providing information and responses to City in order to move the Project forward. The DDA would require that Project submittals be processed expeditiously as a priority project for City, and would also require City to engage a third-party consultant to assist City in carrying out its responsibilities under the various agreements pertaining to the Project, including expediting City's review of entitlement and permit applications. Developer would fund the cost of this third party consultant.

E. Approval by Other Agencies. The approval (to the extent required) of the appropriate local, state and federal environmental agencies of the proposed development would be a condition to Developer's obligations under the DDA. To the extent that obtaining such approvals from other agencies would require the cooperation or consent of City (e.g., as the property owner or the Landfill operator and permit holder), City would use commercially reasonable efforts to provide such cooperation and consent.

F. Integration with Neighboring Developments. The Project would be adjacent to significant existing developments, such as the Levi's Stadium and Great America Park, and Developer and City would work cooperatively with the ownership of these developments concerning issues of common concern, such as access, entryway placement, transportation, and other infrastructure.

G. Cooperation with Development of Tasman Parcels; Use of Planning Guidelines. The Tasman Parcels are adjacent to the Project and are anticipated to be developed at or about the same time as the Project. Developer would cooperate and coordinate with the developer of the Tasman Parcels regarding infrastructure planning and other matters of common interest, and City would require the developer of the Tasman Parcels to do the same. To facilitate this coordination and to implement proper planning, City has approved a set of guidelines (the "**Gateway Area Planning Guidelines**") to be applied to the planning, design and operation, including ingress and egress, of the Project and the Tasman Parcels. A copy of the Gateway Area Planning Guidelines is attached as Exhibit F hereto, and City agrees that the same would not be modified without City Council approval.

## VII. TRANSACTION DOCUMENTS

Subject to the terms of Section I, above, the Parties intend to negotiate Transaction Documents that would include: (i) a DDA that would set forth the predevelopment activities to be performed, the preconditions to commencement of construction of the Project and effectiveness of Ground Leases, and the amount and timing of funding of construction and infrastructure costs; (ii) a DA, which would establish Developer's vested rights for the development of the Project, subject only to limited exceptions; (iii) one or more Ground Leases, which would govern City's and Developer's relationship as landlord and tenant, respectively, for each area to be developed; and (iv) any other necessary documents for the conveyance, management, and development of the Property. It is expected that each of the terms below would be included in one or more of the Transaction Documents, as appropriate.

A. Phasing and Schedule of Performance. The Parties acknowledge that Developer desires to commence construction activities on the Property in March, 2016. A schedule of performance (the "**Schedule of Performance**") would be provided that would allow for development of the Project to occur in phases, with portions of the Property being transferred to Developer from time to time in advance of the commencement of horizontal construction activities on those portions. For example, the "City Center" portion of the Project, which is expected to include a mix of uses in multiple physical structures, would likely be taken down in separate increments to facilitate separate financing. The Schedule of Performance would provide Developer with the opportunity to begin site work on Parcel 4 (as shown on the attached Exhibit A) as early as the fall of 2015, subject to any restrictions that City determines are necessary to

ensure that such work not interfere with the Golf Course Parking Agreement. As discussed in the ENA, the Schedule of Performance would include milestones for the development of each of the parcels comprising the Property, specifically addressing the mix of development uses, phases of development, the date for the submittal of construction plans to City, the estimated date for the conveyance of each of the parcels to be developed, and the dates for the commencement and completion of construction of Project components on those parcels, each of which may be extended on account of force majeure events (to be defined) by agreement of the Parties. If objective thresholds can be developed and agreed upon by the Parties, force majeure may be defined to include certain economic force majeure events. The phasing would allow early vertical development of parcels that may produce early income or sales proceeds as necessary to contribute to a stable and successful overall development. Each phase of development would include an agreed upon share of the public benefits, all in accordance with the Transaction Documents, which would provide that City would not be obligated to transfer portions of the Property to Developer until the satisfaction of certain conditions applicable to each phase of development.

B. Land Use Requirements. The land use requirements for the Project would be set forth in one or more of the Transaction Documents, and would include but not be limited to discussion and incorporation of the following:

1. A final CLU Plan;

2. A procedure for future processing of specific designs for the components of the Project;

3. A description of a "minimum project" to be constructed within a specified time frame;

4. A requirement that Developer would use its best efforts to include in the Project two (2) to three (3) department stores of 100,000 gsf or larger with middle to high price points in terms of caliber of merchandise (each, a **"Major Department Store"**), at least two of which would be stores that are not presently located within City (unless otherwise agreed to by City);

5. A requirement that the retailers (but not necessarily the restaurants) within the "City Center" portion of the Project (i) focus on mid-to-high level price points, (ii) be either national stores or local enterprises that have a demonstrated track record of providing unique and high quality merchandise and service to the satisfaction of the City Manager, unless otherwise approved by the City Manager, and (iii) adhere to certain minimum operating hours;

6. A leasing plan for the retail, food and beverage, and entertainment components of the City Center portion of the Project that would be finalized after consultation with (but not approval by) City. This leasing plan would be updated at least every two (2) years after consultation with (but not approval by) the City. The Parties expect that the leasing plan

would contemplate a variety of brands and merchandise in order to appeal to a wide demographic range of customers;

7. Building and safety agreements; and

8. Residential guidelines, including affordable housing requirements acceptable to both parties.

C. Infrastructure Master Plan. The final Infrastructure Master Plan would be incorporated into one or more Transaction Documents.

D. Ground Leases. The Transaction Documents would include the form of one or more Ground Leases for the portions of the Property, with a different Ground Lease for each phase. Each Ground Lease would have a maximum term of ninety-nine (99) years. City's preference at this time is that all Ground Leases expire on the same date. However, City will consider whether each Ground Lease may have a term of ninety-nine (99) years in order to enhance the financeability and value of the Ground Lease, with the final decision to be reflected in the Transaction Documents. If portions of the Property are not leased from City within the time called for in the Schedule of Performance, as extended for defined force majeure events, Developer would have the right (so long as it is not then in material default under the Transaction Documents) to extend the time for such development by making option payments to City for a limited term to be agreed upon by the Parties.

E. Community Benefits. One or more of the Transaction Documents would incorporate a list of community benefits (the "**Community Benefits**"), which would be negotiated between the Parties. Community Benefits may include, but would not be limited to: (i) oversizing of infrastructure; (ii) public open space, recreation, and community-serving areas or facilities; and/or (iii) an expansion of the existing convention center. The Community Benefits may be located or provided on- or off-site.

F. Existing Uses. One or more Transaction Documents would establish the procedure and timing for relocating the Existing Uses. The Parties intend that Developer would pay all relocation and goodwill costs for the Existing Uses.

G. Operational Requirements. One or more of the Transaction Documents would include operational requirements for the Project, including but not limited to (i) requirements to hold a minimum number of community events per year and (ii) non-discrimination requirements.

H. Parking and Common Areas. Because provision of an adequate parking supply and common areas for public use of the Project area, the Tasman Parcels, the Levi's Stadium, and the City convention center (collectively, the "**Greater Area**") are key objectives of the City, one or more of the Transaction Documents would address the use of parking and common areas throughout the Greater Area and would require the negotiation and execution of one or more reciprocal parking and common areas use agreements or easements among the owners of parcels within the Greater Area (it being understood that the owner of each parcel within the Greater Area would be responsible for constructing or obtaining, separately, code compliant parking for its own uses). These agreements would contemplate that Stadium event parking (including parking on football game days) would be offered at negotiated rates in certain Project areas

outside the City Center portion of the Project, while making adequate provision to maintain the vitality of the retail uses within the Project.

I. Sustainability Plan. One or more of the Transaction Documents would include a sustainability plan (the **"Sustainability Plan"**) that articulates a vision and key principles for providing sustainable development practices at the Property. This Sustainability Plan may include environmentally sustainable and/or green techniques for the Project buildings and infrastructure, with the goal that all buildings would be LEED gold certified.

J. Finance Plan. The final Finance Plan would be attached to one or more of the Transaction Documents.

K. Hiring Policies and Agreements. One or more Transaction Documents would require Developer to work with City to develop outreach programs with the goals of hiring Santa Clara residents and small business enterprises during the Project development and construction process, and hiring Santa Clara residents for Project operations. One or more of the Transaction Documents also would require Developer to use its best efforts to reach labor/peace agreements and to hire qualified and skilled labor in connection with construction of the Project, although some portions of the Project may require flexibility regarding labor matters.

L. Restrictions on Competition. The City understands, and it is at City's request, that Developer will pursue a significant project including a "city center" portion characterized by major retail tenants and entertainment uses, including cinemas, in a mixed use, pedestrian-oriented environment (**"City Center"**). City Center uses are expected to include, among other things, Major Department Stores and one or more movie cinemas (each, a **"Cinema"**). The Parties acknowledge that there are significant risks in developing such a City Center project, including the risk that other, nearby proposed projects may impair Developer's ability, in the early years of the Project, to attract and stabilize major retail tenants, cinema owners, and other entertainment tenants necessary to accomplish this goal. Accordingly, the Transaction Documents would require City to use its best efforts to avoid approving any other Major Department Stores or Cinemas proposed to be located within two (2) miles of the Property, except that any expansion of the existing cinema at the Mercado Shopping Center shall not be subject to this restriction. This restriction would be applicable for a period ending three (3) years after the opening of the first to open within City Center of a) a Major Department Store or b) a Cinema.

M. Golf Course Parking Agreement. The Parties acknowledge that Developer desires to begin construction on the Project in March 2016, and thus Developer would need to accommodate the use of the golf course by the San Francisco 49ers until the end of the term of the Golf Course Parking Agreement. However, City agrees that the Golf Course Parking Agreement would not be modified without providing to Developer reasonable advance notice. City also intends to work with the Developer in implementing certain construction activities on the golf course site that the Developer may wish to undertake prior to the expiration of the Golf Course Parking Agreement so long as such activity does not interfere with the rights of the 49ers under such agreement.

N. Title Exceptions. Within the sixty (60) day period set forth in Section V.D, above, the Parties would agree upon a list of approved title exceptions (the **"Title Exceptions List"**) that, neither individually nor collectively, would interfere with the development of the Project. These title exceptions would include any necessary documentation of the ownership and operation of the Landfill, as well as the Golf Course Parking Agreement. One or more of the Transaction Documents would require City to deliver to Developer a leasehold interest in the Property that is subject only to the exceptions in the Title Exceptions List (and any other exceptions mutually agreed upon by the Parties).

O. City Development Fees. An exhibit to the DDA and/or DA would identify and quantify all City development fees that would pertain to the Project. It is expected that no City development fees, other than those identified in the exhibit, would be levied against the Project or its owners, that the values on which such development fees are based would be held constant or subject to a maximum annual adjustment set forth in the exhibit, and that the Project would benefit from any downward adjustments in development fees made City-wide. It is intended that no subsidies, permit fee waivers, or other fee waivers will be requested from or granted by City in connection with the Project.

P. Landfill Remediation and Operation. City would retain title to the Landfill and have responsibility at all times for its post-closure operation and maintenance in compliance with applicable law, including but not limited to operation and maintenance of the leachate collection system, the landfill gas extraction and control system, and the Landfill gas-to-energy plant. City and Developer would negotiate the easements and rights of way through and adjacent to the Landfill for such installations (including pilings) as would be necessary for the agreed development activities on the Property. The utilization of these easements and rights of way, including the design and construction of any support mechanisms such as pilings, would be at Developer's expense. To the extent that the development activities require removal, relocation, repair and/or enhancement of the Landfill gas extraction and control system and other Landfill components, they would be at Developer's expense, although City would continue to own and operate the Landfill gas extraction and control system during and after such activities. In addition, to the extent that the development activities require installation and operation of remedial measures to address potential vapor intrusion into buildings and other structures that would be occupied as part of the development, those measures would be installed and operated with regulatory oversight at Developer's expense, although City and Developer would work cooperatively to develop and implement a mechanism satisfactory to the relevant regulatory agencies to assure that the systems would continue to be operated and maintained and that regulatory oversight would be appropriately reimbursed as long as required under applicable law.

Q. Sales Tax. One or more of the Transaction Documents would require Developer to use commercially reasonable efforts to adopt sales tax reporting procedures allowable under California law that would provide City the greatest allocation of California sales tax revenues; Developer's general construction contractors and Project occupants would also be required to use commercially reasonable efforts to adopt these procedures. Developer would propose a process, to be approved by City, that would designate the Property as the place of sale of fixtures furnished and installed by it for the Project; the Transaction Documents would also provide that Developer would require its general contractors to use commercially reasonable efforts to designate the Property as the place of sale of fixtures furnished and installed by them for the

Project, and also to use commercially reasonable efforts to designate Property as the place of use of materials used in construction of the Project. The Transaction Documents also would provide that Developer would require its vendors and Project occupants to use commercially reasonable efforts to designate the Property as the place of sale and place of use of goods and services to be used in connection with operation of the Project. Notwithstanding the foregoing, the allocation by Developer's construction contractors and Project occupants of sales tax revenues to any location other than City shall not constitute Developer's failure to comply with this covenant. Developer would bear all process costs associated with its obligations under this Section Q.

