

Meeting Date: 12/15/09

AGENDA REPORT

City of Santa Clara, California

Agenda Item # 6B-3



Date: December 11, 2009

To: Mayor and City Council for Action

From: City Clerk/Auditor and Interim City Attorney

Subject: Adoption of Resolutions for the Primary Election to be held June 8, 2010 for a vote on a Ballot Measure that, if passed, would adopt an Ordinance of the Voters of the City of Santa Clara, California, declaring the City's policy regarding the lease of City-owned land for the construction and operation of a stadium to be used for professional football games and other purposes

EXECUTIVE SUMMARY:

Attached for Council consideration are three Resolutions and one Notice of Election. The Resolutions include 1) Calling and Giving Notice of the holding of a Special Municipal Election to be held on Tuesday, June 8, 2010 that, if passed, would adopt an Ordinance of the Voters of the City of Santa Clara, California, declaring the City's policy regarding the lease of City-owned land for the construction and operation of a stadium to be used for professional football games and other purposes; 2) Requesting that the Board of Supervisors of the County of Santa Clara consolidate a Special Municipal Election to be held on June 8, 2010 with the Statewide Gubernatorial Primary Election to be held on that same date; and 3) Setting priorities and dates for filing Written Argument(s) and Rebuttal Argument(s) for the ballot measure and directing the City Attorney to prepare an Impartial Analysis for the consideration of a measure. Authorization is requested for the publication of the Notice of Election.

When adopting the Resolution Setting Priorities and Dates for Filing Written Arguments, the Council should determine whether it will draft the argument supporting the ballot measure, or whether it will instead allow a third party to do so. The City Charter and the California Elections Code authorize, but do not require, the City Council to write the argument in support of the ballot measure.

If the City Council chooses to compose the ballot argument, it should designate a maximum of three Council Members to draft the argument. These designees would prepare the argument and submit it to the City Clerk. The Council would also need to select a maximum of five Council Members to sign the argument, or designate the Mayor to sign on behalf of the entire Council. A total of five individuals and/or organizations may sign the ballot argument, and the Council may designate which individuals or organizations fill any available signature slots.

If the Council decides not to draft the argument itself, any registered voter or bona fide association of citizens may submit a proposed argument to the City Clerk. If the Clerk receives multiple proposed arguments, state law prescribes an order of selection. The Clerk must select first bona fide associations of citizens and then individual voters eligible to vote.

Because the Council has two options with respect to the ballot argument, the draft resolution Setting Priorities and Dates for filing Written Argument(s) and Rebuttal Argument(s) for the ballot measure has two paragraphs numbered 1. If the Council decides to author the ballot argument, the Council should adopt the resolution with paragraph 1.A. included, and strike out paragraph 1.B. If the Council decides not to author the ballot argument, the Council should adopt the resolution with paragraph 1.B. included, and strike out paragraph 1.A.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

The adoption of the Resolutions is required under California Elections Code Sections 10002 and 10403. The Notice of Election is required under California Elections Code Sections 12101 and 12111.

ECONOMIC/FISCAL IMPACT:

The cost of holding the election will be approximately \$192,418.

RECOMMENDATION:

That the Council:

- 1) Adopt a Resolution Calling and Giving Notice of the holding of a Special Municipal Election to be held on Tuesday, June 8, 2010 for a ballot measure that, if passed, would adopt an Ordinance of the Voters of the City of Santa Clara, California, declaring the City's policy regarding the lease of City-owned land for the construction and operation of a stadium to be used for professional football games and other purposes;
- 2) Adopt a Resolution requesting the Santa Clara Board of Supervisors to consolidate the Special Municipal Election with the June 8, 2010 Statewide Gubernatorial Primary Election;
- 3) Adopt a Resolution setting priorities and dates for filing Written Argument(s) and Rebuttal Argument(s) for the ballot measure; either a) directing specific Council Members to compose a ballot argument supporting the ballot measure or b) allowing for any registered voter or bona fide association of citizens to submit a proposed argument; and, directing the City Attorney to prepare an Impartial Analysis for the measure; and,
- 4) Authorize the publication of the Notice of Election.



Rod Diridon, Jr.
City Clerk/Auditor



Elizabeth H. Silver
Interim City Attorney

Documents Related to this Report:

- 1) *Resolution Calling and Giving Notice of Primary Election*
- 2) *Resolution Requesting Board of Supervisors Consolidation*
- 3) *Resolution Setting Dates*
- 4) *Notice of Election*
- 5) *Proposed Ordinance*

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 08, 2010, FOR A VOTE ON A BALLOT MEASURE THAT, IF PASSED, WOULD ADOPT AN ORDINANCE OF THE VOTERS OF THE CITY OF SANTA CLARA, CALIFORNIA, DECLARING THE CITY'S POLICY REGARDING THE LEASE OF CITY-OWNED LAND FOR THE CONSTRUCTION AND OPERATION OF A STADIUM TO BE USED FOR PROFESSIONAL FOOTBALL GAMES AND OTHER PURPOSES

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

1. That pursuant to the requirements of the City Charter, there is called and ordered to be held in the City of Santa Clara, California, on Tuesday, June 08, 2010, a special municipal election placing a measure that, if passed, would adopt an Ordinance of the Voters of the City of Santa Clara, California, to declare the City's policy regarding the lease of City-owned land for the construction and operation of a stadium to be used for professional football games and other purposes, including specified means for accomplishing the policy;
2. The ballot question and the full text reads:

MEASURE _____

SANTA CLARA PROFESSIONAL FOOTBALL STADIUM ACT. Shall the City of Santa Clara enact an ordinance that establishes requirements for leasing City property to a joint powers authority to develop and operate a stadium for professional football, including prohibitions on the use of City general funds or enterprise funds for stadium construction; payment to the City of fixed and performance rent; limits on the Redevelopment Agency investment, and payment of stadium construction cost overruns by a private party?	YES
	NO

**“AN ORDINANCE OF THE VOTERS OF THE CITY
OF SANTA CLARA, CALIFORNIA, DECLARING
THE CITY’S POLICY REGARDING THE LEASE OF
CITY-OWNED LAND FOR THE CONSTRUCTION
AND OPERATION OF A STADIUM TO BE USED
FOR PROFESSIONAL FOOTBALL GAMES AND
OTHER PURPOSES**

THE PEOPLE OF THE CITY OF SANTA CLARA DO ORDAIN AS FOLLOWS:

PURPOSES

WHEREAS, this Ordinance will further the goal of the City of Santa Clara of enhancing an entertainment destination in the Bayshore North Redevelopment Project Area by establishing policies for the leasing of City-owned land for construction and operation of a stadium for professional football and other purposes which will provide significant economic benefits to the City and its residents and businesses; and,

WHEREAS, the development of a professional football stadium will create new jobs for the residents of the City of Santa Clara and the surrounding communities, bring economic benefit to the Convention Center and surrounding businesses and will encourage the further development of the Bayshore North Redevelopment Project Area; and,

WHEREAS, this Ordinance will ensure that the lease of City-owned land for a stadium will be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara, known as the Santa Clara Stadium Authority; and,

WHEREAS, the Stadium Authority will construct the stadium and own and operate the stadium for the term of the lease; and,

WHEREAS, the City Council has endorsed a Term Sheet, on file in the Office of the City Clerk, that provides a broad framework for the development and operation of the Stadium; and,

WHEREAS, this Ordinance will ensure that the lease and other City actions will require a fixed

base rent and performance based rent for the City property; that no City general fund or enterprise fund monies will be used for the construction of the stadium except for the relocation of an electrical substation; that the Redevelopment Agency of the City of Santa Clara will limit any contributions for the development of the stadium to no more than Forty Million Dollars (\$40,000,000), exclusive of debt service and issuance costs and payments to the City for development fees; a private party will be responsible for any construction cost overruns and for payment of rent to assure operating expenses; and that the professional football team will play its regular and post-season home games at the stadium, as prescribed by the National Football League.

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

SECTION 1: Title.

This ordinance shall be known as the “Professional Football Stadium Ground Lease Measure.”

SECTION 2: Santa Clara City Code Amendments.

That Chapter 17.20 (entitled “Professional Football Stadium Ground Lease”) is hereby added to Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“Santa Clara City Code” or “SCCC”) to read as follows:

“CHAPTER 17.20

PROFESSIONAL FOOTBALL STADIUM GROUND LEASE

Sec. 17.20.010 Purpose.

This Chapter is intended to further the City’s goal of creating an enhanced entertainment destination in the Bayshore North Redevelopment Project Area by providing for the development and operation of a stadium suitable for professional football and other events (the “Stadium”) in a manner that will provide a long-term revenue stream to the City.

Sec. 17.20.020 Required Terms for a Ground Lease for a Stadium.

Any ground lease by the City of Santa Clara (“City”) of City property for the development and operation of a Stadium shall be consistent with all of the following minimum requirements:

- (a) Any ground lease of City property for development and operation of a Stadium (“Ground Lease”) shall be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara (the “Agency”) to be known as the Santa Clara Stadium Authority (the “Stadium Authority”), so that the City maintains ownership of the fee interest in the site.
- (b) The City shall not use or pledge any money from the City’s general fund or enterprise funds for the development of the Stadium; provided, however, that if the City decides to relocate or reconfigure the electrical substation in the vicinity of the Stadium site, the Ground Lease or other agreements may provide that the City shall be responsible for the cost of that relocation or reconfiguration.
- (c) The City shall not subordinate its interest in the Stadium site or in any other property or in the Ground Rent to any financing or subsequent refinancing of the Stadium, and no City general fund monies or enterprise fund monies may be pledged as collateral for any Stadium Authority financing or subsequent refinancing.
- (d) The Ground Lease shall provide that the initial term of the Ground Lease shall be for forty (40) years.
- (e) The Ground Lease shall require that construction of the Stadium shall not commence unless a private party (the “Private Tenant”) has entered into a lease of the Stadium or the Stadium site from the Stadium Authority (the “Private Tenant’s Lease”) that provides for use of the Stadium as the home of one or two professional football

teams and other events. Professional football games and other events associated with professional football that are conducted pursuant to the Private Tenant's Lease are hereinafter referred to in this Chapter as "NFL Events."

