

STADIUM TERM SHEET

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

INTRODUCTION

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

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

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

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

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

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

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

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

ARTICLE 1.
TERM SHEET NON-BINDING; CEQA COMPLIANCE REQUIRED

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

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

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

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

ARTICLE 2. **CITY RESPONSIBILITIES**

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

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

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

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

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

ARTICLE 3.
DISPOSITION AND DEVELOPMENT AGREEMENT.

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

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

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

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

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

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

ARTICLE 4. **GROUND LEASE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 7.
STADIUM CONSTRUCTION FINANCING.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7.6 49ers Stadium Company Investment

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

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

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

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

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

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

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

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

ARTICLE 8. **STADIUM OPERATIONS**

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

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

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

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

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

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

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

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

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

ARTICLE 9. **NET OPERATING EXPENSES**

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

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

ARTICLE 10. **STADIUM OPERATING REVENUE**

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 11. **TEAM REVENUE**

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

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

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

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

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

Section 11.3 NFL Advertising and Sponsorship Revenue.

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

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

ARTICLE 12. **REIMBURSABLE EXPENSES**

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Capital expenditures; provided, however, that charges for capital expenditures will be included in Reimbursable Expenses as provided in subsections 12.1(e) and (f) above;

(b) Debt service on financing secured by NFL Ticket Surcharges and/or Naming Rights Revenues;

(c) Stadium Authority Discretionary Expenses, including costs and expenses attributable to Civic Events; and

(d) Distributions of Excess Revenues pursuant to Article 15 below.

ARTICLE 13. **NON-NFL EVENTS**

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

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

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

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

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

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

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

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

ARTICLE 14. **CAPITAL RESERVES**

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

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

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

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

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

ARTICLE 15. **USE OF EXCESS REVENUES**

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

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

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

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

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

ARTICLE 16. **SECOND TEAM**

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 17.
ADJACENT PROPERTY

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

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

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

[Signatures follow on Page 27]

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

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

APPROVED AS TO FORM:

HELENE L. LEICHTER
City Attorney

JENNIFER SPARACINO
City Manager

ATTEST:

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

ROD DIRIDON, JR.
City Clerk

“City”

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

APPROVED AS TO FORM:

HELENE L. LEICHTER
Agency General Counsel

JENNIFER SPARACINO
Executive Director

ATTEST:

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

ROD DIRIDON, JR.
Agency Secretary

“Agency”

FORTY NINERS STADIUM LLC

APPROVED AS TO FORM:

“49ers Stadium Company”

ATTACHMENT A

DEFINED TERMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTACHMENT B

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



Term Sheet Section 12.2 (b) - Advertising

ATTACHMENT C

PRINCIPAL TERMS OF PUBLIC SAFETY AGREEMENT

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

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

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

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

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

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

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

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

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

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

5. Possible Adjustment of Threshold.

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

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

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

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

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

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

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

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

ATTACHMENT D

OTHER STADIUM AREA PROPERTY



Term Sheet Section 17.2 - Other Stadium Area Property

ATTACHMENT E

LIST OF DEVELOPMENT FEES

Water Main Fee:

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

Sanitary Sewer Conveyance Fee:

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

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

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

Street Lighting (UG over 10 Acres):

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

Electric Load Development:

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

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

Public Works Engineering and Inspection Fee:

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

Water Engineering and Inspection Fee:

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

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