R. City Costs. The Transaction Documents would provide for the reimbursement by Developer to City of specified and documented costs incurred by City in connection with City's performance of its obligations under the Transaction Documents. City would prepare a budget for such costs that is subject to comment and approval by Developer, and such budget would become part of the DA and/or the DDA, although it would not be binding upon City.

S. Assignment. City acknowledges that Developer may wish to assign its rights and obligations with respect to completed portions of the Project and/or to assign its ground lease or fee rights with respect to uncompleted and/or vertical portions of the Project in order to facilitate the financing and completion of such portions. The Transaction Documents will permit such assignments and conveyances upon all of the following conditions (as applicable):

1. Any proposed assignment of a material interest in a ground lease (as opposed to an improvement thereon) would be subject to City's prior approval (which approval would be subject to a defined standard of reasonableness) and conditioned upon several factors, including the consistency of the assignment with the remainder of the Transaction Documents, the assignee's financial capabilities, and the assignee's proven capability to develop and/or operate (as the case may be) the portion of the Project being assigned.

2. Developer would not be permitted to assign to a third party its interest in ground leases covering the City Center portion of the Project until the horizontal portion thereof is complete and at least 50% of the planned vertical construction has been completed.

3. The restrictions set forth in 1) and 2), above, shall not apply to transfers to affiliates (to be defined) of owners or lessees of a portion of the Project so long as the assignor remains liable, nor shall they apply to subleases.

4. The participation of equity or debt providers who do not acquire a direct ownership interest in, or control over, the Project would not require the consent of City or any other party.

5. Developer and any other owner of an interest in the Project would be permitted to grant a mortgage, deed of trust, or other security instrument encumbering all or a portion of Developer's interest in all or a portion of the Project without the prior approval of City.

T. Lender Terms. Financing provisions would permit customary development, construction and long term debt and equity financing for projects similar to the Project, including customary remedies of lenders and purchasers at foreclosure sales. No lender would under any circumstances be required to develop any portion of the Property as a condition to foreclosing on or holding or disposing of the portion that it has financed. No subordination of the Property or the rent payable to City for the Project would be permitted.

U. Vesting. The DA would describe the full extent of development density and intensity, the maximum level of Community Benefits, and the applicability of local laws, fees and exactions.

V. Other Terms. The Transaction Documents would contain provisions regarding remedies, representations and warranties, insurance, a general indemnification of City by Developer with respect to the Project, and other terms that are typical for transactions of the nature and scope of the Project.

VIII. MISCELLANEOUS

This Term Sheet may be amended or supplemented only by an instrument in writing signed by both Parties. Notices relating to this Term Sheet would be sent to the Parties in the manner and at the addresses provided for notices in Section 20 of the ENA. This Term Sheet may be executed in counterparts. Each fully executed counterpart would be deemed to be an original Term Sheet and all of such fully executed counterparts would be deemed to be one and the same agreement.

//

//

//

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 would become effective only if and after such agreements have been considered and approved by City following compliance with all legally required procedures, and subject to the terms of Section I above.

IN WITNESS WHEREOF, the undersigned have executed this Term Sheet as of February 11, 2014.

DEVELOPER:
RELATED SANTA CLARA, LLC, a Delaware ~~limited~~ liability company

By: _____
Stephen Eimer
Its: EVP Authorized Signatory

CITY:

CITY OF SANTA CLARA, a municipal corporation

By: _____
JULIO J. FUENTES
City Manager

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

ATTEST:

By: _____
ROD DIRIDON, JR.
City Clerk

APPROVED AS TO FORM:

By: _____
RICHARD E. NOSKY, JR.
City Attorney

## List of Exhibits to Term Sheet

| | | |
|---|---|---|
| A | - | Vicinity Map of the Project |
| B | - | Golf Course Parking Agreement |
| C | - | City Council Resolution adopting Term Sheet |
| D | - | Conceptual Land Use Plan and Program |
| E | - | Roadmap for Landfill Approval Process |
| F | - | Gateway Area Planning Guidelines |

**Exhibit A**

Vicinity Map of the Project

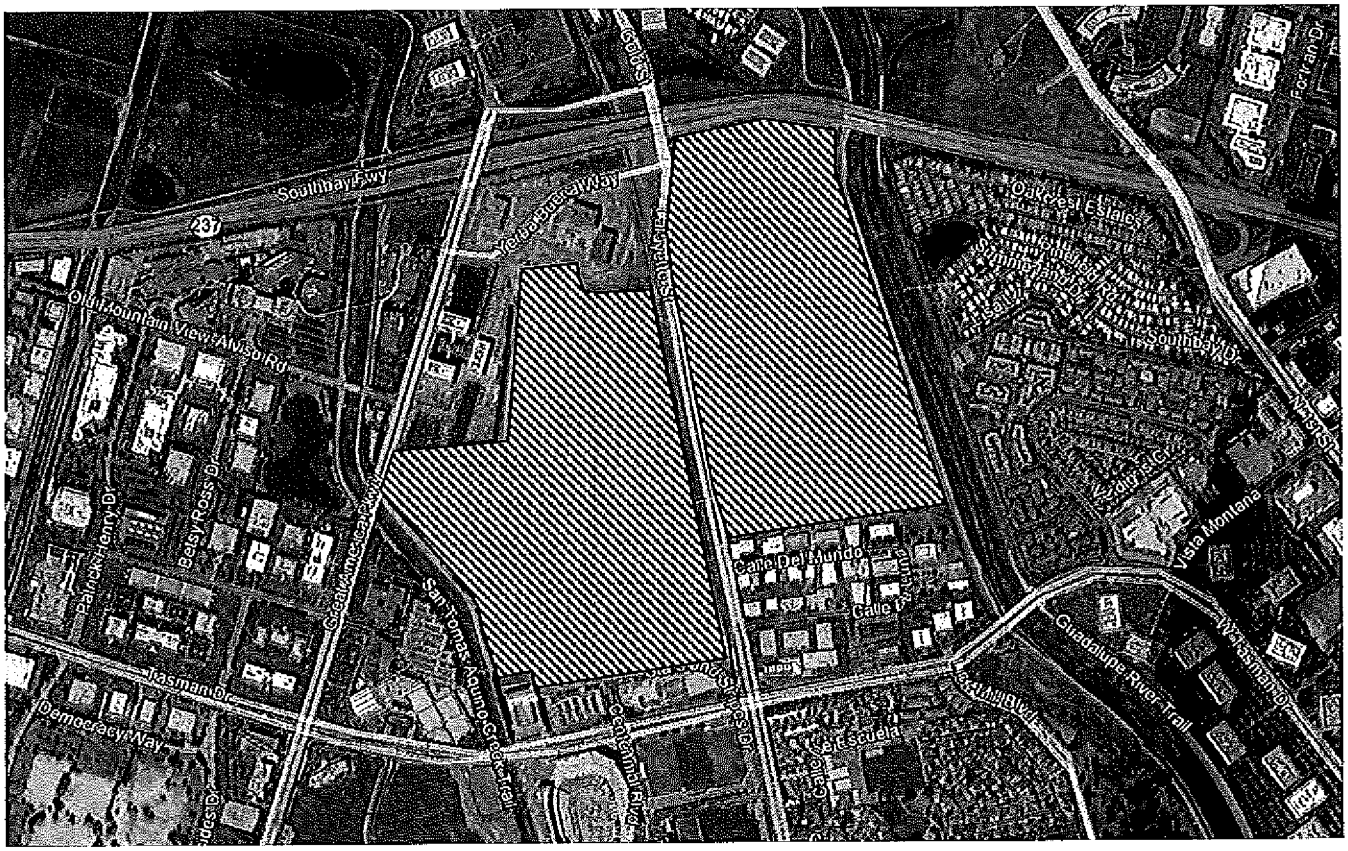


Exhibit B

# CITY OF SANTA CLARA
# ADDITIONAL PARKING RIGHTS AGREEMENT
# (GOLF COURSE)

THIS CITY OF SANTA CLARA ADDITIONAL PARKING RIGHTS AGREEMENT (this "**Agreement**") is made as of January 14, 2014 (the "**Effective Date**"), between FORTY NINERS SC STADIUM COMPANY LLC, a Delaware limited liability company ("**StadCo**"), and THE CITY OF SANTA CLARA, a chartered California municipal corporation ("**City**"). The City and StadCo are together referred to herein as the "**Parties**". Capitalized terms used herein which are not defined herein shall have the meanings provided in the Stadium Lease (as hereinafter defined).

## RECITALS

A. City and the Santa Clara Stadium Authority, a joint exercise of powers entity, created through Government Code sections 6500 *et seq.* ("**Authority**"), are parties to that certain Ground Lease dated as of March 28, 2012, as amended by that certain First Amendment to Ground Lease (Stadium Site) dated as of June 19, 2013 (as the same may be further amended from time to time, the "**Ground Lease**"), pursuant to which the Authority leases certain real property from the City upon which the Authority is developing and constructing a new multi-purpose stadium (the "**Stadium**").

B. Authority and StadCo are parties to that certain Amended and Restated Stadium Lease Agreement dated as of June 19, 2013 (as the same may be further amended from time to time, the "**Stadium Lease**"), pursuant to which StadCo is granted the right during the term of the Stadium Lease to use and occupy the Stadium for the operation of an NFL franchise, subject to, and on the basis of, the terms, covenants and conditions set forth in the Stadium Lease.

C. StadCo has subleased the Stadium to Forty Niners Football Company LLC, a Delaware limited liability company ("**Team**") for use as its home stadium for NFL Games for a portion of each year. Pursuant to the Stadium Lease, StadCo and Team will use the Stadium for a portion of the year to host NFL Games and for certain other uses such as hosting community relations, promotional and corporate partner private events and other events or meetings related to the promotion or operation of the Team and, if applicable, a Second Team, such as open houses, fan appreciation nights, fantasy camps, and other marketing events (together with NFL Games, "**NFL Events**"). During the remainder of the year, Authority will operate the Stadium for its own account as a venue for events other than NFL Games, including civic events, concerts and other athletic events ("**Non-NFL Events**", and collectively with NFL Events, "**Stadium Events**").

D. City and StadCo are parties to that certain City of Santa Clara Parking Rights Agreement dated as of March 28, 2012 (as the same may be amended from time to time, the "**City-StadCo Parking Agreement**"), pursuant to which City granted to StadCo parking and related rights in and with respect to certain City-owned parking facilities, including, with respect to those certain properties commonly known as the Convention Center Garage and the TechMart, as more particularly described in Exhibit D attached thereto, a non-exclusive license for parking in connection with NFL Events ("**Convention Center/TechMart Parking Rights**").

E. The City-StadCo Parking Agreement provides that, from time to time, City and StadCo may agree to designate additional property for parking for NFL Events, and as to any such property may, by recording a notice or memorandum of such designation, cause such property to be subject to the terms and provisions of the City-StadCo Parking Agreement, together with such other or additional provisions as the Parties may specify.

F. City and StadCo now desire, in accordance with the City-StadCo Parking Agreement, to designate the golf course property more particularly depicted on the Conceptual Plans attached hereto as Exhibit A (the "**Golf Course**") for parking for Stadium Events, subject to, and on the basis of, the terms, covenants and conditions set forth in this Agreement.

In consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

## AGREEMENT

1. Preparation of Golf Course.

1.1 Golf Course Work. Following the Effective Date, and subject to obtaining all required permits and governmental approvals, StadCo will have the right to perform (or cause to be performed), at no cost to City, the work described on the Conceptual Plans attached as Exhibit A hereto (the "**Golf Course Work**"). StadCo shall cause to be prepared and delivered to the City final plans and specifications and working drawings in conformance with the Conceptual Plans. The final plans and specifications for the Golf Course Work (the "**Final Plans**") shall be subject to reasonable and customary design review and the approval of City for consistency with the Conceptual Plans and the requirements of this Agreement, which approval shall not be unreasonably withheld, conditioned, or delayed. The Final Plans will include any expected relocation or changes to any existing golf course appurtenances, such as valve boxes, controllers and ball washers, in addition to potential changes to leachate and landfill gas collection systems. Prior to commencing the Golf Course Work, StadCo shall obtain City's approval of the Final Plans. City and StadCo agree to cooperate and use good faith efforts to coordinate, to the extent commercially reasonable, the Golf Course Work with the operations of the Golf Course and to minimize interference with such operations, taking into consideration, however, the scope of the work and the expedited schedule for completion. If, however, the Parties agree that it is not practicable to keep the Golf Course operating during the performance of any portion of the Golf Course Work, or if the operations of the Golf Course are materially and adversely affected by the performance of any portion of the Golf Course Work (measured, in part, by comparing the use of the Golf Course during the performance of the Golf Course Work against the use of the Golf Course during an average weekday or weekend day, as appropriate, for the corresponding month occurring during the period commencing July 1, 2012, and ending June 30, 2013 (the "**2012-2013 Fiscal Year**"), and taking into consideration any other relevant factors that might have impacted the operations of the Golf Course other than the Golf Course Work), then StadCo shall pay the City the projected lost revenue for that day resulting from such Golf Course Work within thirty (30) days of demand by the City accompanied by reasonable supporting documentation. Any payment made by StadCo to the City pursuant to this Section 1.1 shall be in addition to the Minimum Use Fee described in Section 4.3

1.2 Mitigation Measures and Construction Rules. In the performance of the Golf Course Work, the Parties shall comply with all mitigation measures contained in the environmental impact report for the Stadium and other conditions of approval for the Stadium, including, without limitation, those relating to construction vehicle routing and dust control. In performing the Golf Course Work, StadCo shall comply with the Parking Related Improvements Construction Rules and Regulations, attached hereto as Exhibit B, as the same may be modified by the City, with the reasonable approval of StadCo. Prior to the commencement of the construction of the Golf Course Work, the Parties will meet to develop a schedule for the construction of the improvements. The Parties shall meet periodically thereafter (but no less than monthly) to keep one another generally apprised of Golf Course construction activities and to coordinate such activities with City operations.

1.3 Construction Costs. As provided in Section 1.1 above, StadCo will be responsible for the costs of developing the Final Plans and performing and paying the costs of Golf Course Work and shall ensure that no liens attach to the Golf Course as a result of the Golf Course Work. StadCo shall also be responsible for the capital expenditures required for public safety in connection with the use of the Golf Course for Stadium Events, as shall be agreed upon by City and StadCo before commencement of the Golf Course Work (**"Golf Course-Specific Public Safety Capital Expenditures"**). If, however, based on the Conceptual or Final Plans and prior to the commencement of construction of the Golf Course Work, StadCo determines that the estimated amount of StadCo's Capital Costs (as defined below) is unacceptable to StadCo, in its sole discretion, then StadCo will have the right, by providing City with written notice no later than sixty (60) days after the date the Final Plans are finalized, either (a) to terminate this Agreement or (b) to modify the Final Plans to reduce StadCo's Capital Costs, in which event StadCo shall cause such modifications to be delivered to the City for review and approval as provided in Section 1.1 above. If StadCo elects to terminate this Agreement, then this Agreement shall be terminated effective as of the date of such notice, and the Parties shall each be released from any and all obligations, duties, and liabilities to one another under this Agreement, except for obligations, duties, and liabilities that expressly survive expiration or termination of this Agreement. In no event shall StadCo have any right to terminate this Agreement pursuant to this Section 1.3 following the commencement of construction of the Golf Course Work. As used in this Agreement, **"StadCo's Capital Costs"** means the sum of the following: (i) the actual third-party costs and expenses incurred by StadCo in the design and construction of the Golf Course Work, including the cost of preparing the Conceptual Plans and Final Plans, and the cost of designing and constructing any subsequent modifications, alterations or improvements to the Golf Course Work made pursuant to Section 1.4 below, plus (ii) the Golf Course-Specific Public Safety Capital Expenditures paid by StadCo pursuant to this Agreement.

1.4 Alterations; Maintenance of Golf Course. Following completion of the Golf Course Work, any further reconfiguration or material modification of the Golf Course by StadCo shall require the City's reasonable prior approval. Similarly, City shall not undertake (nor permit any third-party to undertake) any reconfiguration or material modification of the Golf Course without the prior written approval of StadCo if such reconfiguration or modification would reduce the size of the Designated Parking Areas (as defined in Section 3.1.1 below), result in a reduction in the number of parking spaces available for vehicles within the Designated Parking Areas, or otherwise materially and adversely affect StadCo's use the Golf Course as permitted in this Agreement. Customary maintenance, repair, and upkeep of the Golf Course shall be the

responsibility of City, subject to (a) StadCo's obligation to reimburse City for (i) the reasonable costs to return the Golf Course to its prior condition following the use of the Golf Course for a Stadium Event, as more particularly provided in Section 3.3 below, and (ii) the reasonable costs of any third-party consultants or City staff to the extent such persons are providing services required for, and directly related to, StadCo's use of the Golf Course for Stadium Events, and (b) to pay incremental costs of operating the Golf Course for Stadium Events, as more particularly provided in Section 4.4 below. In addition, if StadCo's exercise of its Parking Rights on the Golf Course shall cause damage to the existing leachate or methane system, then StadCo shall, within thirty (30) days following receipt of a reasonably detailed invoice therefor, reimburse the City the reasonable costs and expenses of repairing any such damage.

1.5 LEA Approval. The Golf Course is a closed solid waste landfill, the use of which requires approval by the Solid Waste Local Enforcement Agency of the County of Santa Clara ("**LEA**"). StadCo acknowledges and agrees that it shall be responsible for obtaining all required approval(s) by LEA, including approval of a proposed Amendment No. 5 to the Postclosure Maintenance Plan for the Golf Course ("Amendment No. 5"), and the receipt of such approval(s) is a condition to the commencement of the Golf Course Work by StadCo and that no Golf Course Work will be commenced until all such required approval(s) is obtained. Should the LEA impose any conditions upon its approval that are unacceptable to StadCo, in its sole discretion, then StadCo may terminate this Agreement by written notice to the City. If StadCo so elects, this Agreement shall be terminated effective as of the date of StadCo's termination notice, and the Parties shall each be released from any and all obligations, duties, and liabilities to one another under this Agreement, except for obligations, duties, and liabilities that expressly survive expiration or termination of this Agreement. If StadCo does not elect to terminate this Agreement pursuant to this Section 1.5, then this Agreement will remain in effect and StadCo will perform the Golf Course Work, at its sole cost and expense, in accordance with all LEA approvals, including Amendment No. 5.

2. Term.

2.1 Term.

2.1.1 Initial Term. The Term of this Agreement shall commence on the Effective Date and expire on February 29, 2016, unless extended as provided in this Section 2.1 or otherwise by the mutual agreement of the Parties (as the same may be extended, the "**Term**"), subject to any early termination rights expressly provided to the Parties in this Agreement.

2.1.2 Month-to-Month Rights; Partial Termination.

(a) Unless either Party shall elect to terminate this Agreement as of February 29, 2016, by written notice delivered to the other Party on or before January 30, 2016, the Term shall be automatically renewed on a month-to-month basis beginning March 1, 2016, and, thereafter, shall be terminable by either Party on thirty (30) days' notice; in each Party's sole discretion. The Parties may decide to extend this Agreement as to all or only a portion of the Golf Course, each in its sole discretion.

(b) If this Agreement continues on a month-to-month basis after February 29, 2016, then the Minimum Use Fee shall be determined on a monthly basis and shall be equitably adjusted by City and StadCo to reflect the expected diminution in the City's net income from Golf Course operations (measured against the City's net income from the Golf Course operations, and the use of the Golf Course during the average weekday or weekend day, as appropriate, for the corresponding month during the 2012-2013 Fiscal Year) attributable to StadCo's use of the Golf Course for the particular month.

(c) If this Agreement continues with respect to only a portion of the Golf Course as provided in Section 2.1.2(a) above, then the Minimum Use Fee shall be equitably adjusted by City and StadCo to reflect the expected diminution in the City's net income from Golf Course operations attributable to StadCo's use of the Golf Course for the particular portion of the Golf Course, which shall be measured against the City's net income from the Golf Course operations, and the use of the Golf Course during the average weekday or weekend day, as appropriate, for the corresponding month during the 2012-2013 Fiscal Year, as the same are adjusted to reflect the Parties' estimate of the diminution in the City's net income and use of the Golf Course during the 2012-2013 Fiscal Year had the Golf Course been operated only for the portion then remaining for use by StadCo hereunder.

2.1.3 StadCo Extension Request. Notwithstanding the provisions of Section 2.1.1 above, StadCo may request, by written notice to City delivered on or before December 31, 2015, and on a date between December 1 and December 31 of any succeeding calendar year until this Agreement is terminated pursuant to 2.1.2 (a), for a one (1) year extension of the Term beginning on the next following March 1 (an "**Extension Request**"), which will allow StadCo to conduct presales of season long parking on the Golf Course for the next NFL Season. Within twenty (20) days following the City's receipt of any Extension Request, the City shall approve or disapprove the one (1) year extension in its sole discretion. Failure to approve the Extension Request within twenty (20) days following the City's receipt of any Extension Request shall be deemed disapproval. If the City approves StadCo's Extension Request, then the Term shall be extended for one (1) year, commencing on the next following March 1 and continuing through the last day of February of the next succeeding calendar year (each, an "**Extension Year**"), on all of the terms, covenants and conditions of this Agreement, except that the Minimum Use Fee for any such Extension Year shall equal one hundred three percent (103%) of the Minimum Use Fee payable by StadCo for the twelve (12) month period preceding such Extension Year (subject to equitable adjustment by City and StadCo if, prior to such Extension Year, this Agreement has been terminated as to a portion of the Golf Course, as provided in Section 2.1.1 above). If the City disapproves StadCo's Extension Request, then the Term shall continue on a month-to-month basis as provided in Section 2.1.1 above, provided that any such disapproval by the City shall not affect StadCo's right to make Extension Requests for subsequent years so long as this Agreement continues to remain in effect.

2.1.4 Appurtenant to Stadium Lease. This Agreement and the rights and license granted hereby shall be appurtenant to the leasehold interest of StadCo in the Stadium Lease; provided, however, that if the Stadium Lease terminates prior to the termination of this Agreement and thereafter a New Lease is entered into with a Tenant Mortgagee or its designee, then this Agreement shall not terminate as a result of the termination of the Stadium Lease, but StadCo's interest herein shall be deemed automatically assigned to the tenant under said New

Lease (and if such tenant requests, City agrees to execute a new agreement with such tenant on all of the terms of this Agreement for a period equal to the remaining term of this Agreement.

3. Parking.

3.1 Stadium Use of the Golf Course.

3.1.1 Parking Rights Defined. For purposes of this Agreement, the term **"Parking Rights"** means, for all Stadium Events, the right to park motor vehicles and non-motorized vehicles (including bicycles) in the designated areas on the Golf Course specified on Exhibit A attached hereto (**"Designated Parking Areas"**), together with (a) the right to install and maintain for Stadium Events (i) identifying and wayfinding signage (which may, if permitted under City regulations, include sponsorship attributes), and (ii) security stations, gates, fences or similar barriers in appropriate locations to limit and control public access to the Golf Course during Stadium Events, (b) the right to operate the Golf Course as a commercial parking area for a reasonable time before and after Stadium Events, including, but not limited to, the right to establish parking rates and collect revenues, (c) the right to promulgate rules and regulations regarding the use of the Golf Course for parking, including, but not limited to, rules and regulations controlling the flow of traffic to and from the Designated Parking Areas, the angle and direction of parking within the Designated Parking Areas, the right to designate certain of the Designated Parking Areas as reserved for particular users or groups of users (including the right to establish different parking rates for unreserved and reserved parking), or to forbid parking by particular users or groups of users in specified locations, including the right to designate specific parking spaces for use by vehicles exhibiting handicap parking placards, and including the right (but not an obligation) to tow vehicles (subject to compliance with applicable laws) parked without permission in reserved parking areas or otherwise in violation of such rules and regulations, and (d) subject to payment of the Ancillary Use Fee (as described in Section 4.3 below) the exclusive right (subject to the rights of third parties under any contracts entered into with the City prior to the Effective Date) to make ancillary use of the Golf Course during, and for a reasonable period before and after, Stadium Events, including the right to sell advertising and use space for promotional displays, and the right to conduct promotional activities and/or marketing events on the Golf Course, and including, without limitation, the right to install in the Designated Parking Areas or such other areas of the Golf Course as may be approved by the City (which approval shall not be unreasonably withheld, conditioned or delayed) temporary improvements, concession stands, kiosks, signage, advertising and other promotional uses, as well as the exclusive right to sell sponsorship rights on or with respect to the Golf Course in conjunction with all Stadium Events. The location of any temporary improvements, concession stands, kiosks, signage, advertising and other promotional uses outside of the Designated Parking Areas shall identified and submitted to the City for its approval at least forty eight (48) in advance of the Stadium Event. In no event may any improvements or signage be placed on any of the Golf Course greens. Parking Rights do not include any right to use the existing parking areas serving the SCG&TC and David's Restaurant.

3.1.2 Grant. City hereby grants to StadCo a license for Parking Rights for Stadium Events (and other related rights as more particularly set forth below) during the Term hereof, at the times hereinafter specified. The Parties acknowledge that City retains the right to operate the Golf Course for any period of time not reserved by StadCo in accordance with the scheduling procedures set forth in Section 3.2.