- (f) The Ground Lease shall require payment by the Stadium Authority to the City's general fund of fixed base rent totaling Forty Million Eight Hundred Seventy-Five Thousand Dollars (\$40,875,000), in nominal dollars, over the initial forty (40) year term of the Ground Lease, with annual fixed base rent commencing in the first year of Stadium operations and increasing periodically over the term of the Ground Lease to a minimum of One Million Dollars (\$1,000,000) beginning in the eleventh (11th) year of Stadium operations. The Ground Lease shall require that if a second professional football team (a "Second Team") makes a long term commitment to play its home games at the Stadium, the minimum annual fixed base rent payable to the City's general fund under this subparagraph shall be increased by One Million Dollars (\$1,000,000) commencing in the first year the Second Team plays its home games at the Stadium.
- (g) In addition to the fixed base rent, the Ground Lease shall require payment by the Stadium Authority into the City's general fund of performance based rent which, together with the fixed base rent, the City Council has determined is projected to provide fair market rent to the City. Performance based rent shall be pursuant to a formula that provides for sharing of the revenues less expenses of Non-NFL Events at the Stadium. As used herein, the term "Non-NFL Events" means events such as concerts and sporting events that are approved by the Stadium Authority and the Private Tenant, excluding NFL Events. The fixed base rent and performance based

rent payable by the Stadium Authority to the City under the Ground Lease, as provided in this and the preceding subparagraph, are referred to in this Chapter as “Ground Rent.”

- (h) The Ground Lease shall require that contributions to the construction costs of the Stadium by the Agency shall not exceed Forty Million Dollars (\$40,000,000), exclusive of debt service and other financing costs and payments to the City for development fees. The Ground Lease shall also provide that, if a Second Team makes a long term commitment to play its home games at the Stadium, the City or Agency shall receive the amounts the Agency actually contributed toward the construction costs of the Stadium in accordance with this subparagraph, exclusive of debt service and other financing costs. The City or Agency shall also receive any amounts paid by the Agency to the City for development fees for the Stadium.
- (i) Neither the Ground Lease nor any other agreements related to the development of the Stadium shall rely upon the imposition of any new or increased taxes for the development, operation or maintenance of the Stadium; provided, however that the foregoing shall not apply to a special tax based on hotel room revenue in a financing district that is approved by a vote of the requisite number of affected hotel land owners within the district. If hotel land owners in the district approve such a special tax on hotel revenue, such tax proceeds may 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 and any remaining tax proceeds may be used for other eligible financing district purposes.
- (j) Neither the City nor its Redevelopment Agency shall be liable for the obligations of

the Stadium Authority, including operating and maintenance expenses of the Stadium, provided that the City may elect to pay operating and maintenance expenses of events conducted or approved by the City that are not NFL Events or Non-NFL Events.

- (k) The Private Tenant's Lease shall require the Private Tenant to pay any cost overruns incurred in construction of the Stadium. For this purpose, "cost overruns" means any actual costs that exceed funds available to the Stadium Authority from the sources identified in the development budget approved by the Stadium Authority and any other sources available to the Stadium Authority to fund the construction costs of the Stadium.
- (l) The Private Tenant's Lease shall require the Private Tenant to pay rent to the Stadium Authority that the City Council has determined will provide the Stadium Authority with funds required to pay the Ground Rent and operating and maintenance expenses of the Stadium. For this purpose, operating and maintenance expenses shall include, without limitation, day-to-day expenses of operating and maintaining the Stadium, deposits to a reserve for capital improvements, and reimbursement of reasonable costs incurred by the City in providing public safety and traffic management related to NFL Events and Non-NFL Events, but shall not include expenses of events that are conducted by the City or Stadium Authority that are not approved by the Private Tenant.
- (m) The Ground Lease shall require that following the opening of the Stadium the City shall receive, in addition to the Ground Rent, a fee equal to thirty-five cents (\$0.35) per ticket on each ticket for professional football games in the Stadium up to a

maximum of Two Hundred Fifty Thousand Dollars (\$250,000) per year (the “Senior and Youth Program Fee”). The Senior and Youth Program Fee is to be used for City programs for parks and recreation and libraries, such as senior activities and the “Youth Championship Team Fund.”

Sec. 17.20.030 Council Determinations.

Section 17.20.020 of this Code is the legislative policy of the City and provides the ways and means of accomplishing that legislative policy. Where Section 17.20.020 provides for any determination or approval by the City Council, such determination or approval shall be made by the City Council taking into account the Purposes of the voter approved measure enacting this Chapter, and shall be made on or before the Council’s approval of an agreement that commits the City to enter into a Ground Lease.

SECTION 3: Implementation of this Measure.

A. Upon the effective date of this Measure, the provisions of Section 2 of this Measure are hereby adopted as an ordinance of the City to be codified in the Santa Clara City Code.

B. Upon the effective date of this Act, the City Manager shall promptly take such administrative steps consistent with the legislative policy established by section 17.20.020 as may be required to implement this Act, including but not limited to revising any Santa Clara City Code figures or tables. The City shall proceed as expeditiously as possible to implement this Measure, including, but not limited to, pursuing a Ground Lease of the Stadium site consistent with the requirements set forth in Section 2 above.

C. If necessary and if permitted by law, the City shall amend any provisions of the Santa Clara City Code, in order to implement this Measure and to ensure consistency and correlation between this Measure and other provisions of the Santa Clara City Code.

D. The City may reorganize, reorder and renumber the Santa Clara City Code as necessary to further the purposes of this Measure.

SECTION 4: Interpretation and Severability.

A. This Measure shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Measure. The voters hereby declare that this Measure, and each section, sub-section, sentence, clause, phrase, part or portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part or portion is found to be invalid. If any provision of this Measure is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Measure that can be given effect without the invalid application.

B. This Measure shall be broadly construed in order to achieve the purposes stated in this Measure. The provisions of this Measure shall be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth herein.

SECTION 5: Conflicting Measures.

A. This Measure is intended to be comprehensive. In the event that this Measure and another measure or initiative relating to the same subject appear on the same election ballot, the provisions of the other measure or initiative shall be deemed to be in conflict with this Measure. In the event this Measure shall receive the greater number of affirmative votes, the provisions of this Measure shall prevail in their entirety, and all provisions of the other measure or initiative

shall be null and void.

B. If this Measure is approved by the voters but superseded by law or by any other conflicting ballot measure or initiative approved by the voters at the same election, and the conflicting law or ballot initiative is later held invalid, this Measure shall be self-executing and given full force of law.

SECTION 6: Amendment and Repeal.

This Measure may be amended or repealed only by a majority of the voters of the City voting in an election held in accordance with state law.

SECTION 7: Effective Date.

If this ordinance is approved by a simple majority of the voters voting on the issue at the Statewide Gubernatorial Primary Election on June 08, 2010, pursuant to Elections Code section 9217, the ordinance shall become effective ten (10) days after the City Council declares the results of the election. Provided that a simple majority of the voters approve this ordinance, the City Clerk shall post and publish this ordinance within five days of the date the City Council declares the results of the election as provided by Sections 808 and 812 of the Charter of the City of Santa Clara.”

3. In accordance with Section 700 of the City Charter, Sections 12101 and 12111 of the California Elections Code, and Section 6061 of the California Government Code, the City Clerk is hereby authorized and directed on behalf of the City Council to cause notice of the time and place of the holding of the election to be published once in the *Santa Clara Weekly*, a newspaper of general circulation, printed, published, and circulated in the City of Santa Clara and hereby designated for that purpose by the City Council of Santa Clara.

4. The City Clerk is hereby authorized and directed to certify to the due adoption of this Resolution.

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

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ____ DAY OF DECEMBER, 2009, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:
NOES:	COUNCILORS:
ABSENT:	COUNCILORS:
ABSTAINED:	COUNCILORS:

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

Attachments Incorporated by Reference: None
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RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, REQUESTING, PURSUANT TO SECTION 10403 OF THE CALIFORNIA ELECTIONS CODE, THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD ON JUNE 08, 2010, WITH THE STATEWIDE GUBERNATORIAL PRIMARY ELECTION TO BE HELD ON THAT SAME DATE FOR THE CONSIDERATION OF A MEASURE ASKING THE VOTERS TO ADOPT AN ORDINANCE OF THE VOTERS OF THE CITY DECLARING THE CITY'S POLICY REGARDING THE LEASE OF CITY-OWNED LAND FOR THE CONSTRUCTION AND OPERATION OF A STADIUM TO BE USED FOR PROFESSIONAL FOOTBALL GAMES AND OTHER PURPOSES

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

WHEREAS, the City Council of the City of Santa Clara, California, called a Special Municipal Election to be held on June 08, 2010, for the purpose of placing a measure on the ballot that, if passed, would adopt an Ordinance of the Voters of the City of Santa Clara, California, to declare the City's policy regarding the lease of City-owned land for the construction and operation of a stadium to be used for professional football games and other purposes, including specified means for accomplishing the policy; and

WHEREAS, it is desirable that the Special Municipal Election be consolidated with the Statewide Gubernatorial Primary Election to be held on the same date (June 08, 2010) and that within the city, the precincts, polling places and election officers of the two elections be the same, and that the County Registrar of Voters canvass the returns of the Special Municipal Election and that the election be held in all respects as if there were only one election.

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

1. That pursuant to the requirements of Section 10403 of the California Elections Code, the Board of Supervisors of the County of Santa Clara is hereby requested to consent and agree to the consolidation of a Special Municipal Election with the Statewide Gubernatorial Primary Election on Tuesday, June 08, 2010, for the purpose of placing a measure on the ballot that, if passed, would adopt an Ordinance of the Voters of the City of Santa Clara, California, to declare the City's policy regarding the lease of City-owned land for the construction and operation of a stadium to be used for professional football games and other purposes, including specified means for accomplishing the policy.
2. That the consolidated election shall be held and conducted, the election officers appointed, the voting precincts designated, the ballots printed, the polls opened and closed, the ballots counted and returned, the returns canvassed and all other applicable proceedings to be performed in connection with the above consolidated election, shall be regulated and done by the Registrar of Voters of the County of Santa Clara in accordance with the provisions of applicable laws regulating consolidating elections. This City Council consents to such consolidation.
3. That the Registrar of Voters is authorized to canvass the returns of the Special Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.
4. That the Board of Supervisors is requested to issue instructions to the Registrar of Voters to take any and all steps necessary for the holding of the consolidated election.
5. That the City of Santa Clara recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

6. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters.

7. That the proposed Ordinance shall be submitted to the voters on the ballot in the form of the following question:

MEASURE _____

SANTA CLARA PROFESSIONAL FOOTBALL STADIUM ACT. Shall the City of Santa Clara enact an ordinance that establishes requirements for leasing City property to a joint powers authority to develop and operate a stadium for professional football, including prohibitions on the use of City general funds or enterprise funds for stadium construction; payment to the City of fixed and performance rent; limits on the Redevelopment Agency investment, and payment of stadium construction cost overruns by a private party?	YES
	NO

8. That the complete text of the proposed Ordinance shall be printed in the ballot pamphlet as follows:

BEGIN TEXT OF ORDINANCE

AN ORDINANCE OF THE VOTERS OF THE CITY OF SANTA CLARA, CALIFORNIA, DECLARING THE CITY'S POLICY REGARDING THE LEASE OF CITY-OWNED LAND FOR THE CONSTRUCTION AND OPERATION OF A STADIUM TO BE USED FOR PROFESSIONAL FOOTBALL GAMES AND OTHER PURPOSES

THE PEOPLE OF THE CITY OF SANTA CLARA DO ORDAIN AS FOLLOWS:

PURPOSES

WHEREAS, this Ordinance will further the goal of the City of Santa Clara of enhancing an entertainment destination in the Bayshore North Redevelopment Project Area by establishing policies for the leasing of City-owned land for construction and operation of a stadium for professional football and other purposes which will provide significant economic benefits to the City and its residents and businesses; and,

WHEREAS, the development of a professional football stadium will create new jobs for the residents of the City of Santa Clara and the surrounding communities, bring economic benefit to the Convention Center and surrounding businesses and will encourage the further development of the Bayshore North Redevelopment Project Area; and,

WHEREAS, this Ordinance will ensure that the lease of City-owned land for a stadium will be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara, known as the Santa Clara Stadium Authority; and,

WHEREAS, the Stadium Authority will construct the stadium and own and operate the stadium for the term of the lease; and,

WHEREAS, the City Council has endorsed a Term Sheet, on file in the Office of the City Clerk, that provides a broad framework for the development and operation of the Stadium; and,

WHEREAS, this Ordinance will ensure that the lease and other City actions will require a fixed base rent and performance based rent for the City property; that no City general fund or enterprise fund monies will be used for the construction of the stadium except for the relocation of an electrical substation; that the Redevelopment Agency of the City of Santa Clara will limit any contributions for the development of the stadium to no more than Forty Million Dollars (\$40,000,000), exclusive of debt service and issuance costs and payments to the City for development fees; a private party will be responsible for any construction cost overruns and for payment of rent to assure operating expenses; and that the professional football team will play its regular and post-season home games at the stadium, as prescribed by the National Football League.

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

SECTION 1: Title.

This ordinance shall be known as the “Professional Football Stadium Ground Lease Measure.”

SECTION 2: Santa Clara City Code Amendments.

That Chapter 17.20 (entitled “Professional Football Stadium Ground Lease”) is hereby added to Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“Santa Clara City Code” or “SCCC”) to read as follows:

“CHAPTER 17.20

PROFESSIONAL FOOTBALL STADIUM GROUND LEASE

Sec. 17.20.010 Purpose.

This Chapter is intended to further the City’s goal of creating an enhanced entertainment destination in the Bayshore North Redevelopment Project Area by providing for the development and operation of a stadium suitable for professional football and other events (the “Stadium”) in a manner that will provide a long-term revenue stream to the City.

Sec. 17.20.020 Required Terms for a Ground Lease for a Stadium.

Any ground lease by the City of Santa Clara (“City”) of City property for the development and operation of a Stadium shall be consistent with all of the following minimum requirements:

- (a) Any ground lease of City property for development and operation of a Stadium (“Ground Lease”) shall be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara (the “Agency”) to be known as the Santa Clara Stadium Authority (the “Stadium Authority”), so that the City maintains ownership of the fee interest in the site.
- (b) The City shall not use or pledge any money from the City’s general fund or enterprise funds for the development of the Stadium; provided, however, that if the

City decides to relocate or reconfigure the electrical substation in the vicinity of the Stadium site, the Ground Lease or other agreements may provide that the City shall be responsible for the cost of that relocation or reconfiguration.

- (c) The City shall not subordinate its interest in the Stadium site or in any other property or in the Ground Rent to any financing or subsequent refinancing of the Stadium, and no City general fund monies or enterprise fund monies may be pledged as collateral for any Stadium Authority financing or subsequent refinancing.
- (d) The Ground Lease shall provide that the initial term of the Ground Lease shall be for forty (40) years.
- (e) The Ground Lease shall require that construction of the Stadium shall not commence unless a private party (the "Private Tenant") has entered into a lease of the Stadium or the Stadium site from the Stadium Authority (the "Private Tenant's Lease") that provides for use of the Stadium as the home of one or two professional football teams and other events. Professional football games and other events associated with professional football that are conducted pursuant to the Private Tenant's Lease are hereinafter referred to in this Chapter as "NFL Events."
- (f) The Ground Lease shall require payment by the Stadium Authority to the City's general fund of fixed base rent totaling Forty Million Eight Hundred Seventy-Five Thousand Dollars (\$40,875,000), in nominal dollars, over the initial forty (40) year term of the Ground Lease, with annual fixed base rent commencing in the first year of Stadium operations and increasing periodically over the term of the Ground Lease to a minimum of One Million Dollars (\$1,000,000) beginning in the eleventh (11th) year of Stadium operations. The Ground Lease shall require that if a second professional football team (a "Second Team") makes a long term commitment to

play its home games at the Stadium, the minimum annual fixed base rent payable to the City's general fund under this subparagraph shall be increased by One Million Dollars (\$1,000,000) commencing in the first year the Second Team plays its home games at the Stadium.

- (g) In addition to the fixed base rent, the Ground Lease shall require payment by the Stadium Authority into the City's general fund of performance based rent which, together with the fixed base rent, the City Council has determined is projected to provide fair market rent to the City. Performance based rent shall be pursuant to a formula that provides for sharing of the revenues less expenses of Non-NFL Events at the Stadium. As used herein, the term "Non-NFL Events" means events such as concerts and sporting events that are approved by the Stadium Authority and the Private Tenant, excluding NFL Events. The fixed base rent and performance based rent payable by the Stadium Authority to the City under the Ground Lease, as provided in this and the preceding subparagraph, are referred to in this Chapter as "Ground Rent."
- (h) The Ground Lease shall require that contributions to the construction costs of the Stadium by the Agency shall not exceed Forty Million Dollars (\$40,000,000), exclusive of debt service and other financing costs and payments to the City for development fees. The Ground Lease shall also provide that, if a Second Team makes a long term commitment to play its home games at the Stadium, the City or Agency shall receive the amounts the Agency actually contributed toward the construction costs of the Stadium in accordance with this subparagraph, exclusive of debt service and other financing costs. The City or Agency shall also receive any amounts paid by the Agency to the City for development fees for the Stadium.

- (i) Neither the Ground Lease nor any other agreements related to the development of the Stadium shall rely upon the imposition of any new or increased taxes for the development, operation or maintenance of the Stadium; provided, however that the foregoing shall not apply to a special tax based on hotel room revenue in a financing district that is approved by a vote of the requisite number of affected hotel land owners within the district. If hotel land owners in the district approve such a special tax on hotel revenue, such tax proceeds may 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 and any remaining tax proceeds may be used for other eligible financing district purposes.
- (j) Neither the City nor its Redevelopment Agency shall be liable for the obligations of the Stadium Authority, including operating and maintenance expenses of the Stadium, provided that the City may elect to pay operating and maintenance expenses of events conducted or approved by the City that are not NFL Events or Non-NFL Events.
- (k) The Private Tenant's Lease shall require the Private Tenant to pay any cost overruns incurred in construction of the Stadium. For this purpose, "cost overruns" means any actual costs that exceed funds available to the Stadium Authority from the sources identified in the development budget approved by the Stadium Authority and any other sources available to the Stadium Authority to fund the construction costs of the Stadium.
- (l) The Private Tenant's Lease shall require the Private Tenant to pay rent to the Stadium Authority that the City Council has determined will provide the Stadium Authority with funds required to pay the Ground Rent and operating and

maintenance expenses of the Stadium. For this purpose, operating and maintenance expenses shall include, without limitation, day-to-day expenses of operating and maintaining the Stadium, deposits to a reserve for capital improvements, and reimbursement of reasonable costs incurred by the City in providing public safety and traffic management related to NFL Events and Non-NFL Events, but shall not include expenses of events that are conducted by the City or Stadium Authority that are not approved by the Private Tenant.