3.1.3 Convention Center/TechMart. For any NFL Event during which StadCo exercises its Parking Rights under this Agreement, StadCo agrees that, notwithstanding the provisions of the City-StadCo Parking Agreement to the contrary, StadCo shall have no right to exercise its Convention Center/TechMart Parking Rights with respect to such NFL Event.

3.1.4 Coordination with American Golf. The Golf Course is a part of the Santa Clara Golf & Tennis Club ("SCG&TC"), which is operated by the American Golf Corporation under a Management Agreement with the City's Sports and Open Space Authority. The Parties recognize that a representative of American Golf, or such other Golf Course operator as selected by the City, (the "Course Representative") will be required to be available to address any emergencies during the period in which StadCo exercises is Parking Rights under this Agreement. The cost of the Course Representative shall be considered a third party cost of the City and shall be payable in accordance with Section 1.4 above. The Parties shall meet and confer after each Stadium Event in which StadCo uses its Parking Rights hereunder (or such other time as the Parties may decide) to discuss any issues that arose during Stadium Event that may need correction. StadCo acknowledges and agrees that the City intends to enter into an amendment of its Management Agreement or another agreement with American Golf Corporation to coordinate with this Agreement and no Golf Course Work will be commenced until such agreement has been finalized.

3.2 Event Scheduling. Scheduling of events at the Stadium for which StadCo intends to exercise the Parking Rights under this Agreement shall be consistent with the following:

3.2.1 For pre-season, regular season and post-season NFL Games, StadCo shall have unconditional first priority preferential scheduling of the Golf Course, subject to the provisions set forth below. Promptly following StadCo's receipt of the final schedule of NFL Games for any particular NFL Season, StadCo shall notify City thereof, and the Golf Course shall be available for StadCo's exercise of the Parking Rights for all such NFL Games. City acknowledges that, on occasion, NFL Games may need to be rescheduled on short notice (*e.g.*, to accommodate NFL "flexible schedule" requirements), and that StadCo's use of the Golf Course for such NFL Games may need to be rescheduled as a consequence. City agrees that NFL Games that are rescheduled to accommodate NFL "flexible scheduling" requirements will always have priority over other uses of the Golf Course, even if such other uses of the Golf Course have been previously scheduled. If the rescheduling of an NFL Game requires the Golf Course to be closed on a day for which it was not previously scheduled to be closed and if the Golf Course is not operational on the day the NFL Game was originally scheduled, then StadCo shall pay the City the projected lost revenue for that day (based on an average weekday or weekend day, as appropriate, for that particular month occurring during the 2012-2013 Fiscal Year). Any payment made by StadCo to the City resulting from a rescheduled NFL Game shall not count toward the Minimum Use Fee described in Section 4.3.

3.2.2 Beginning concurrently with the initial preparation by Authority and StadCo (or by the stadium manager on behalf of Authority and StadCo) of a schedule of Stadium Events, StadCo shall deliver (or cause the stadium manager to deliver) a tentative schedule of the dates and times of Stadium Events other than NFL Games for which StadCo wishes to exercise the Parking Rights granted herein ("**Annual Event Schedule**"). City and StadCo will meet at least once annually in the first calendar quarter of each year to coordinate

schedules and finalize and approve the Annual Event Schedule ("**Annual Planning Meeting**"). Upon the City's request, City and StadCo shall meet within fourteen (14) days following the release of the NFL schedule for upcoming season to incorporate NFL Games in the Annual Event Schedule. StadCo will have the right to schedule the use of the Golf Course for Stadium Events in the approved Annual Event Schedule ("**Scheduled Events**") in its sole discretion, without further approval by City. If any Scheduled Events are subsequently canceled by StadCo, then StadCo shall pay the City the projected lost revenue for that day (based on an average weekday or weekend day, as appropriate, for that particular month occurring during the 2012-2013 Fiscal Year). Any payment made by StadCo to the City resulting from any such canceled Scheduled Event shall not count toward the Minimum Use Fee described in Section 4.3.

3.2.3 StadCo will have the right to utilize the Golf Course for Stadium Events that do not otherwise qualify as Scheduled Events ("**Unscheduled Events**"), so long as prior written notice is provided to City no later than thirty (30) days prior to such Unscheduled Event; provided, however, that City may withhold its consent to an Unscheduled Event if, at the time of StadCo's request, StadCo's exercise of the Parking Rights hereunder would conflict with any then-scheduled uses of the Golf Course, including advanced booking of tee times.

3.2.4 For purposes of applying the principles set forth in this Section 3.2, StadCo will, prior to December 15 of each year, provide City with (a) detailed information for the Stadium-related use of the Golf Course during the 12-month period ending on the preceding October 31, by date, and (b) without limiting the Parties' coordination of schedules at the Annual Planning Meeting, a list by date and time of all then-scheduled Stadium Events for the following calendar year for which StadCo intends to use the Golf Course for its Parking Rights; provided that the Parties acknowledge that the NFL Game schedule is generally not available until the Spring before the beginning of each football season and, as such, StadCo shall, as provided in Section 3.1.1 above, promptly notify City of the NFL Game schedule once it becomes available. StadCo will provide updated event schedules to City at least quarterly.

3.3 Access. For each Stadium Event that StadCo elects to use the Golf Course for the Parking Rights granted pursuant to this Agreement, City shall provide StadCo with exclusive use and access of the Golf Course beginning at the close of business of the Golf Course operations on the day immediately preceding such Stadium Event and continuing until one (1) hour before sunrise on the day immediately following the Stadium Event. City and StadCo shall cooperate to return the Golf Course to its condition existing before any Stadium Event not later than one (1) hour before sunrise on the day immediately following such Stadium Event (unless otherwise specifically approved by the City), provided that, if any repairs are required to be performed to the Golf Course as a result of StadCo's use of the Golf Course for any Stadium Event, then City shall be responsible for making (or causing to be made) any such repairs, in which event StadCo shall, within thirty (30) days following receipt of a reasonably detailed invoice therefor, reimburse the City for the reasonable costs and expenses thereof.

4. Payment for Parking and Ancillary Uses.

4.1 Golf Course Parking Fee. Subject to the terms and conditions of this Section 4, during the Term of this Agreement, StadCo agrees to pay to City, within thirty (30) days

following each NFL Game or other Stadium Event for which the Golf Course is used for parking, the following amounts (collectively, the "**Golf Course Parking Fees**"):

4.1.1 Commencing on the Effective Date and continuing until the Capital Recovery Date (as defined in Section 4.9 below), the sum of $5 for each parking space on the Golf Course used for parking in connection with such NFL Game or other Stadium Event.

4.1.2 Commencing with the first NFL Game or other Stadium Event following the Capital Recovery Date and continuing thereafter during the Term, seventy percent (70%) of the Net Income from Golf Course Parking (as defined in Section 4.9 below) attributable to such NFL Game or other Stadium Event. City agrees that, until the first NFL Game or other Stadium Event following the Capital Recovery Date, StadCo shall be entitled to retain one hundred percent (100%) of the Net Income from Golf Course Parking; and, further, that following the Capital Recovery Date, StadCo shall have the right to calculate and pay the Golf Course Parking Fees pursuant to this Section 4.1.2 within ninety (90) days following each License Year upon delivery to the City of the Annual Statement as provided in Section 4.7 below.

4.2 Ancillary Use Fee. The Golf Course is within the Advertisement and Promotional Activity Control Area established pursuant to Section 2.4.8 of the Ground Lease. StadCo will have exclusive rights to the sale of sponsorships and advertising and the sale of food, beverage and merchandise (collectively, "**Ancillary Uses**") on the Golf Course during, and for a reasonable period before and after, Stadium Events. If StadCo elects to use the Golf Course for such Ancillary Uses for any Stadium Event, then, in addition to the amounts payable by StadCo pursuant to Sections 4.1.1 and 4.1.2 above, StadCo will pay to City, within thirty (30) days following each NFL Game or other Stadium Event for which the Golf Course is used for Ancillary Uses, an additional fee (the "**Ancillary Use Fee**") equal to $10,000 for each NFL Event, and $5,000 for any other Stadium Event.

4.3 Minimum Golf Course Use Fee. If, for any License Year (as defined below), the total amount of the Golf Course Parking Fees and any Ancillary Use Fees payable to City by StadCo hereunder is less than the Minimum Use Fee specified for the License Year in the schedule below, then, within thirty (30) days following the end of such License Year, StadCo will pay to City the amount of such deficiency. City and StadCo acknowledge and agree that the Minimum Use Fee specified below is intended to reflect the expected diminution in the City's net income from Golf Course operations (measured in comparison with the City's net income from Golf Course operations for the 2012-2013 Fiscal Year) attributable to StadCo's use of the Golf Course for Stadium Events as provided in this Agreement, including, if approved by StadCo, any annual payment to be made by the City to the third-party operator of the Golf Course as a result of this Agreement. Therefore, if, following any License Year, City reasonably demonstrates to StadCo that, when compared to the City's net income from Golf Course operations for the twelve-month period commencing July 1, 2012 and ending June 30, 2013, the City's net income from Golf Course operations for such License Year has been diminished by more than the applicable Minimum Use Fee as a result of StadCo's use of the Golf Course for Stadium Events, then the Minimum Use Fee for such License Year shall be increased to equal the amount of such diminution.

| Minimum Golf Course Use Fee | |
|---|---|
| **License Year** | **Minimum Rent** |
| 1 | $250,000 |
| 2 | $250,000 |

As used herein, "**License Year**" means each consecutive twelve (12) month period during the Term, beginning on the Commencement Date of the Stadium Lease, except that the first License Year shall include the period between the Effective Date and the Commencement Date of the Stadium Lease. For example, if the Effective Date occurs on December 1, 2013, and the Commencement Date of the Stadium Lease occurs on June 1, 2014, then the first License Year will commence on the Effective Date and end on May 31, 2015, and each subsequent License Year shall commence on June 1 and end on May 31 of the immediately succeeding calendar year.

4.4 Responsibility for Golf Course Expenses. StadCo shall be responsible, at its sole cost and expense, for the direct costs and expenses incurred by StadCo in the operation of the Golf Course for any Stadium Event, including, without limitation, costs of any utilities, security, and Golf Course-Specific Public Safety Costs (as defined in Section 4.6 below), costs to install and remove temporary facilities, costs to restore the Golf Course to its pre-Stadium Event condition pursuant to Section 3.3 above, and the costs and fees of any third-party operator employed to manage and operate the Golf Course for parking for such Stadium Event (collectively, "**Golf Course Expenses**").

4.5 Public Safety Costs. For each License Year, StadCo shall reimburse the City the actual and reasonable costs of police, traffic control, fire, emergency services and similar services that are directly attributable to StadCo's use of the Golf Course for the Parking Rights as provided in this Agreement (more specifically, such services must be provided by the City directly on the Golf Course or on public streets immediately adjacent to entrances to and exits from the Golf Course when used for parking for Stadium Events) (collectively, "**Golf Course-Specific Public Safety Costs**"); provided, however, that, if (a) the amount of Golf Course-Specific Public Safety Costs attributable to NFL Games for any License Year exceeds (b) Thirty Thousand Dollars ($30,000.00) (which amount shall be escalated on the first day of the 2nd License Year, and each License Year thereafter, by five percent (5%)), multiplied by the number of NFL Games during such License Year for which StadCo elects to use the Golf Course for its Parking Rights, then StadCo shall be entitled to a credit against Golf Course Parking Fees payable hereunder in the amount of such excess. Notwithstanding the foregoing, in an effort to reduce the administrative expenses attendant to determining the amount of Golf Course-Specific Public Safety Costs for various Stadium Events, City and StadCo agree that, if reasonably practicable (*i.e.*, if the Golf Course-Specific Public Safety Costs are relatively consistent for NFL Games or other types of Stadium Events), the Parties shall attempt to reach agreement on a fixed amount per Stadium Event (or per type of Stadium Event) to be paid by StadCo for Golf Course-Specific Public Safety Costs. City and StadCo agree that Golf Course-Specific Public Safety Costs shall be in addition to, and shall not constitute, Public Safety Costs for purposes of the Stadium Lease.

4.6 Off-Site Parking Facilities Fee. The Parties acknowledge that StadCo's use of the Golf Course for the Parking Rights as provided in this Agreement is exempt from the requirement that an Off-Site Parking Permit be obtained pursuant to Chapter 18.86 of the Santa Clara Municipal Code. If a portion of the Golf Course is conveyed to a third party, such portion of the Golf Course shall remain subject to StadCo's rights under this Agreement until this Agreement is terminated in accordance with Section 2 above; provided, however, that the Off-Site Parking Permit requirement shall apply to the portion of the Golf Course conveyed to the third party, in which event there shall be an equitable adjustment made by StadCo and the City to the amount of Golf Course-Specific Public Safety Costs for which StadCo is responsible hereunder and to the Minimum Use Fee.