- (m) The Ground Lease shall require that following the opening of the Stadium the City shall receive, in addition to the Ground Rent, a fee equal to thirty-five cents (\$0.35) per ticket on each ticket for professional football games in the Stadium up to a maximum of Two Hundred Fifty Thousand Dollars (\$250,000) per year (the “Senior and Youth Program Fee”). The Senior and Youth Program Fee is to be used for City programs for parks and recreation and libraries, such as senior activities and the “Youth Championship Team Fund.”

Sec. 17.20.030 Council Determinations.

Section 17.20.020 of this Code is the legislative policy of the City and provides the ways and means of accomplishing that legislative policy. Where Section 17.20.020 provides for any determination or approval by the City Council, such determination or approval shall be made by the City Council taking into account the Purposes of the voter approved measure enacting this Chapter, and shall be made on or before the Council’s approval of an agreement that commits the City to enter into a Ground Lease.”

SECTION 3: Implementation of this Measure.

- A. Upon the effective date of this Measure, the provisions of Section 2 of this Measure are hereby adopted as an ordinance of the City to be codified in the Santa Clara City Code.

B. Upon the effective date of this Act, the City Manager shall promptly take such administrative steps consistent with the legislative policy established by section 17.20.020 as may be required to implement this Act, including but not limited to revising any Santa Clara City Code figures or tables. The City shall proceed as expeditiously as possible to implement this Measure, including, but not limited to, pursuing a Ground Lease of the Stadium site consistent with the requirements set forth in Section 2 above.

C. If necessary and if permitted by law, the City shall amend any provisions of the Santa Clara City Code, in order to implement this Measure and to ensure consistency and correlation between this Measure and other provisions of the Santa Clara City Code.

D. The City may reorganize, reorder and renumber the Santa Clara City Code as necessary to further the purposes of this Measure.

SECTION 4: Interpretation and Severability.

A. This Measure shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Measure. The voters hereby declare that this Measure, and each section, sub-section, sentence, clause, phrase, part or portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part or portion is found to be invalid. If any provision of this Measure is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Measure that can be given effect without the invalid application.

B. This Measure shall be broadly construed in order to achieve the purposes stated in this Measure. The provisions of this Measure shall be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth herein.

SECTION 5: Conflicting Measures.

A. This Measure is intended to be comprehensive. In the event that this Measure and another measure or initiative relating to the same subject appear on the same election ballot, the provisions of the other measure or initiative shall be deemed to be in conflict with this Measure. In the event this Measure shall receive the greater number of affirmative votes, the provisions of this Measure shall prevail in their entirety, and all provisions of the other measure or initiative shall be null and void.

B. If this Measure is approved by the voters but superseded by law or by any other conflicting ballot measure or initiative approved by the voters at the same election, and the conflicting law or ballot initiative is later held invalid, this Measure shall be self-executing and given full force of law.

SECTION 6: Amendment and Repeal.

This Measure may be amended or repealed only by a majority of the voters of the City voting in an election held in accordance with state law.

SECTION 7: Effective Date.

If this ordinance is approved by a simple majority of the voters voting on the issue at the Statewide Gubernatorial Primary Election on June 08, 2010, pursuant to Elections Code section 9217, the ordinance shall become effective ten (10) days after the City Council declares the results of the election. Provided that a simple majority of the voters approve this ordinance, the City Clerk shall post and publish this ordinance within five days of the date the City Council

declares the results of the election as provided by Sections 808 and 812 of the Charter of the City of Santa Clara.

END TEXT OF ORDINANCE

9. That the proposed Ordinance shall not take effect unless and until approved by a vote of at least 50% plus one of the voters voting on the question at the election.

10. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

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

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ___ DAY OF DECEMBER, 2009, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:
NOES: COUNCILORS:
ABSENT: COUNCILORS:
ABSTAINED: COUNCILORS:

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

Attachments Incorporated by Reference: None
I:\49ers\FINAL 12-11-09 Resolution Requesting Consolidation of Elections.doc

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, SETTING PRIORITIES AND DATES FOR FILING WRITTEN ARGUMENT(S) AND REBUTTAL ARGUMENT(S), AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS FOR THE CONSIDERATION OF A MEASURE ASKING THE VOTERS TO ADOPT AN ORDINANCE OF THE VOTERS OF THE CITY DECLARING THE CITY'S POLICY REGARDING THE LEASE OF CITY-OWNED LAND FOR THE CONSTRUCTION AND OPERATION OF A STADIUM TO BE USED FOR PROFESSIONAL FOOTBALL GAMES AND OTHER PURPOSES

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

WHEREAS, a Special Municipal Election is to be held in the City of Santa Clara, California, on Tuesday, June 08, 2010, at which there will be submitted to the voters the following question:

MEASURE _____

SANTA CLARA PROFESSIONAL FOOTBALL STADIUM ACT. Shall the City of Santa Clara enact an ordinance that establishes requirements for leasing City property to a joint powers authority to develop and operate a stadium for professional football, including prohibitions on the use of City general funds or enterprise funds for stadium construction; payment to the City of fixed and performance rent; limits on the Redevelopment Agency investment, and payment of stadium construction cost overruns by a private party?	YES
	NO

FURTHERMORE, that the complete text of the proposed Ordinance is as follows:

“AN ORDINANCE OF THE VOTERS OF THE CITY OF SANTA CLARA, CALIFORNIA, DECLARING THE CITY'S POLICY REGARDING THE LEASE OF CITY-OWNED LAND FOR THE CONSTRUCTION AND OPERATION OF A STADIUM TO BE USED FOR PROFESSIONAL FOOTBALL GAMES AND OTHER PURPOSES

THE PEOPLE OF THE CITY OF SANTA CLARA DO ORDAIN AS FOLLOWS:

PURPOSES

WHEREAS, this Ordinance will further the goal of the City of Santa Clara of enhancing an entertainment destination in the Bayshore North Redevelopment Project Area by establishing policies for the leasing of City-owned land for construction and operation of a stadium for professional football and other purposes which will provide significant economic benefits to the City and its residents and businesses; and,

WHEREAS, the development of a professional football stadium will create new jobs for the residents of the City of Santa Clara and the surrounding communities, bring economic benefit to the Convention Center and surrounding businesses and will encourage the further development of the Bayshore North Redevelopment Project Area; and,

WHEREAS, this Ordinance will ensure that the lease of City-owned land for a stadium will be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara, known as the Santa Clara Stadium Authority; and,

WHEREAS, the Stadium Authority will construct the stadium and own and operate the stadium for the term of the lease; and,

WHEREAS, the City Council has endorsed a Term Sheet, on file in the Office of the City Clerk, that provides a broad framework for the development and operation of the Stadium; and,

WHEREAS, this Ordinance will ensure that the lease and other City actions will require a fixed base rent and performance based rent for the City property; that no City general fund or enterprise fund monies will be used for the construction of the stadium except for the relocation of an electrical substation; that the Redevelopment Agency of the City of Santa Clara will limit any contributions for the development of the stadium to no more than Forty Million Dollars

(\$40,000,000), exclusive of debt service and issuance costs and payments to the City for development fees; a private party will be responsible for any construction cost overruns and for payment of rent to assure operating expenses; and that the professional football team will play its regular and post-season home games at the stadium, as prescribed by the National Football League.

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

SECTION 1: Title.

This ordinance shall be known as the “Professional Football Stadium Ground Lease Measure.”

SECTION 2: Santa Clara City Code Amendments.

That Chapter 17.20 (entitled “Professional Football Stadium Ground Lease”) is hereby added to Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“Santa Clara City Code” or “SCCC”) to read as follows:

“CHAPTER 17.20

PROFESSIONAL FOOTBALL STADIUM GROUND LEASE

Sec. 17.20.010 Purpose.

This Chapter is intended to further the City’s goal of creating an enhanced entertainment destination in the Bayshore North Redevelopment Project Area by providing for the development and operation of a stadium suitable for professional football and other events (the “Stadium”) in a manner that will provide a long-term revenue stream to the City.

Sec. 17.20.020 Required Terms for a Ground Lease for a Stadium.

Any ground lease by the City of Santa Clara (“City”) of City property for the development and operation of a Stadium shall be consistent with all of the following minimum requirements:

- (a) Any ground lease of City property for development and operation of a Stadium (“Ground Lease”) shall be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara (the “Agency”) to be known as the Santa Clara Stadium Authority (the “Stadium Authority”), so that the City maintains ownership of the fee interest in the site.
- (b) The City shall not use or pledge any money from the City’s general fund or enterprise funds for the development of the Stadium; provided, however, that if the City decides to relocate or reconfigure the electrical substation in the vicinity of the Stadium site, the Ground Lease or other agreements may provide that the City shall be responsible for the cost of that relocation or reconfiguration.
- (c) The City shall not subordinate its interest in the Stadium site or in any other property or in the Ground Rent to any financing or subsequent refinancing of the Stadium, and no City general fund monies or enterprise fund monies may be pledged as collateral for any Stadium Authority financing or subsequent refinancing.
- (d) The Ground Lease shall provide that the initial term of the Ground Lease shall be for forty (40) years.
- (e) The Ground Lease shall require that construction of the Stadium shall not commence unless a private party (the “Private Tenant”) has entered into a lease of the Stadium or the Stadium site from the Stadium Authority (the “Private Tenant’s Lease”) that provides for use of the Stadium as the home of one or two professional football

teams and other events. Professional football games and other events associated with professional football that are conducted pursuant to the Private Tenant's Lease are hereinafter referred to in this Chapter as "NFL Events."

- (f) The Ground Lease shall require payment by the Stadium Authority to the City's general fund of fixed base rent totaling Forty Million Eight Hundred Seventy-Five Thousand Dollars (\$40,875,000), in nominal dollars, over the initial forty (40) year term of the Ground Lease, with annual fixed base rent commencing in the first year of Stadium operations and increasing periodically over the term of the Ground Lease to a minimum of One Million Dollars (\$1,000,000) beginning in the eleventh (11th) year of Stadium operations. The Ground Lease shall require that if a second professional football team (a "Second Team") makes a long term commitment to play its home games at the Stadium, the minimum annual fixed base rent payable to the City's general fund under this subparagraph shall be increased by One Million Dollars (\$1,000,000) commencing in the first year the Second Team plays its home games at the Stadium.
- (g) In addition to the fixed base rent, the Ground Lease shall require payment by the Stadium Authority into the City's general fund of performance based rent which, together with the fixed base rent, the City Council has determined is projected to provide fair market rent to the City. Performance based rent shall be pursuant to a formula that provides for sharing of the revenues less expenses of Non-NFL Events at the Stadium. As used herein, the term "Non-NFL Events" means events such as concerts and sporting events that are approved by the Stadium Authority and the Private Tenant, excluding NFL Events. The fixed base rent and performance based

rent payable by the Stadium Authority to the City under the Ground Lease, as provided in this and the preceding subparagraph, are referred to in this Chapter as “Ground Rent.”

- (h) The Ground Lease shall require that contributions to the construction costs of the Stadium by the Agency shall not exceed Forty Million Dollars (\$40,000,000), exclusive of debt service and other financing costs and payments to the City for development fees. The Ground Lease shall also provide that, if a Second Team makes a long term commitment to play its home games at the Stadium, the City or Agency shall receive the amounts the Agency actually contributed toward the construction costs of the Stadium in accordance with this subparagraph, exclusive of debt service and other financing costs. The City or Agency shall also receive any amounts paid by the Agency to the City for development fees for the Stadium.
- (i) Neither the Ground Lease nor any other agreements related to the development of the Stadium shall rely upon the imposition of any new or increased taxes for the development, operation or maintenance of the Stadium; provided, however that the foregoing shall not apply to a special tax based on hotel room revenue in a financing district that is approved by a vote of the requisite number of affected hotel land owners within the district. If hotel land owners in the district approve such a special tax on hotel revenue, such tax proceeds may 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 and any remaining tax proceeds may be used for other eligible financing district purposes.

- (j) Neither the City nor its Redevelopment Agency shall be liable for the obligations of the Stadium Authority, including operating and maintenance expenses of the Stadium, provided that the City may elect to pay operating and maintenance expenses of events conducted or approved by the City that are not NFL Events or Non-NFL Events.
- (k) The Private Tenant's Lease shall require the Private Tenant to pay any cost overruns incurred in construction of the Stadium. For this purpose, "cost overruns" means any actual costs that exceed funds available to the Stadium Authority from the sources identified in the development budget approved by the Stadium Authority and any other sources available to the Stadium Authority to fund the construction costs of the Stadium.
- (l) The Private Tenant's Lease shall require the Private Tenant to pay rent to the Stadium Authority that the City Council has determined will provide the Stadium Authority with funds required to pay the Ground Rent and operating and maintenance expenses of the Stadium. For this purpose, operating and maintenance expenses shall include, without limitation, day-to-day expenses of operating and maintaining the Stadium, deposits to a reserve for capital improvements, and reimbursement of reasonable costs incurred by the City in providing public safety and traffic management related to NFL Events and Non-NFL Events, but shall not include expenses of events that are conducted by the City or Stadium Authority that are not approved by the Private Tenant.
- (m) The Ground Lease shall require that following the opening of the Stadium the City shall receive, in addition to the Ground Rent, a fee equal to thirty-five cents (\$0.35)

per ticket on each ticket for professional football games in the Stadium up to a maximum of Two Hundred Fifty Thousand Dollars (\$250,000) per year (the “Senior and Youth Program Fee”). The Senior and Youth Program Fee is to be used for City programs for parks and recreation and libraries, such as senior activities and the “Youth Championship Team Fund.”

Sec. 17.20.030 Council Determinations.

Section 17.20.020 of this Code is the legislative policy of the City and provides the ways and means of accomplishing that legislative policy. Where Section 17.20.020 provides for any determination or approval by the City Council, such determination or approval shall be made by the City Council taking into account the Purposes of the voter approved measure enacting this Chapter, and shall be made on or before the Council’s approval of an agreement that commits the City to enter into a Ground Lease.

SECTION 3: Implementation of this Measure.

- A. Upon the effective date of this Measure, the provisions of Section 2 of this Measure are hereby adopted as an ordinance of the City to be codified in the Santa Clara City Code.
- B. Upon the effective date of this Act, the City Manager shall promptly take such administrative steps consistent with the legislative policy established by section 17.20.020 as may be required to implement this Act, including but not limited to revising any Santa Clara City Code figures or tables. The City shall proceed as expeditiously as possible to implement this Measure, including, but not limited to, pursuing a Ground Lease of the Stadium site consistent with the requirements set forth in Section 2 above.
- C. If necessary and if permitted by law, the City shall amend any provisions of the Santa Clara City Code, in order to implement this Measure and to ensure consistency and correlation

between this Measure and other provisions of the Santa Clara City Code.

D. The City may reorganize, reorder and renumber the Santa Clara City Code as necessary to further the purposes of this Measure.

SECTION 4: Interpretation and Severability.

A. This Measure shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Measure. The voters hereby declare that this Measure, and each section, sub-section, sentence, clause, phrase, part or portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part or portion is found to be invalid. If any provision of this Measure is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Measure that can be given effect without the invalid application.

B. This Measure shall be broadly construed in order to achieve the purposes stated in this Measure. The provisions of this Measure shall be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth herein.

SECTION 5: Conflicting Measures.

A. This Measure is intended to be comprehensive. In the event that this Measure and another measure or initiative relating to the same subject appear on the same election ballot, the provisions of the other measure or initiative shall be deemed to be in conflict with this Measure. In the event this Measure shall receive the greater number of affirmative votes, the provisions of

this Measure shall prevail in their entirety, and all provisions of the other measure or initiative shall be null and void.

B. If this Measure is approved by the voters but superseded by law or by any other conflicting ballot measure or initiative approved by the voters at the same election, and the conflicting law or ballot initiative is later held invalid, this Measure shall be self-executing and given full force of law.

SECTION 6: Amendment and Repeal.

This Measure may be amended or repealed only by a majority of the voters of the City voting in an election held in accordance with state law.

SECTION 7: Effective Date.

If this ordinance is approved by a simple majority of the voters voting on the issue at the Statewide Gubernatorial Primary Election on June 08, 2010, pursuant to Elections Code section 9217, the ordinance shall become effective ten (10) days after the City Council declares the results of the election. Provided that a simple majority of the voters approve this ordinance, the City Clerk shall post and publish this ordinance within five days of the date the City Council declares the results of the election as provided by Sections 808 and 812 of the Charter of the City of Santa Clara.”

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

1. [ADOPT ONE PARAGRAPH ONLY – A OR B]
 - A. That in accordance with the California Elections Code Division 9, Chapter 3, Article 4 (“Arguments Concerning City Measures” – commencing at section 9280), _____ [NAMES OF THOSE WHO WILL BE SIGNING BALLOT

ARGUMENT] are hereby authorized to sign a written argument in favor of the proposed ordinance. The Council hereby authorizes _____ [INSERT NAMES OF NO MORE THAN THREE COUNCILMEMBERS] to prepare the written argument in accordance with Article 4, Chapter 3, Division 9 of the Elections Code and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted, 5:00 p.m. Wednesday, March 10, 2010.

B. That any individual voter eligible to vote on the measure or bona fide association of citizens may submit an argument in support of the proposed ordinance. If more than one argument in support of the proposed ordinance is submitted, the City Clerk shall select the argument to be published in accordance with the priority established by California Elections Code section 9287: (1) bona fide associations of citizens; and (2) individual voters who are eligible to vote on the measure.

2. That any individual voter who is eligible to vote on the measure or bona fide association of citizens may submit an argument against the proposed ordinance. If more than one argument against the proposed ordinance is submitted, the City Clerk shall select the argument to be published in accordance with priority established by California Elections Code section 9287: (1) bona fide associations of citizens; and (2) individual voters who are eligible to vote on the measure.

3. That pursuant to California Elections Code section 9282, no argument shall exceed 300 words in length and shall be submitted to the City Clerk of the City of Santa Clara, 1500 Warburton Avenue, Santa Clara, CA 95050, not later than 5:00 p.m. on Wednesday,

March 10, 2010. (The City Clerk is the Elections Official for the City of Santa Clara. [City Charter §903(g)].)

4. That Pursuant to Sections 9285 and 9287 of the California Elections Code, when the City Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the City Clerk shall send a copy of the argument in favor of the measure to the authors of the argument against, and a copy of the argument against the measure to the authors of the argument in favor. Pursuant to California Elections Code section 9285, the authors of the argument in favor of or against the City measure may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk by 5:00 p.m., Wednesday, March 17, 2010. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

5. The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney. Pursuant to California Elections Code section 9280, the City Attorney shall prepare an impartial analysis of the measures showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed with the City Clerk by 5:00 p.m. on Wednesday, March 03, 2010, and it shall not exceed 500 words in length.