4.7 Records; Audit Right. StadCo shall maintain (or cause the Stadium Manager to maintain) complete and accurate books and records relating to the Net Income from Golf Course Parking, including the Golf Course Parking Fees and Ancillary Use Fees paid by StadCo, and, prior to the Capital Repayment Date, the application of the Net Income from Golf Course Parking against StadCo's Capital Costs, in accordance with generally accepted accounting and management practices, consistently applied; and, within ninety (90) days following each License Year, StadCo shall furnish (or cause the Stadium Manager to furnish) to City a statement for such License Year, prepared by a qualified, third-party independent certified public accountant selected by StadCo and approved by the Authority pursuant to the Stadium Lease, setting forth the Net Income from Golf Course Parking during such License Year (the "**Annual Statement**"). In addition, within ninety (90) days following the Commencement Date of the Stadium Lease, or as soon thereafter as is reasonably practicable, StadCo shall furnish (or cause the Stadium Manager to furnish) to City a statement, prepared by a qualified, third-party independent certified public accountant selected by StadCo and approved by the Authority pursuant to the Stadium Lease, setting forth the amount of StadCo's Capital Costs (the "**Capital Cost Statement**"). If the amount of StadCo's Capital Costs increase from time to time pursuant to Section 1.3 above, then, within thirty (30) days following StadCo's expenditure, or as soon thereafter as is reasonably practicable, StadCo shall furnish (or cause the Stadium Manager to furnish) to City a revised and updated Capital Cost Statement. Within one hundred eighty (180) days following the City's receipt of any Annual Statement or Capital Cost Statement, City or its representative, which representative must be a qualified, third-party independent certified public accountant, shall have the right to conduct an Audit of the foregoing at any time during normal Business Hours, upon written notice to StadCo, delivered at least ten (10) Business Days in advance. If it is determined as the result of the City's Audit that Net Income from Golf Course Parking for any License Year was understated or that the total amount of StadCo's Capital Costs was overstated, and StadCo does not disagree with such determination, then StadCo shall promptly pay to the City the increased amount of Golf Course Parking Fees, if any, payable by StadCo pursuant to Section 4.1 above, as a result of such understatement or overstatement, as the case may be. If, however, StadCo disagrees with such determination, then StadCo shall be entitled to arrange for a Second Audit by a qualified, independent third-party certified public accountant reasonably acceptable to the City. If it is determined as the result of any such Second Audit that Net Income from Golf Course Parking for any License Year were understated or that the total amount of StadCo's Capital Costs was overstated, then StadCo shall promptly pay to the City the increased amount of Golf Course Parking Fees payable by StadCo pursuant to Section 4.1 above, if any, as a result thereof.

4.8 League Events. Notwithstanding any provision of this Agreement or the Stadium Lease to the contrary, StadCo and City agree that any use of the Golf Course for the Super Bowl or any other League Event shall not be permitted pursuant to this Agreement, but rather shall only be permitted pursuant to a separate League Event Agreement, as more particularly described in the Stadium Lease. StadCo shall have no obligation to pay any Golf Course Parking Fees or Ancillary Use Fees in connection with any League Event.

4.9 Definitions. For purposes of this Agreement, the following defined terms shall have the meanings ascribed to them below:

4.9.1 **"Capital Recovery Date"** means the date that the total amount of the Net Income from Golf Course Parking for all Stadium Events equals StadCo's Capital Costs.

4.9.2 **"Net Income from Golf Course Parking"** means, for any NFL Game or other Stadium Event, the amount by which (a) the revenues received by StadCo from the operation of the Golf Course for such Stadium Event, including revenues received from the sale of parking, revenues received from special admissions or similar fees to allow access to premium or other particular areas on the Golf Course, and the net revenue received by StadCo from any concessionaires engaged in the sale of food, beverages and other goods on the Golf Course for such Stadium Event (**"Golf Course Revenue"**), exceeds (b) the sum of (i) the Golf Course Expenses attributable to such NFL Game or other Stadium Event, (ii) the Ancillary Use Fee, if any, payable in connection with such Stadium Event, and (iii) prior to the Capital Recovery Date, the Golf Course Parking Fees payable by StadCo pursuant to Section 4.1.1 above. City agrees that Golf Course Revenue shall not include any revenue received by StadCo from the sale of advertising or sponsorship rights on or with respect to the Golf Course in conjunction with any Stadium Events, regardless of whether sold by StadCo as part of the sale of advertising or sponsorship rights for NFL Events in the Stadium or directly in connection with StadCo's use of the Golf Course for the purposes of this Agreement.

5. Assignment. StadCo may assign its rights hereunder only in connection with an assignment of the Stadium Lease and, then, only with the City's prior written approval, which shall not be unreasonably withheld, but StadCo may authorize others to exercise some or all of the rights granted StadCo hereunder, including but not limited to contractors, subcontractors and agents, any of StadCo's tenants or subtenants and their invitees.

6. Indemnification. StadCo agrees to indemnify, defend, and hold harmless City and Authority, and their respective officers, employees, contractors, agents, affiliates and mortgagees, from and against all claims and demands for loss or damage, including property damage, personal injury and wrongful death (collectively, **"Claims"**) arising out of or in connection with StadCo's use or occupancy of the Golf Course, except in any instance to the extent such Claims arise out of the negligence or the willful act or omission of the indemnified Party.

7. Insurance. StadCo shall obtain and maintain, at all times following the Effective Date, commercial general liability insurance covering its use of the Golf Course and the licenses and other rights (including, but not limited to, Parking Rights) granted herein, and naming City and the Authority, to the extent of their respective interests, as additional insureds thereunder. Any such commercial general liability insurance policy shall have a combined single limit of coverage

of not less than $5,000,000 for any one accident or occurrence. All such policies shall be issued by insurance companies licensed to do business in California, and certificates or other evidence of the existence of the insurance required hereby shall be given by StadCo to the other Parties upon request. The insurance to be maintained hereunder may be provided by a separate policy, or as part of a single policy also providing coverage required to be provided by StadCo under the Stadium Lease.

8. Default. In the event of a breach or threatened breach of any restriction or other provision of this Agreement, any Party may prosecute any proceedings at law or in equity to enjoin such breach or threatened breach and, as the exclusive remedies for such breach or threatened breach, obtain an injunction or recover damages for any such breach; *provided* that no Party shall be deemed to be in default under this Agreement until it has received written notice of such default and has failed to cure the same within thirty (30) days after receipt of such notice, or such longer period of time as may be reasonably necessary in order to cure the particular default, so long as such Party commences the cure of such default within such thirty (30) day period and thereafter diligently prosecutes it to completion. Under no circumstances shall the default by any Party with respect to the performance of any obligation hereunder result in the termination of this Agreement or the rights of any Party hereunder, and the sole remedies of a Party alleging a breach or default by another Party shall be an action to recover damages or for an injunction or other equitable relief, subject to the following provisions:

8.1 Mediation. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the Parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to all Parties. If they do not reach such solution within a period of fifteen (15) calendar days, then, the Parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to arbitration, litigation, or some other dispute resolution procedure. Notwithstanding the foregoing, neither the completion of the fifteen (15) day period nor mediation shall be required prior to the Parties seeking injunctive relief or other provisional remedies.

8.2 Good Faith Cooperation. The Parties will endeavor to (i) cooperate with each other in the implementation of the Agreement and (ii) in good faith consider and negotiate modifications to this Agreement to address operational issues that come to the attention of the Parties in the course of implementing this Agreement.

9. Miscellaneous.

9.1 Additional Acts. The Parties each agree to take such other and additional actions and execute and deliver such other and additional documents as may be reasonably requested by the other Party for purposes of consummating the transactions contemplated in this Agreement.

9.2 City Approval. Whenever this Agreement calls for City approval, consent, or waiver, including the approval of any equitable adjustment in the Minimum Use Fee as

provided above, the written approval, consent, or waiver of the City Manager, or his or her designee, shall constitute the City's approval, consent, or waiver, without further authorization required from the City Council. The City Council shall authorize the City Manager, or his or her designee, in this Agreement to deliver such approvals or consents as are required by this Agreement, or to waive requirements under this Agreement, on behalf of the City.

9.3 No Dedication. Nothing contained in this Agreement, and no use of the licenses or rights granted herein shall be deemed to be, or to result in, any gift or dedication of the Golf Course to the general public or for any public purpose.

9.4 Non-Liability of Officials. No member, official, employee or agent of the City shall be personally liable to StadCo, or any successor in interest, in the event of any default or breach by City of any obligation under the terms of this Agreement.

9.5 Relationship of Parties. Nothing in this Agreement shall be deemed or construed to create or establish any relationship of partnership, joint venture, agency, or any similar relationship between the Parties.

9.6 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties to this Agreement. This Agreement is intended to create covenants running with the land that will be appurtenant to and binding upon City's interest in the Stadium Site. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

9.7 Attorneys' Fees. If any Party brings an action or proceeding for damages for an alleged breach of any provision of this Agreement, or to enforce, protect or establish any right or remedy hereunder, the prevailing Party shall be entitled to recover reasonable attorneys' fees and court costs.

9.8 State Law. This Agreement, and the rights and obligations of the Parties, shall be construed and enforced in accordance with the laws of the State of California.

9.9 Severability. If any provisions of this Agreement, or the application thereof to any person, party, transaction, or circumstance, is held invalid, the remainder of this Agreement, or the application of such provision to other persons, parties, transactions, or circumstances, shall not be affected thereby.

9.10 Entire Agreement; Modification and Amendment. This Agreement contains all of the agreements and understandings of the Parties pertaining to the subject matter contained herein and supersedes all prior or contemporaneous agreements, representations and understandings of the Parties. This Agreement cannot be amended or modified except by written agreement of the Parties.

9.11 Time of the Essence. Time is of the essence in the performance of all duties and obligations under this Agreement.

9.12 Notices, Demands and Communication. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing and shall be personally delivered, sent by Federal Express or other reputable overnight courier service, with charges prepaid for next business day delivery, or mailed by first class, certified United States mail, postage prepaid, addressed to the Parties at their respective addresses listed in this section, or such subsequent addresses as a Party may have specified hereunder. Notices, demands or requests given in accordance with this Section 9.13 shall be deemed to have been properly given upon personal delivery, or on the third business day following deposit with the U.S. Postal Service, or on the next business day following deposit with such courier service. Any Party shall have the right from time to time to change its address for notices, demands and requests, provided such new address shall be within the United States of America. As of the date hereof, the notice addresses of the Parties are as follows:

City:

Santa Clara Stadium Authority
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: Julio J. Fuentes, Executive Director

*with copies to*:

Santa Clara Stadium Authority
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: Richard E. Nosky, Jr., City Attorney

StadCo:

Forty Niners SC Stadium Company, LLC
4949 Marie P. DeBartolo Way
Santa Clara, CA 95054
Telephone: (408) 562-4949
Fax Number: (408) 727-4937
Attention: Cipora Herman, CFO

*with copies to*:

Forty Niners SC Stadium Company, LLC
4949 Centennial Boulevard
Santa Clara, CA 95054
Attention: Patty Inglis

and

Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111

Attention: Harry O'Brien

9.13 Captions and Interpretation. The captions and headings of various sections of this Agreement are for convenience only and are not to be considered as defining or limiting in any way the scope or intent of the provisions of this Agreement. The words "approval" and "notice," when used in this Agreement, shall be deemed to be preceded by the word "written." The word "including," when used in this Agreement, shall be deemed to be followed by the words "without limitation" or "but not limited to."

9.14 Recitals; Exhibits. The Recitals above and the following exhibits are attached and incorporated into this Agreement:

Exhibit A: Depiction of Golf Course and Conceptual Plans

Exhibit B: Parking Related Improvements Construction Rules and Regulations

*[SIGNATURES ON FOLLOWING PAGES]*

**IN WITNESS WHEREOF,** the Parties have caused this Golf Course Parking Agreement to be executed by their duly appointed representatives as of the date first above written.