6. The City Clerk shall certify to the passage and adoption of this Resolution.

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

any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ___ DAY OF DECEMBER, 2010, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:
NOES: COUNCILORS:
ABSENT: COUNCILORS:
ABSTAINED: COUNCILORS:

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

Attachments Incorporated by Reference: None
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CITY OF SANTA CLARA

NOTICE OF ELECTION / MEASURE TO BE VOTED ON

FOR:

AN ORDINANCE OF THE VOTERS OF THE CITY OF SANTA CLARA, CALIFORNIA, DECLARING THE CITY'S POLICY REGARDING THE LEASE OF CITY-OWNED LAND FOR THE CONSTRUCTION AND OPERATION OF A STADIUM TO BE USED FOR PROFESSIONAL FOOTBALL GAMES AND OTHER PURPOSES

AND,

SETTING DATES FOR SUBMISSION OF ARGUMENTS ON THE CITY OF SANTA CLARA BALLOT MEASURE

NOTICE IS HEREBY GIVEN that on Tuesday, June 08, 2010, a Special Municipal Election consolidated with the Statewide Gubernatorial Primary Election will be held in the City of Santa Clara, Santa Clara County, California, for submitting to the voters the following ballot question and the full text of the proposed measure:

MEASURE _____

SANTA CLARA PROFESSIONAL FOOTBALL STADIUM ACT. Shall the City of Santa Clara enact an ordinance that establishes requirements for leasing City property to a joint powers authority to develop and operate a stadium for professional football, including prohibitions on the use of City general funds or enterprise funds for stadium construction; payment to the City of fixed and performance rent; limits on the Redevelopment Agency investment, and payment of stadium construction cost overruns by a private party?	YES
	NO

The complete text of the proposed ordinance is as follows:

“AN ORDINANCE OF THE VOTERS OF THE CITY OF SANTA CLARA, CALIFORNIA, DECLARING THE CITY'S POLICY REGARDING THE LEASE OF CITY-OWNED LAND FOR THE CONSTRUCTION AND OPERATION OF A STADIUM TO BE USED FOR PROFESSIONAL FOOTBALL GAMES AND OTHER PURPOSES

THE PEOPLE OF THE CITY OF SANTA CLARA DO ORDAIN AS FOLLOWS:

PURPOSES

WHEREAS, this Ordinance will further the goal of the City of Santa Clara of enhancing an entertainment destination in the Bayshore North Redevelopment Project Area by establishing policies for the leasing of City-owned land for construction and operation of a stadium for professional football and other purposes which will provide significant economic benefits to the City and its residents and businesses; and,

WHEREAS, the development of a professional football stadium will create new jobs for the residents of the City of Santa Clara and the surrounding communities, bring economic benefit to the Convention Center and surrounding businesses and will encourage the further development of the Bayshore North Redevelopment Project Area; and,

WHEREAS, this Ordinance will ensure that the lease of City-owned land for a stadium will be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara, known as the Santa Clara Stadium Authority; and,

WHEREAS, the Stadium Authority will construct the stadium and own and operate the stadium for the term of the lease; and,

WHEREAS, the City Council has endorsed a Term Sheet, on file in the Office of the City Clerk, that provides a broad framework for the development and operation of the Stadium; and,

WHEREAS, this Ordinance will ensure that the lease and other City actions will require a fixed base rent and performance based rent for the City property; that no City general fund or enterprise fund monies will be used for the construction of the stadium except for the relocation of an electrical substation; that the Redevelopment Agency of the City of Santa Clara will limit any contributions for the development of the stadium to no more than Forty Million Dollars (\$40,000,000), exclusive of debt service and issuance costs and payments to the City for development fees; a private party will be responsible for any construction cost overruns and for payment of rent to assure operating expenses; and that the professional football team will play its regular and post-season home games at the stadium, as prescribed by the National Football League.

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

SECTION 1: Title.

This ordinance shall be known as the “Professional Football Stadium Ground Lease Measure.”

SECTION 2: Santa Clara City Code Amendments.

That Chapter 17.20 (entitled “Professional Football Stadium Ground Lease”) is hereby added to Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“Santa Clara City Code” or “SCCC”) to read as follows:

“CHAPTER 17.20

PROFESSIONAL FOOTBALL STADIUM GROUND LEASE

Sec. 17.20.010 Purpose.

This Chapter is intended to further the City’s goal of creating an enhanced entertainment destination in the Bayshore North Redevelopment Project Area by providing for the development and operation of a stadium suitable for professional football and other events (the “Stadium”) in a manner that will provide a long-term revenue stream to the City.

Sec. 17.20.020 Required Terms for a Ground Lease for a Stadium.

Any ground lease by the City of Santa Clara (“City”) of City property for the development and operation of a Stadium shall be consistent with all of the following minimum requirements:

- (a) Any ground lease of City property for development and operation of a Stadium (“Ground Lease”) shall be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara (the “Agency”) to be known as the Santa Clara Stadium Authority (the “Stadium Authority”), so that the City maintains ownership of the fee interest in the site.
- (b) The City shall not use or pledge any money from the City’s general fund or enterprise funds for the development of the Stadium; provided, however, that if the City decides to relocate or reconfigure the electrical substation in the vicinity of the Stadium site, the Ground Lease or other agreements may provide that the City shall be responsible for the cost of that relocation or reconfiguration.
- (c) The City shall not subordinate its interest in the Stadium site or in any other property or in the Ground Rent to any financing or subsequent refinancing of the Stadium, and no City general fund monies or enterprise fund monies may be pledged as collateral for any Stadium Authority financing or subsequent refinancing.
- (d) The Ground Lease shall provide that the initial term of the Ground Lease shall be for forty (40) years.
- (e) The Ground Lease shall require that construction of the Stadium shall not commence unless a private party (the “Private Tenant”) has entered into a lease of the Stadium or the Stadium site from the Stadium Authority (the “Private Tenant’s Lease”) that provides for use of the Stadium as the home of one or two professional football teams and other events. Professional football games and other events associated with professional football that are conducted pursuant to the Private Tenant’s Lease are hereinafter referred to in this Chapter as “NFL Events.”
- (f) The Ground Lease shall require payment by the Stadium Authority to the City’s general fund of fixed base rent totaling Forty Million Eight Hundred Seventy-Five Thousand Dollars (\$40,875,000), in nominal dollars, over the initial forty (40) year term of the Ground Lease, with annual fixed base rent commencing in the first year of Stadium operations and increasing periodically over the term of the Ground Lease to a minimum of One Million Dollars (\$1,000,000) beginning in the eleventh (11th) year of Stadium operations. The Ground Lease shall require that if a second professional football team (a “Second Team”) makes a long term commitment to play its home games at the Stadium, the minimum annual fixed base rent payable to the City’s general fund under this subparagraph shall be increased by One Million Dollars (\$1,000,000) commencing in the first year the Second Team plays its home games at the Stadium.
- (g) In addition to the fixed base rent, the Ground Lease shall require payment by the Stadium Authority into the City’s general fund of performance based rent which, together with the fixed base rent, the City Council has determined is projected to provide fair market rent to the City. Performance based rent shall be pursuant to a formula that provides for sharing of the revenues less expenses of Non-NFL Events at the Stadium. As used herein, the term “Non-NFL Events” means events such as concerts and sporting events that are approved by the Stadium Authority and the Private Tenant, excluding NFL Events. The fixed base rent and performance based rent payable by the Stadium Authority to the City under the Ground Lease, as provided in this and the preceding subparagraph, are referred to in this Chapter as “Ground Rent.”
- (h) The Ground Lease shall require that contributions to the construction costs of the Stadium by the Agency shall not exceed Forty Million Dollars (\$40,000,000),

exclusive of debt service and other financing costs and payments to the City for development fees. The Ground Lease shall also provide that, if a Second Team makes a long term commitment to play its home games at the Stadium, the City or Agency shall receive the amounts the Agency actually contributed toward the construction costs of the Stadium in accordance with this subparagraph, exclusive of debt service and other financing costs. The City or Agency shall also receive any amounts paid by the Agency to the City for development fees for the Stadium.

- (i) Neither the Ground Lease nor any other agreements related to the development of the Stadium shall rely upon the imposition of any new or increased taxes for the development, operation or maintenance of the Stadium; provided, however that the foregoing shall not apply to a special tax based on hotel room revenue in a financing district that is approved by a vote of the requisite number of affected hotel land owners within the district. If hotel land owners in the district approve such a special tax on hotel revenue, such tax proceeds may 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 and any remaining tax proceeds may be used for other eligible financing district purposes.
- (j) Neither the City nor its Redevelopment Agency shall be liable for the obligations of the Stadium Authority, including operating and maintenance expenses of the Stadium, provided that the City may elect to pay operating and maintenance expenses of events conducted or approved by the City that are not NFL Events or Non-NFL Events.
- (k) The Private Tenant's Lease shall require the Private Tenant to pay any cost overruns incurred in construction of the Stadium. For this purpose, "cost overruns" means any actual costs that exceed funds available to the Stadium Authority from the sources identified in the development budget approved by the Stadium Authority and any other sources available to the Stadium Authority to fund the construction costs of the Stadium.
- (l) The Private Tenant's Lease shall require the Private Tenant to pay rent to the Stadium Authority that the City Council has determined will provide the Stadium Authority with funds required to pay the Ground Rent and operating and maintenance expenses of the Stadium. For this purpose, operating and maintenance expenses shall include, without limitation, day-to-day expenses of operating and maintaining the Stadium, deposits to a reserve for capital improvements, and reimbursement of reasonable costs incurred by the City in providing public safety and traffic management related to NFL Events and Non-NFL Events, but shall not include expenses of events that are conducted by the City or Stadium Authority that are not approved by the Private Tenant.
- (m) The Ground Lease shall require that following the opening of the Stadium the City shall receive, in addition to the Ground Rent, a fee equal to thirty-five cents (\$0.35) per ticket on each ticket for professional football games in the Stadium up to a maximum of Two Hundred Fifty Thousand Dollars (\$250,000) per year (the "Senior and Youth Program Fee"). The Senior and Youth Program Fee is to be used for City programs for parks and recreation and libraries, such as senior activities and the "Youth Championship Team Fund."

Sec. 17.20.030 Council Determinations.

Section 17.20.020 of this Code is the legislative policy of the City and provides the ways and means of accomplishing that legislative policy. Where Section 17.20.020 provides for any

determination or approval by the City Council, such determination or approval shall be made by the City Council taking into account the Purposes of the voter approved measure enacting this Chapter, and shall be made on or before the Council's approval of an agreement that commits the City to enter into a Ground Lease.

SECTION 3: Implementation of this Measure.

A. Upon the effective date of this Measure, the provisions of Section 2 of this Measure are hereby adopted as an ordinance of the City to be codified in the Santa Clara City Code.

B. Upon the effective date of this Act, the City Manager shall promptly take such administrative steps consistent with the legislative policy established by section 17.20.020 as may be required to implement this Act, including but not limited to revising any Santa Clara City Code figures or tables. The City shall proceed as expeditiously as possible to implement this Measure, including, but not limited to, pursuing a Ground Lease of the Stadium site consistent with the requirements set forth in Section 2 above.

C. If necessary and if permitted by law, the City shall amend any provisions of the Santa Clara City Code, in order to implement this Measure and to ensure consistency and correlation between this Measure and other provisions of the Santa Clara City Code.

D. The City may reorganize, reorder and renumber the Santa Clara City Code as necessary to further the purposes of this Measure.

SECTION 4: Interpretation and Severability.

A. This Measure shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Measure. The voters hereby declare that this Measure, and each section, sub-section, sentence, clause, phrase, part or portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part or portion is found to be invalid. If any provision of this Measure is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Measure that can be given effect without the invalid application.

B. This Measure shall be broadly construed in order to achieve the purposes stated in this Measure. The provisions of this Measure shall be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth herein.

SECTION 5: Conflicting Measures.

A. This Measure is intended to be comprehensive. In the event that this Measure and another measure or initiative relating to the same subject appear on the same election ballot, the provisions of the other measure or initiative shall be deemed to be in conflict with this Measure. In the event this Measure shall receive the greater number of affirmative votes, the provisions of this Measure shall prevail in their entirety, and all provisions of the other measure or initiative shall be null and void.

B. If this Measure is approved by the voters but superseded by law or by any other conflicting ballot measure or initiative approved by the voters at the same election, and the conflicting law or ballot initiative is later held invalid, this Measure shall be self-executing and given full force of law.

SECTION 6: Amendment and Repeal.

This Measure may be amended or repealed only by a majority of the voters of the City voting in an election held in accordance with state law.

SECTION 7: Effective Date.

If this ordinance is approved by a simple majority of the voters voting on the issue at the Statewide Gubernatorial Primary Election on June 08, 2010, pursuant to Elections Code section 9217, the ordinance shall become effective ten (10) days after the City Council declares the

results of the election. Provided that a simple majority of the voters approve this ordinance, the City Clerk shall post and publish this ordinance within five days of the date the City Council declares the results of the election as provided by Sections 808 and 812 of the Charter of the City of Santa Clara.”

The polls will be open between the hours of 7:00 a.m. and 8:00 p.m. on the day of the election.

BALLOT ARGUMENTS:

Arguments for or against the ballot measure may be submitted to the City Clerk of the City of Santa Clara, 1500 Warburton Avenue, Santa Clara, CA 95050, not later than 5:00 p.m. on Wednesday, March 10, 2010.

The legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of such voters and associations, may file a written argument for or against any City measure. No argument shall exceed 300 words in length. A ballot argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or, if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted. If an argument is signed by more than five persons, the signatures of the first five shall be printed. (Elections Code Sections 9282 and 9283)

Printed arguments submitted shall be titled either “Argument In Favor of Measure ____” or “Argument Against Measure _____”, accordingly, the blank spaces being filled in only with the letter or number, if any, designating the measure. At the discretion of the City Clerk of the City of Santa Clara, the word “Proposition” may be substituted for the word “Measure” in such titles. Words used in the title shall not be counted when determining the length of the argument. (Elections Code Section 9282)

For the arguments filed, if any, the City Clerk of the City of Santa Clara will cause (i) an argument in favor of a City measure and/or (ii) an argument against said measure to be printed and a copy enclosed with each sample ballot. If more than one argument is submitted (i) in favor of a City measure and/or (ii) against said measure within the time prescribed, the City Clerk will select one of the respective arguments (i) in favor of and/or (ii) one of the arguments against the City measure for printing and distribution to the voters, giving preference and priority pursuant to Elections Code § 9287, in the order named, to the arguments of the following:

- (a) The legislative body, or member or members of the legislative body authorized by that body.
- (b) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
- (c) Bona fide associations of citizens.
- (d) Individual voters who are eligible to vote on the measure.

When the City Clerk has selected the arguments (i) in favor of and/or (ii) against the City measure which will be printed and distributed to the voters, he will send copies of the argument in support of the measure to the authors of the argument against, and copies of the argument against the measure to the authors of the argument in favor. No more than five persons may sign the rebuttal argument. The authors (or other person(s) authorized in writing by the authors) may

prepare, submit or sign the rebuttal arguments not exceeding 250 words. The rebuttal arguments must be filed with the City Clerk, not later than 5:00 p.m., Wednesday, March 17, 2010.

Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut and shall be titled "Rebuttal to Argument (for) or (against) Measure ___." Words used in the title shall not be counted when determining the length of any rebuttal argument.

PUBLIC INSPECTION OF ARGUMENTS:

Pursuant to Elections Code Section 9295, the ballot arguments and rebuttal arguments will be available in the City Clerk's Office for public inspection. Ballot arguments (both in favor of and against) will be available for public inspection on Thursday, March 11, 2010, (the day after the deadline for submission of the ballot arguments) and remain available for inspection for 10 calendar days. Rebuttal arguments will be available for public inspection on Thursday, March 18, 2010, and remain available for inspection for 10 calendar days. [Note: For both the argument and the rebuttal, the 10th calendar day falls on a Sunday.]

STATEMENT REQUIRED ON BALLOT ARGUMENT AND REBUTTAL FORM:

In accordance with Section 9600 of the Elections Code, all arguments and rebuttals filed pursuant to this notice shall be accompanied by the following statement, in substantially the form indicated below, to be signed by each proponent and by each author, if different, of the argument:

The undersigned proponent(s) or author(s) of the (primary/rebuttal) argument (in favor of/against) ballot measure (name or number) at the Special Municipal Election for the City of Santa Clara to be held on Tuesday, June 08, 2010, hereby state this argument is true and correct to the best of (his/her/their) knowledge and belief.

Signed:

Date:

Forms are available in the City of Santa Clara City Clerk's Office for the purpose of filing the primary and rebuttal argument in favor of or against the ballot measures.

Dated: _____

ROD DIRIDON, JR.
City Clerk
City of Santa Clara

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ORDINANCE NO. _____

AN ORDINANCE OF THE VOTERS OF THE CITY OF SANTA CLARA, CALIFORNIA, DECLARING THE CITY'S POLICY REGARDING THE LEASE OF CITY-OWNED LAND FOR THE CONSTRUCTION AND OPERATION OF A STADIUM TO BE USED FOR PROFESSIONAL FOOTBALL GAMES AND OTHER PURPOSES

THE PEOPLE OF THE CITY OF SANTA CLARA DO ORDAIN AS FOLLOWS:

PURPOSES

WHEREAS, this Ordinance will further the goal of the City of Santa Clara of enhancing an entertainment destination in the Bayshore North Redevelopment Project Area by establishing policies for the leasing of City-owned land for construction and operation of a stadium for professional football and other purposes which will provide significant economic benefits to the City and its residents and businesses; and,

WHEREAS, the development of a professional football stadium will create new jobs for the residents of the City of Santa Clara and the surrounding communities, bring economic benefit to the Convention Center and surrounding businesses and will encourage the further development of the Bayshore North Redevelopment Project Area; and,

WHEREAS, this Ordinance will ensure that the lease of City-owned land for a stadium will be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara, known as the Santa Clara Stadium Authority; and,

WHEREAS, the Stadium Authority will construct the stadium and own and operate the stadium for the term of the lease; and,

WHEREAS, the City Council has endorsed a Term Sheet, on file in the Office of the City Clerk, that provides a broad framework for the development and operation of the Stadium; and,

WHEREAS, this Ordinance will ensure that the lease and other City actions will require a fixed base rent and performance based rent for the City property; that no City general fund or enterprise fund monies will be used for the construction of the stadium except for the relocation of an electrical substation; that the Redevelopment Agency of the City of Santa Clara will limit any contributions for the development of the stadium to no more than Forty Million Dollars (\$40,000,000), exclusive of debt service and issuance costs and payments to the City for development fees; a private party will be responsible for any construction cost overruns and for payment of rent to assure operating expenses; and that the professional football team will play its regular and post-season home games at the stadium, as prescribed by the National Football League.

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

SECTION 1: Title.

This ordinance shall be known as the “Professional Football Stadium Ground Lease Measure.”