**CITY:**

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

APPROVED AS TO FORM:

RICHARD E. NOSKY, JR.
City Attorney

JULIO J. FUENTES
City Manager

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

ATTEST:

RON DIRIDON, JR.
City Clerk

*[SIGNATURES CONTINUED ON FOLLOWING PAGE]*

*[SIGNATURES CONTINUED FROM PREVIOUS PAGE]*

**STADCO:**

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

By: _____
Name: CIPORA HERMAN
Title: Chief Financial Officer

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

**EXHIBIT A**
**Depiction of Golf Course and Conceptual Plans**

See Attached

# EXHIBIT A

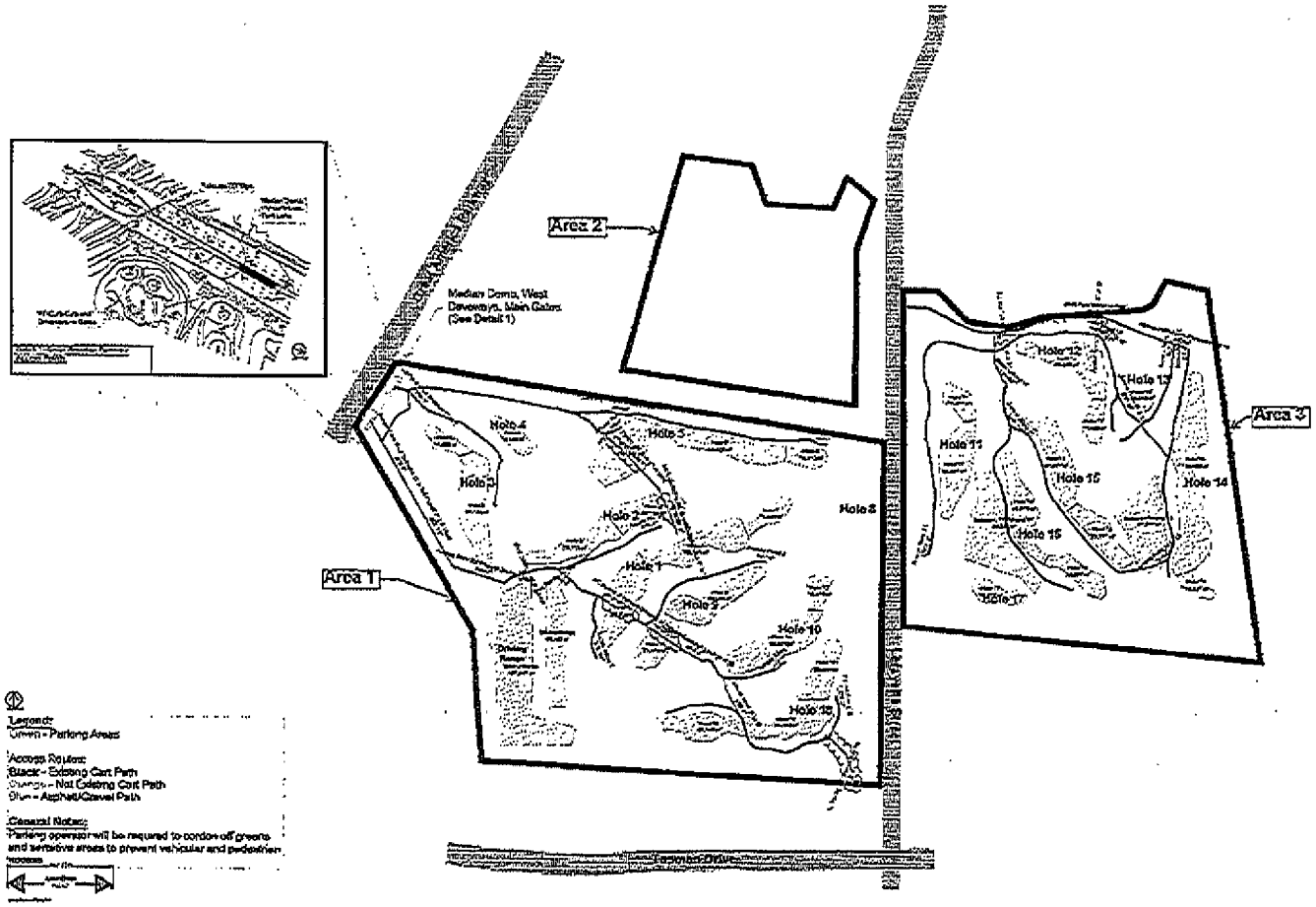





Exhibit A

## EXHIBIT B

## PARKING RELATED IMPROVEMENTS CONSTRUCTION RULES AND REGULATIONS

1. **CONSTRUCTION ACCESS/EGRESS, MONITORING, CERTIFICATION AND DELIVERIES.**

   A. **Contact Persons.** The Course Representative designated pursuant to Section 3.1.4 above shall be the City contact for purposes of this Exhibit B, including all access/egress, monitoring, certification and deliveries to the Golf Course.

   B. **Pathway Markings.** Contractor shall coordinate with the Course Representative the placement of and provide staking and/or travel pathway markings for construction traffic and fill placement to limit the areas of work and damage to non-construction areas.

   C. **Fill Sites.** Consistent with the Final Plans, the fill sites shall be determined by Contractor in consultation with Course Representative.

   D. **Cleaning of Streets.** Contractor shall be responsible for the cleaning of affected streets within the City of Santa Clara on a daily basis during the periods that material or fill is delivered/removed under normal operating conditions. If drivers are negligent, have mechanical difficulties resulting in dumped or spilled loads on City streets or damage City property, Contractor shall be held responsible, and fines may result under applicable laws.

2. **DELIVERY AND PLACEMENT CRITERIA.**

   A. **Placement of Materials and Soils.** Contractor agrees to place materials and/or fill soils under the general direction of the Course Representative, in accordance with the requirements of this Agreement and the Final Plans. Contractor agrees to provide all equipment (and equipment operator for such equipment) sufficient to accomplish compaction and rough grading of the material, fill, and or soil at each site, in accordance with the Final Plans. Contractor will provide fine grading of the fill at specified sites in accordance with the Final Plans. Contractor agrees to provide hydro-seeding services, including provision of mulch as specified in the Final Plans. Seed and fertilizer shall be provided by Contractor. Contractor also agrees to provide an operated water truck to provide water for compaction of stockpiles, materials and dust control on all roads under direction of City. As and where required by the Final Plans, fill shall be compacted to ninety percent (90%) relative compaction by Contractor. Appropriate traffic control (flaggers) shall be provided by Contractor. Contractor agrees to avoid placing fill materials or dirt in non-approved locations and shall be responsible for removing any such fill dirt upon direction from the Course Representative.

B. **Irrigation.** Contractor agrees to avoid damaging or covering sprinkler heads, valves, wires, control boxes and other irrigation-related improvements. If irrigation system is adversely impacted by placement of materials or soil or during ingress and egress from sites, City may charge Contractor for irrigation repairs at prevailing rate for up to two persons and materials to effect repair of Contractor damaged irrigation.

C. **Noninterference with City & SCG&TC Activities.** Contractor's activities shall not interfere with any other grading, landfill closure, landscaping or other City activities and operations that may occur on other portions of the site during the term of this Agreement.

D. **Delivery Plan and Schedule.** Forty-eight (48) hours prior to material or soil delivery, a delivery plan and schedule shall be developed by Contractor and submitted to City and SCG&TC for approval to determine quantities to be delivered daily and the hours and days for deliveries. To assist in minimizing any potential conflict, the delivery plan shall direct trucks to enter SCG&TC from an approved entry as approved by the Course Representative. City and SCG&TC require twenty-four (24) hour minimum notice for a change in the delivery schedule for logistical purposes.

E. **Delivery Hours.** Delivery hours are Monday to Friday, from 7:30 a.m. to 4:30 p.m., except as noted below. Deliveries at times other than these hours or on weekends and holidays must have prior approval from the Course Representative. There shall be no deliveries on City holidays.

F. **Soils Must Be Clean and Free of Contamination.** Soil Screening Levels (SSL) must meet the standards for residential areas. Contractor must submit soil-testing data in compliance with the California Department of Toxic Substance Control recommended Guidelines and any applicable California Environmental Protection Agency Guidelines reports to the Course Representative with a copy to City for approval prior to the delivery of soil using the Soil Certification Form attached hereto as Exhibit B-1. If needed, City reserves the right to require additional testing prior to delivery. Deliveries shall commence upon acceptance by City of the completed soil certification form.

G. **Removal of Soil.** Contractor shall immediately remove any soil brought to the site by Contractor that is considered by City to be toxic or contaminated. Fines and citations under applicable law may result if Contractor is negligent in this regard.

H. **Delivery Vehicles.** Deliveries shall be in either trailered bottom dump trucks or three (3) or five (5) axle dump trucks.

I. **Driving Conduct.** At the delivery site, drivers shall follow instructions of the persons directing traffic and obey all traffic signs. Drivers observed driving

unsafely by City or the Course Representative shall be asked to leave immediately and not return for the remainder of the job.

J. **Foreman Information.** Contractor shall provide City and SCG&TC with the name, title, telephone number and fax number of the foreman or supervisor responsible for the parking construction related operation. Said information shall be provided to City and the Course Representative prior to commencement of construction or delivery of materials and/or soil. The job foreman and/or project supervisor for Contractor shall be available during all construction hours by telephone and shall respond in a timely fashion for emergency and logistical purposes.

K. **Weather Conditions.** City and the Course Representative reserve the right to stop construction and delivery in the event of inclement weather, if site conditions are not suitable for construction or material or soil delivery or if drivers are speeding or driving recklessly.

L. **Equipment Storage.** Contractor shall not store any equipment on the site besides the equipment needed to accomplish rough grading and compaction. Any spills or other contamination of the site by Contractor's equipment shall be repaired immediately by Contractor in accordance with all applicable laws.

M. **Hazards.** Due care shall be taken to control noise, dust, odor or any other hazards.

3. **IMPORTED FILL MATERIAL.**

Imported fill material shall satisfy all of the following requirements:

A. **Compaction.** Capable of compaction to ninety percent (90%).

B. **Contents of Soil.** The soil to be deposited shall not contain any vegetative matter, refuse, contaminants or other objectionable material and shall not contain any rock larger than 6" in size or more than 15 percent over 2-1/2", as determined by Test Method ASTM D 422 63.

C. **Moisture Content of Soil.** Materials with a natural moisture content greater than 25 percent may be deemed unacceptable by City. If the material is so wet that it cannot be compacted, City shall deem the material unacceptable and deliveries shall cease immediately until Contractor develops a method to reduce the moisture content to allow for compaction of the material.

D. **Soil Quality.** Free of organic matter, rubble and other deleterious substances.

E. **Testing.** Import fill material shall be tested and approved by a geotechnical engineer prior to being brought to the site. Certification forms must be furnished to City prior to soil delivery and placement.

## 4. CANCELLATION/DELIVERY REDUCTIONS.

A. **Maximum Number of Loads.** The maximum number of loads shall not exceed One Hundred and Fifty (150) per day. City reserves the right to reduce the number of daily loads if, in the opinion of City, deliveries are causing dangerous traffic conditions, disrupting normal business within the area, if significant complaints are received from nearby businesses or upon the advice of the City's Police Department or other safety enforcement agencies. The number of loads shall remain at the reduced level until Contractor and City have agreed on a plan for Contractor to mitigate those delivery problems identified by City. If delivery problems persist after mitigation plans are instituted, City may permanently reduce the daily loads and/or Contractor will be required to institute further mitigation measures.

B. **Cancellation of Delivery.** City reserves the right to cancel delivery of material and soil, without penalty, immediately under any one of the following conditions: (1) The material does not meet the requirements as set forth in Paragraph 3 or is considered by City to be toxic or contaminated. Contractor shall immediately remove such materials or City will remove such materials and Contractor will be billed for such work. Additionally, if Contractor is found to be negligent in this regard, the matter shall be submitted to the City Attorney for further action. (2) Drivers are speeding or driving recklessly, or not following directions of the Course Representative or designee. (3) Inclement weather. (4) Contractor fails to remove materials found to be inconsistent with City requirements as set forth in Paragraph 6 within seventy-two (72) hours of being instructed to do so by City.

**EXHIBIT B-1**

**SOILS CERTIFICATION FORM**

1. PROPERTY OWNER (SOIL/MATERIAL): _____
2. CONTRACTOR: _____
   COMPANY NAME AND ADDRESS
3. DELIVERY CONTRACTOR: _____
   TRUCKING COMPANY AND LICENSE NUMBER
4. TOTAL QUANTITY OF SOIL/MATERIAL: _____
   CUBIC YARDS
5. TRUCK SIZE(S) & NO. OF LOADS: _____
6. EXCAVATION SITE LOCATION: _____
   STREET ADDRESS: _____
   CITY/ZIP: _____
   TYPE OF LOCATION: _____
   CONSTRUCTION SITE, CROPLAND, YARD, LOT
7. SOIL TESTING DATA (LAB REPORT& DATE) ATTACHED? []Y []N.