SECTION 2: Santa Clara City Code Amendments.

That Chapter 17.20 (entitled “Professional Football Stadium Ground Lease”) is hereby added to Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“Santa Clara City Code” or “SCCC”) to read as follows:

“CHAPTER 17.20

PROFESSIONAL FOOTBALL STADIUM GROUND LEASE

Sec. 17.20.010 Purpose.

This Chapter is intended to further the City’s goal of creating an enhanced entertainment destination in the Bayshore North Redevelopment Project Area by providing for the development and operation

of a stadium suitable for professional football and other events (the “Stadium”) in a manner that will provide a long-term revenue stream to the City.

Sec. 17.20.020 Required Terms for a Ground Lease for a Stadium.

Any ground lease by the City of Santa Clara (“City”) of City property for the development and operation of a Stadium shall be consistent with all of the following minimum requirements:

- (a) Any ground lease of City property for development and operation of a Stadium (“Ground Lease”) shall be to a joint powers authority created by the City and the Redevelopment Agency of the City of Santa Clara (the “Agency”) to be known as the Santa Clara Stadium Authority (the “Stadium Authority”), so that the City maintains ownership of the fee interest in the site.
- (b) The City shall not use or pledge any money from the City’s general fund or enterprise funds for the development of the Stadium; provided, however, that if the City decides to relocate or reconfigure the electrical substation in the vicinity of the Stadium site, the Ground Lease or other agreements may provide that the City shall be responsible for the cost of that relocation or reconfiguration.
- (c) The City shall not subordinate its interest in the Stadium site or in any other property or in the Ground Rent to any financing or subsequent refinancing of the Stadium, and no City general fund monies or enterprise fund monies may be pledged as collateral for any Stadium Authority financing or subsequent refinancing.
- (d) The Ground Lease shall provide that the initial term of the Ground Lease shall be for forty (40) years.
- (e) The Ground Lease shall require that construction of the Stadium shall not commence unless a private party (the “Private Tenant”) has entered into a lease of the Stadium

or the Stadium site from the Stadium Authority (the “Private Tenant’s Lease”) that provides for use of the Stadium as the home of one or two professional football teams and other events. Professional football games and other events associated with professional football that are conducted pursuant to the Private Tenant’s Lease are hereinafter referred to in this Chapter as “NFL Events.”

- (f) The Ground Lease shall require payment by the Stadium Authority to the City’s general fund of fixed base rent totaling Forty Million Eight Hundred Seventy-Five Thousand Dollars (\$40,875,000), in nominal dollars, over the initial forty (40) year term of the Ground Lease, with annual fixed base rent commencing in the first year of Stadium operations and increasing periodically over the term of the Ground Lease to a minimum of One Million Dollars (\$1,000,000) beginning in the eleventh (11th) year of Stadium operations. The Ground Lease shall require that if a second professional football team (a “Second Team”) makes a long term commitment to play its home games at the Stadium, the minimum annual fixed base rent payable to the City’s general fund under this subparagraph shall be increased by One Million Dollars (\$1,000,000) commencing in the first year the Second Team plays its home games at the Stadium.
- (g) In addition to the fixed base rent, the Ground Lease shall require payment by the Stadium Authority into the City’s general fund of performance based rent which, together with the fixed base rent, the City Council has determined is projected to provide fair market rent to the City. Performance based rent shall be pursuant to a formula that provides for sharing of the revenues less expenses of Non-NFL Events at the Stadium. As used herein, the term “Non-NFL Events” means events such as

concerts and sporting events that are approved by the Stadium Authority and the Private Tenant, excluding NFL Events. The fixed base rent and performance based rent payable by the Stadium Authority to the City under the Ground Lease, as provided in this and the preceding subparagraph, are referred to in this Chapter as “Ground Rent.”

- (h) The Ground Lease shall require that contributions to the construction costs of the Stadium by the Agency shall not exceed Forty Million Dollars (\$40,000,000), exclusive of debt service and other financing costs and payments to the City for development fees. The Ground Lease shall also provide that, if a Second Team makes a long term commitment to play its home games at the Stadium, the City or Agency shall receive the amounts the Agency actually contributed toward the construction costs of the Stadium in accordance with this subparagraph, exclusive of debt service and other financing costs. The City or Agency shall also receive any amounts paid by the Agency to the City for development fees for the Stadium.
- (i) Neither the Ground Lease nor any other agreements related to the development of the Stadium shall rely upon the imposition of any new or increased taxes for the development, operation or maintenance of the Stadium; provided, however that the foregoing shall not apply to a special tax based on hotel room revenue in a financing district that is approved by a vote of the requisite number of affected hotel land owners within the district. If hotel land owners in the district approve such a special tax on hotel revenue, such tax proceeds may 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 and any remaining tax proceeds may be used for other eligible financing district purposes.

- (j) Neither the City nor its Redevelopment Agency shall be liable for the obligations of the Stadium Authority, including operating and maintenance expenses of the Stadium, provided that the City may elect to pay operating and maintenance expenses of events conducted or approved by the City that are not NFL Events or Non-NFL Events.
- (k) The Private Tenant's Lease shall require the Private Tenant to pay any cost overruns incurred in construction of the Stadium. For this purpose, "cost overruns" means any actual costs that exceed funds available to the Stadium Authority from the sources identified in the development budget approved by the Stadium Authority and any other sources available to the Stadium Authority to fund the construction costs of the Stadium.
- (l) The Private Tenant's Lease shall require the Private Tenant to pay rent to the Stadium Authority that the City Council has determined will provide the Stadium Authority with funds required to pay the Ground Rent and operating and maintenance expenses of the Stadium. For this purpose, operating and maintenance expenses shall include, without limitation, day-to-day expenses of operating and maintaining the Stadium, deposits to a reserve for capital improvements, and reimbursement of reasonable costs incurred by the City in providing public safety and traffic management related to NFL Events and Non-NFL Events, but shall not include expenses of events that are conducted by the City or Stadium Authority that are not approved by the Private Tenant.

- (m) The Ground Lease shall require that following the opening of the Stadium the City shall receive, in addition to the Ground Rent, a fee equal to thirty-five cents (\$0.35) per ticket on each ticket for professional football games in the Stadium up to a maximum of Two Hundred Fifty Thousand Dollars (\$250,000) per year (the “Senior and Youth Program Fee”). The Senior and Youth Program Fee is to be used for City programs for parks and recreation and libraries, such as senior activities and the “Youth Championship Team Fund.”

Sec. 17.20.030 Council Determinations.

Section 17.20.020 of this Code is the legislative policy of the City and provides the ways and means of accomplishing that legislative policy. Where Section 17.20.020 provides for any determination or approval by the City Council, such determination or approval shall be made by the City Council taking into account the Purposes of the voter approved measure enacting this Chapter, and shall be made on or before the Council’s approval of an agreement that commits the City to enter into a Ground Lease.”

SECTION 3: Implementation of this Measure.

A. Upon the effective date of this Measure, the provisions of Section 2 of this Measure are hereby adopted as an ordinance of the City to be codified in the Santa Clara City Code.

B. Upon the effective date of this Act, the City Manager shall promptly take such administrative steps consistent with the legislative policy established by section 17.20.020 as may be required to implement this Act, including but not limited to revising any Santa Clara City Code figures or tables. The City shall proceed as expeditiously as possible to implement this Measure, including, but not limited to, pursuing a Ground Lease of the Stadium site consistent with the requirements set forth in Section 2 above.

C. If necessary and if permitted by law, the City shall amend any provisions of the Santa Clara City Code, in order to implement this Measure and to ensure consistency and correlation between this Measure and other provisions of the Santa Clara City Code.

D. The City may reorganize, reorder and renumber the Santa Clara City Code as necessary to further the purposes of this Measure.

SECTION 4: Interpretation and Severability.

A. This Measure shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Measure. The voters hereby declare that this Measure, and each section, sub-section, sentence, clause, phrase, part or portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part or portion is found to be invalid. If any provision of this Measure is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Measure that can be given effect without the invalid application.

B. This Measure shall be broadly construed in order to achieve the purposes stated in this Measure. The provisions of this Measure shall be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth herein.

SECTION 5: Conflicting Measures.

A. This Measure is intended to be comprehensive. In the event that this Measure and another measure or initiative relating to the same subject appear on the same election ballot, the provisions of the other measure or initiative shall be deemed to be in conflict with this Measure. In the event this

Measure shall receive the greater number of affirmative votes, the provisions of this Measure shall prevail in their entirety, and all provisions of the other measure or initiative shall be null and void.

B. If this Measure is approved by the voters but superseded by law or by any other conflicting ballot measure or initiative approved by the voters at the same election, and the conflicting law or ballot initiative is later held invalid, this Measure shall be self-executing and given full force of law.

SECTION 6: Amendment and Repeal.

This Measure may be amended or repealed only by a majority of the voters of the City voting in an election held in accordance with state law.

SECTION 7: Effective Date.

If this ordinance is approved by a simple majority of the voters voting on the issue at the Statewide Gubernatorial Primary Election on June 08, 2010, pursuant to Elections Code section 9217, the ordinance shall become effective ten (10) days after the City Council declares the results of the election. Provided that a simple majority of the voters approve this ordinance, the City Clerk shall post and publish this ordinance within five days of the date the City Council declares the results of the election as provided by Sections 808 and 812 of the Charter of the City of Santa Clara.

APPROVED by the following vote of the People of the City of Santa Clara on _____, 2010.

Yes: _____
No: _____

PASSED this _____ day of _____, 2010, by the following vote:

AYES: COUNCILORS:
NOES: COUNCILORS:
ABSENT: COUNCILORS:
ABSTAINED: COUNCILORS:

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