I certify that the above loads of soil/material to be delivered to the Santa Clara Golf & Tennis Club (City Site) in the City of Santa Clara is natural uncontaminated soil/material. I understand that if the soil/material comes from a site where previous contamination or spillage had occurred, it must be approved by a **certified analytical testing laboratory before delivery to the City Site and proper certification in writing be presented prior to delivery.** The soil/material to be delivered to the City Site will be used for engineered fill and top soil. Therefore, if a load of the soil is suspected to be objectionable (odor, excessive roots, construction site debris, does not meet contractual fill material requirements, failed test data, etc.) by the Course Representative, at the City's sole discretion, the soil shall be removed from the City Site immediately by the Contractor at its sole expense and deliveries of soil/material shall cease. If the soil/material is not removed, the City may remove and dispose of the suspect soil/material in a manner deemed appropriate by the City and all costs incurred by the City in conjunction with the proper disposal of the suspect soil/material shall be paid for by the Contractor. I understand that legal and financial penalties can result from wrongful disposal of contaminated soil. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I agree to be bound by such.

Contractor Officer: _____
Name and Title Date

Location: _____
City – State of Signing

Company Name: _____

Company Phone Number: _____

Property Owner: _____
Signature Date

Print Name and Company: _____

Exhibit C

# RESOLUTION NO. 14-8112

## A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, APPROVING A NON-BINDING TERM SHEET WITH RELATED SANTA CLARA LLC FOR PROPOSED MIXED USE DEVELOPMENT

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

**WHEREAS,** the City owns approximately 230 acres of land (APNs 097-01-039, 097-01-073, 104-03-036, 104-03-037 and 104-01-102) in the North of Bayshore Area (collectively, the "Property");

**WHEREAS,** Related Santa Clara LLC ("Related"), an experienced full-service real estate firm, has proposed to construct a mixed use project on the Property (the "Project"). The City and Related (collectively, the "Parties") believe that the Project would be highly beneficial to City inasmuch as, when completed, it would create a new "city center" containing some or all of the following elements, among others: significant retail facilities, office buildings, rental and for sale residential facilities, hotel rooms that would support City's convention center, new parks and open space, and new roads and infrastructure;

**WHEREAS,** a large portion of the Property consists of a former landfill site (the "Landfill"). The Project would serve to convert the space over the Landfill to productive use, cause the modernizing of the recovery systems operated by City at the Landfill, and create a significant new tax base for City;

**WHEREAS,** in April 2013, City and Related entered into an Exclusive Negotiating Rights Agreement (the "ENA") for the development of the Property;

**WHEREAS,** the development of the Project presents many potential opportunities for City, including: maximizing the production of housing and commercial space to the greatest extent

possible to create a new and vibrant City neighborhood; providing new parks, public open spaces and other community benefits; and increasing City revenues;

**WHEREAS,** the purpose of the Non-Binding Term Sheet between the City and Related Santa Clara LLC (the "Term Sheet") is to memorialize the key policy goals, basic development guidelines, financial framework, and other preliminary terms and conditions identified by the Parties that would form the basis for the negotiation and completion of necessary transaction documents for the conveyance, management, and development of the Property (collectively referred to as the "Transaction Documents");

**WHEREAS,** the Term Sheet sets forth an understanding between the Parties to cooperate in the development, processing and completion of appropriate environmental review pursuant to the California Environmental Quality Act ("CEQA") by the designated Lead Agency;

**WHEREAS,** the Term Sheet sets forth some of the terms and conditions related to the development of the Project so that the Lead Agency can commence development, processing and completion of the appropriate CEQA documentation;

**WHEREAS,** the Term Sheet is intended to provide a general framework for the subsequent negotiation of definitive agreements regarding the development of the Project and is not intended to create any binding contractual obligations to any party thereto or to commit any party to a particular course of action. The contemplated transaction 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 development of the Project, binding agreements will have to be negotiated, agreed to by the Parties and submitted for approval to the City Council and Related;

**WHEREAS,** the terms set forth in the Term Sheet are the Parties' preliminary concepts that may be included in the Transaction Documents. They are not intended, nor should they be considered as, binding on the Parties;

**WHEREAS,** the Parties reserve their complete and sole discretion to evaluate and determine project impacts, alternatives and mitigation measures including, but not limited to, the ability to choose the "No Project" alternative under CEQA; and,

**WHEREAS,** by entering into the Term Sheet, the Parties do not intend to make an irretrievable commitment of resources or to commit to any course of action prior to completion of all appropriate environmental review.

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

1. **Recitals.** The City Council hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.

2. **Approval of Term Sheet.** The City Council hereby approves the Non-Binding Term Sheet with Related Santa Clara LLC and authorizes the City Manager to enter into and execute the Term Sheet Agreement, substantially in the form on file with the City Clerk of the City of Santa Clara, with such revisions as are reasonably determined necessary by the City signatory, such determination to be conclusively deemed to have been made by the execution of such agreement by the City signatory. The City Manager is authorized to implement the Non-Binding Term Sheet and take all further actions and execute all other documents which are necessary or appropriate to carry out the Non-Binding Term Sheet.

3. **Constitutionality, severability.** If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

4. **Effective date.** This Resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 11TH DAY OF FEBRUARY, 2014, BY THE FOLLOWING VOTE:

| | | |
|---|---|---|
| AYES: | COUNCILORS: | Davis, Gillmor, Kolstad, Mahan, Marsalli and O'Neill and Mayor Matthews |
| NOES: | COUNCILORS: | None |
| ABSENT: | COUNCILORS: | None |
| ABSTAINED: | COUNCILORS: | None |

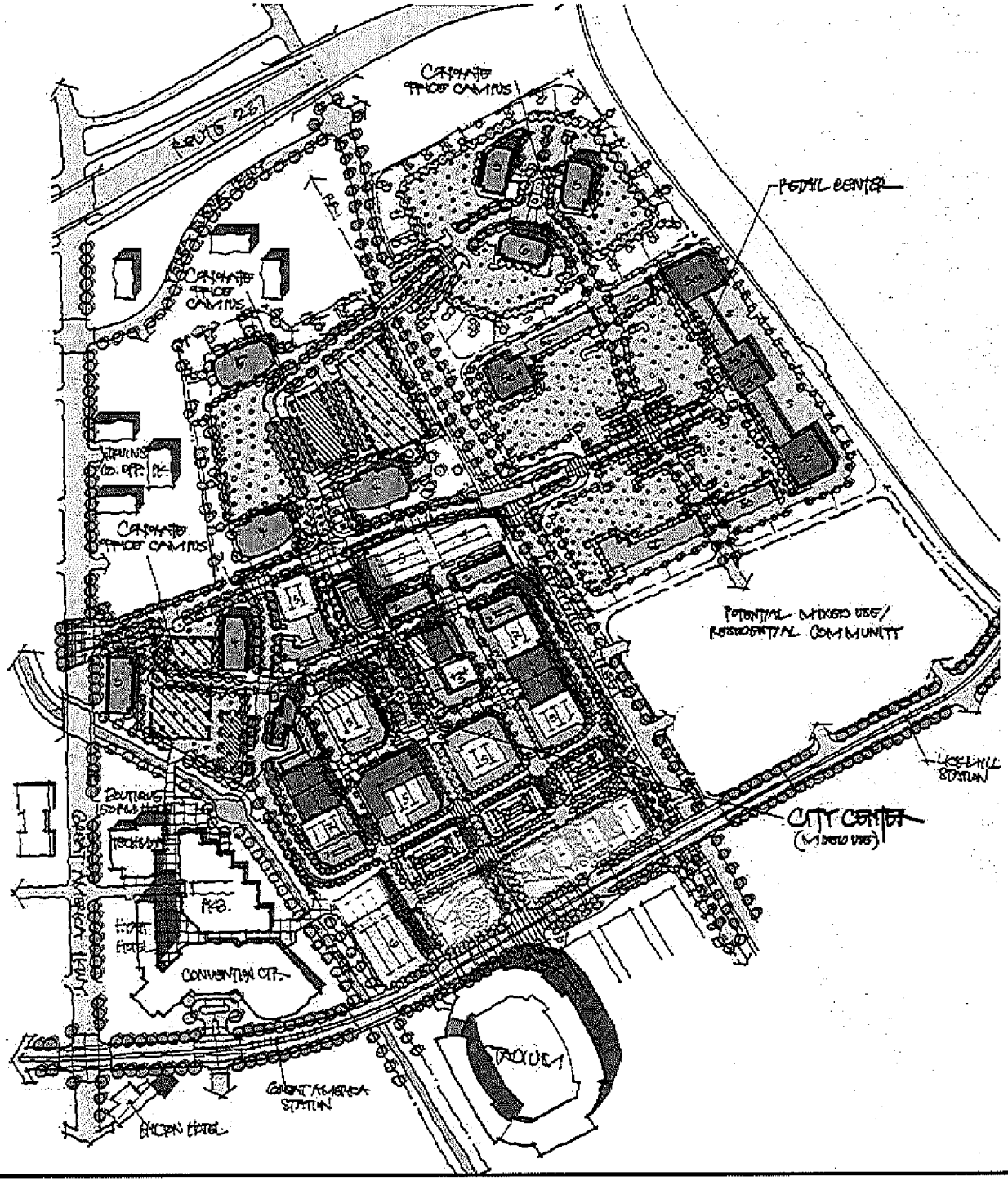
ATTEST: _____
ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None.

Exhibit D

Conceptual Land Use Plan and Program

# Conceptual Land Use Plan




*LEGEND*

- Office
- Potential Office
- Retail
- Large Format Retail
- Cinema
- Restaurant
- Market
- Hotel Tower
- Hotel Podium
- Urban Podium
- Mid-Rise Residential (Potential)
- Parking Structure
- Parking Structure (Potential)

n 0 100 200 400 800 1/4mi

**CITY PLACE** SANTA CLARA

RELATED FTKL

Exhibit E

Roadmap for Landfill Approval Process

**Former Santa Clara All-Purpose Landfill Mixed-Use Development**

**DOCUMENT SUBMITTAL AND REVIEW SCHEDULE (DRAFT 12/20/13)**
(*Documents and abbreviations/acronyms explained in Scope of Work*)

| | 4Q 2013 | 1Q 2014 | 2Q 2014 | 3Q 2014 | 4Q 2014 | 1Q/Early 2Q 2015 |
|---|---|---|---|---|---|---|
| **City of Santa Clara Land Use / CEQA Process** | • *City/Related*: Determine Overall Approach to CEQA and Land Use Approvals | • *Related*: Finalize Land Use Application<br>• *City*: Finalize Project Description<br>• City: Finalize EIR consultant selection, contracts and scopes of Work<br>• *City*: **Issue Notice of Preparation** | • *City*: **Conduct Scoping Meeting** and prepare responses to comments<br>• *City*: Commence technical reports (traffic, air, hydrology, geotech, noise, etc.), Water Supply Assessment, and Draft EIR<br>• *City/Related*: Commence preparation of Land Use Approval documents | • *City*: Finalize technical reports and Water Supply Assessment<br>• *City*: Issue and Review Administrative Draft EIR<br>• *City/Related*: Review and Discuss Land Use Approval Documents | • *City*: Finalize Draft EIR<br>• *City*: **Issue NOA for Draft EIR and begin public comment period**<br>• *City*: **Issue Draft Land Use Approval Documents** | • *City*: **Issue Final EIR with response to comments**<br>• *City*: Planning Commission hearing on Land Use Approvals and EIR<br>• *City*: **Council hearing and vote on Land Use Approvals and certification of FEIR** |
| **LEA/Cal Recycle Review and Approval Process** | • *City/Related*: Prepare Landfill Gas Evaluation Work Plan for Risk Evaluation<br>• *City/Related*: Prepare Building Pile-Foundation Evaluation | • *City/Related*: Conduct sampling per work plan<br>• *City/Related*: Prepare Draft Risk Evaluation<br>• *LEA/Cal Recycle* review Building Pile-Foundation Evaluation and consult with *City/Related* on other technical components of PCLUP as necessary<br>• *LEA/Cal Recycle*: Review work plan<br>• *City/Related*: Submit Building Pile-Foundation Evaluation<br>• *LEA/Cal Recycle*: Commence selection process for third party to conduct Peer Review | • *LEA*: Review Risk Evaluation<br>• *City/Related*: Submit Draft Risk Evaluation and Building Pile-Foundation Evaluation<br>• City/Related Prepare PCLUP and consult with *LEA/Cal Recycle* on technical components as necessary<br>• *LEA/Cal Recycle*: Select third party to conduct Peer Review<br>• *LEA/Cal Recycle*: Participate in CEQA Scoping | • *City/Related*: Submit PCLUP<br>• LEA/Cal Recycle: Peer review of PCLUP conducted by third party<br>• *LEA/Cal Recycle*: Review PCLUP and results of Peer Review | • LEA: Determine PCLUP is ready to be submitted for public comment<br>• *City/Related*: Prepare and Submit Amendments to PCMP and CAPs<br>• *LEA/Cal Recycle*: Review PCMP and CAPs and determine they are ready to be submitted for public comment<br>• *LEA/CalRecycle*: **Issue PCLUP and PCMP/CAPs for public comment (simultaneously with EIR public comment period)** | • *LEA/Cal Recycle*: Submit comments on Draft EIR<br>• *LEA/Cal Recycle*: **Review public comments and approve PCLUP (LEA) and PCMP/CAPs (LEA and Cal Recycle) (after Final EIR certified)**<br>• *LEA*: Possible issuance of post-closure permit (to be confirmed) |
| **RWQCB Review and Approval Process** | • *City/Related*: Prepare Landfill Gas Evaluation Work Plan for Risk Evaluation<br>• *City/Related*: Prepare Building Pile-Foundation Evaluation | • *City/Related*: Conduct sampling per work plan<br>• *RWQCB*: Review and Approve Work Plan<br>• *City/Related*: Prepare Risk Evaluation<br>• *City/Related*: Prepare Building Pile-Foundation Evaluation | • *City/Related*: Submit Risk Evaluation and Building Pile-Foundation Evaluation<br>• *RWQCB*: Review and approve Risk Evaluation<br>• *City/Related*: Prepare and submit PCLUP<br>• *RWQCB*: Participate in CEQA Scoping<br>• RWQCB: Review and Approve Building Pile-Foundation Evaluation<br>• | • *RWQCB*: **Review specified portions of PCLUP and results of Peer Review**<br>• *RWQCB*: Determine specified portions of PCLUP are ready to be submitted for public comment | • *City/Related*: Submit Technical Report<br>• *RWQCB*: Review Technical Report and prepare draft revised WDRs<br>• *City/Related*: Prepare and Submit PCLUP and CAPs<br>• *RWQCB*: Submit comments on Draft EIR | • *RWQCB*: Solicit Public comment on draft revised WDRs<br>• *RWQCB*: **Board hearing to approve Revised WDRs, PCMP and CAPs** (after FEIR certified)<br>• *RWQCB*: **Executive Officer formal approval** |

## Former Santa Clara All-Purpose Landfill Mixed-Use Development

## SCOPE OF WORK FOR DOCUMENT SUBMITTALS AND REVIEW (12/20/13 DRAFT)

| Document / Requirement | Santa Clara County LEA | Cal Recycle | RWQCB | BAAQMD | City of Santa Clara |
|---|---|---|---|---|---|
| **Environmental Impact Report (CEQA) and Local Land Use Approvals.** The current thinking is for a Project-Level EIR for the entire site, but it is possible there would be a Project-Level EIR only for the Town center portion of the site, with a programmatic EIR for the remainder. It is also possible that there will be Project-Level analysis of multiple project variants. The preliminary concept for the land use approvals is for a General Plan Amendment; Zoning Amendment specifying PD-MCP zoning; Master Community Plan; Development Area Plan(s); Development and Disposition Agreement; Development Agreement; and Ground Lease). | Opportunity to submit comments during scoping process and Draft EIR comment period. Likely role in Mitigation Monitoring and Reporting Plan. | Opportunity to submit comments during scoping process and Draft EIR comment period. | Opportunity to submit comments during scoping process and Draft EIR comment period. Likely role in Mitigation Monitoring and Reporting Plan. | Opportunity to submit comments during scoping process and Draft EIR comment period. Likely role in Mitigation Monitoring and Reporting Plan. | ***Principal Approving Agency (Planning Dept./Planning Commission/City Council).*** Prepares and certifies final EIR and Mitigation Monitoring and Reporting Plan, and makes required CEQA findings. Issues local land use approvals. |
| **Post-Closure Land Use Plan ("PCLUP") (27 CCR § 21190).** Owner/operator shall demonstrate to the satisfaction of the LEA that post-closure activities will not pose a threat to health and safety and the environment. (§21190(d)). Although not legally required, the LEA may request a third party peer review of the PCLUP. Although not legally required, the LEA intends to circulate the draft PCLUP for public comment (simultaneously with the EIR). Before submitting the PCLUP, City/Related intend to submit a Building Pile/Foundation Evaluation, evaluating different piling/foundation options, and will also seek early consultation on other technical components of the PCLUP and on stormwater management issues. *In conjunction with submitting the PCLUP, City/Related will set forth their proposed structure for ensuring ongoing responsibility of operation and maintenance of the landfill systems.* | ***Principal Approving Agency.*** Confirms that construction at the site will meet a number of technical conditions specified in §21190(e). | Consultative role. Reviews and consults with LEA as part of its oversight role over LEAs. | ***Reviewing Agency.*** Approval authority limited to modifications of the low permeability layer of the landfill cover (§21190(d)) and to pilings installed in or through the landfill's bottom liner (§21190(e)(6)). | ***Reviewing Agency.*** Regulation requires PCLUP to be submitted to air district for review, but district has no approval authority. | ***Reviewing Agency (Planning Department)*** Regulation requires PCLUP to be submitted to local land use approval agency, but it has no approval authority. ***Landfill Owner/Operator (Public Works Dept.)*** Submits the PCLUP |
| **Soil Gas VOC Characterization/Risk Evaluation ("Risk Evaluation") and Technical Report for Change in Site Development required by Current Waste Discharge Requirements (Order No. R2- 2002-0008,).** Provision C.7 of the current WDRs requires the City to submit a technical report, describing any material proposed changes to site development, redevelopment projects, site features, or site operations for the landfill. No material changes to the site shall be made without approval by the Executive Officer. Related/City will first submit a Soil Gas VOC Characterization and Risk Evaluation ("Risk Evaluation") for approval by RWQCB staff, and then prepare the PCLUP. The Technical Report will be based on those two documents. | No formal role. Informal review. | No formal role. Informal review. | ***Principal Approving Agency.*** | No formal role. Informal review. | ***Named Discharger under WDRs.(Public Works Dept.).*** Submits Technical Report (and the preceding Risk Evaluation) |
| **Revised WDRs.** The current WDRs for the site would be revised to reflect the modifications to the post-closure land use, and to the landfill features. WDR revisions must be approved at monthly public meetings of RWQCB; all agencies and members of public may comments on the Revised WDRs. | No formal role. | No formal role. | ***Principal Approving Agency.*** | No formal role. | ***Named Discharger under WDRs (Public Works Dept.).*** Requests revised WDRs. |
| **Amended Closure Plan, Amended Post-Closure Maintenance Plan ("PCMP") (27 CCR §21865) and Revisions to Corrective Action Plans ("CAPs") (27 CCR §22102).** The proposed alterations to the groundwater monitoring and leachate collection system, landfill gas extraction system, landfill cover, and pilings into the waste, will require amendments to the closure plan, the post-closure maintenance plan and to the non-water and water corrective action plans prepared as part of financial assurance requirements. The current post-closure maintenance plan is only for Parcels 3/6 and 1-NW; the amended plan would be for the entire landfill. After approval of the PCMP, the LEA will issue a Post-Closure Permit. | ***Co-Approving Agency*** (§§ 21860, 22102). | ***Co-Approving Agency*** (§§ 21860, 22102). | ***Co-Approving Agency*** (§§ 21860, 22102). | No formal role. Informal review. | ***Landfill Owner/Operator (Public Works Dept.).*** Submits amended plan. |

Exhibit F

**Guidelines for Development in the Tasman & Centennial Area, City of Santa Clara**
December 3, 2013

The northern area of the City of Santa Clara, California, is seeing significant development and proposals for additional development, involving both public and private real estate. In the area around Tasman Drive at Centennial Boulevard, construction is more than sixty percent complete for the Levi Stadium, the new home of the San Francisco 49ers football team starting in the fall of 2014. A Super Bowl game of the National Football League is scheduled to be held at Levi Stadium in February, 2016. Construction of the new City parking garage across Tasman is complete, and the Santa Clara Convention Center, which is located across San Tomas Aquino Creek, is being studied for further expansion. In addition to major roadways, the area is served by buses, shuttles, light rail with two nearby stations on Tasman Drive, and by heavy rail with the Great America-Santa Clara Railroad Station at Tasman.

Two proposed development projects, one on the Santa Clara Golf and Tennis sites and the other on the Tasman Gateway parcels, are both top priority developments within the area. It is the City's goal to ensure that both developments are successful, complement each other, and are major contributors to successful development of the City. The land of these sites and numerous other sites within the area are owned by the City of Santa Clara, giving the City a significant role in the successful future of the developments. The physical inter-relationships of the sites are complex, including issues concerning access, visibility, land uses, urban design, architecture, landscape, lighting, signage, art, transit and parking. The City's multi-disciplinary team is working to produce excellent development results for the future of the City of Santa Clara and the larger Silicon Valley region. The realization of this great development opportunity will be a vital part of Santa Clara for many decades, a new city within the City. It is paramount to achieve mutually successful projects.

These guidelines for development are briefly stated, presented in written form, and focused on the area around Tasman Drive and Centennial Boulevard between the Great America Parkway and the Guadalupe River. These design guidelines are focused on the physical elements of the proposed development.

## I. URBAN CHARACTER AND IDENTITY

1. **Character of Tasman and Centennial** – Tasman Drive between Great America Parkway and Lick Mill Boulevard, and Centennial Boulevard from Tasman into the existing golf course sites, need to be signature streets for character and branding of the area. Both streets need to accommodate the many people in the area for both events and daily activities.

2. **Views from Tasman Drive** – Views from Tasman to the north should be maximized, to Stars and Stripes and beyond, particularly along the Centennial Boulevard view corridor.

3. **Signage, Lighting and Branding** – A design document for signage, lighting and branding for the area, on development sites and major streets, needs to be created and approved by development teams and by the City of Santa Clara, particularly along Tasman and Centennial.

4. **Sidewalks on Tasman and Centennial** – Sidewalks on both sides of Tasman and Centennial need to have a continuous minimum width of thirty (30) feet, measured from the face of curbs to the face of buildings. Studies at the Stadium and City garage, and at the Tasman bridges at the Creek and railroad, should determine maximum possible sidewalk widths at those locations.

5. **Sidewalks on Other Streets North of Tasman** – Sidewalk widths on both sides of Stars and Stripes and other streets north of Tasman need to have a continuous minimum width of twenty (20) feet, measured from the face of curbs to the face of buildings.

## II. ACCESS AND CIRCULATION

1. **Access from Tasman Drive** – Three (3) vehicular access points are needed to and from Tasman between San Tomas Aquino Creek and the Amtrak/ACE railroad. One is Centennial, one is to Stars and Stripes at the Railroad Station, and one is to the east side of the City parking garage.

2. **North-South Street at Garage** – A street with at least sixty (60) feet right-of-way should be located east of the City parking garage, connecting Tasman with the golf course sites.

3. **North-South Right-of-way** – A non-vehicular street, minimum sixty (60) feet wide, should be located at approximately mid-block between Centennial and the Railroad, extending north from Tasman to the golf course sites in a straight alignment.

4. **Stars and Stripes Drive** – In a current or relocated alignment, Stars and Stripes needs to be a primary service street for blocks north of Tasman, and a major access to the City garage. Access to the City garage may need to be altered as necessary to accommodate leveling of site topography between Tasman and golf course sites.

## III. DEVELOPMENT PATTERNS

1. **Development Block Sizes** – Blocks between Tasman and golf course sites need to be roughly rectilinear, no longer than four hundred (400) feet, and no wider than three hundred (300) feet.

2. **Blocks at East End of Sites** – Stars and Stripes needs to be realigned near the railroad tracks in order to configure the development blocks into relatively efficient, rectilinear shapes.

3. **Topography of the Sites** – Centennial needs to be roughly level between Tasman and future development on the golf course sites, requiring a rise in elevation of about ten (10) feet at the intersection of Centennial and Stars and Stripes.

4. **Bridges over Streets** – Bridges over Tasman and Centennial should not be permitted.

## IV. LAND USES AND PARKING

1. **Retail, Restaurant and Entertainment** – There needs to be a continuous and complementary arrangement of retail, food and entertainment uses that benefit from the pedestrian nature and scale of development from Tasman to the northern limits of the golf course sites.

2. **Parking Provided** – Parking needs to be provided on-site according to City zoning ordinance, by use and by development. Shared use of supplied parking is encouraged, but is not permitted as a development discount.

## IV. FUTURE STUDIES

1. **Traffic Study** – A vehicular traffic study is needed for the access to and from development sites and the surrounding area, particularly for Tasman, Centennial, Great America Parkway, Stars and Stripes, and Lafayette. Through lanes and turning lanes need to be determined for daily and event traffic, including temporary Tasman closures, phasing and construction of future development.

2. **Mobility Study** – A mobility study is needed to determine adequate movement and access for pedestrians, bicyclists, and other forms of transport, with consideration of the two light rail stations and the heavy rail station, for daily and event mobility, including phasing and construction of future development.

3. **Parking Study** – A parking study is needed for the area, taking into account Stadium events, development demands, Convention Center demand, and other parking needs, including phasing and construction of future development.

4. **Infrastructure Study** – An infrastructure study is needed that is coordinated among the proposed developments in the area and that builds upon preliminary studies conducted by City departments. The study should include utilities, grading, public services, public and private streets, and nearby off-site work.