Santa Clara
All-America City
2001

City Manager's Office

August 29, 2012

Department of Finance
Attn: Redevelopment Administrator
915 L Street, Suite #1125
Sacramento, CA 95814

redevelopment_administration@dof.ca.gov

Re: Settlement of 49ers vs. Oversight Board for the Successor Agency to the Santa Clara Redevelopment Agency

Dear Ladies and Gentlemen:

Attached you will find copies of a Resolution approved by the Oversight Board for the Successor Agency to the Santa Clara Redevelopment Agency on August 22, 2012 approving a Settlement Agreement in Forty Niners SC Stadium Company, LLC vs. Oversight Board and an amendment to the Recognized Obligation Payment Schedule for the period of July 1, 2012 through December 31, 2012.

The Settlement Agreement resolves pending litigation against the Oversight Board, the Santa Clara County Auditor-Controller, the Santa Clara County Finance Agency and the County of Santa Clara. The action was brought after the Oversight Board on June 22, 2012 voted (i) to terminate certain agreements entered into between the former Redevelopment Agency of the City of Santa Clara, the Santa Clara Stadium Authority and Forty Niners SC Stadium Company, LLC and (ii) not to place the agreements on the ROPS as enforceable obligations. The Oversight Boards' action on June 22, 2012 was based on Health and Safety Code Section 34181(d).

The Forty Niners filed a writ of mandate in Sacramento Superior Court and requested a temporary restraining order, restraining the County Auditor-Controller from disbursing any funds being held in the Redevelopment Property Tax Trust Fund (RPTTF) for distribution for the second ROPS period. The temporary restraining order was issued by the Court after the Court found that there was a substantial likelihood that the Forty Niners would prevail on their request for a writ of mandate.

The underlying agreements at issue include a Cooperation Agreement entered into between the former Redevelopment Agency and the Santa Clara Stadium Authority dated February 22, 2011 and a Predevelopment Funding Agreement between the Redevelopment Agency, the Santa Clara Stadium Authority and the Forty Niners entered into on March 21, 2012 (copies of the agreements are attached). Pursuant to the terms of these agreements, the former Redevelopment Agency was required to pay an amount not to exceed $41.6 million to the Stadium Authority for the development and construction of a publicly owned stadium. The former Redevelopment Agency funds were to be a combination of cash on hand, bond proceeds and future tax increment. The terms of the Predevelopment Funding Agreement established a process where the Forty Niners would advance funds to the Stadium Authority

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for costs related to the Stadium development, and each such advance was treated as an advance by the Stadium Authority to the Redevelopment Agency to be repaid from property tax received by the Redevelopment Agency. The Forty Niners advanced $30,249,620 to the Stadium Authority.

After issuance of the temporary restraining order, the Forty Niners and the Oversight Board entered into settlement negotiations and came to agreement on the settlement terms. The Settlement Agreement provides for a defined payment schedule to repay the $30,249,620 in advances made by the Forty Niners. The terms of the Settlement also ensure that each year there will be distributions to the taxing entities from the RPTTF as indicated on Exhibit C attached to the Settlement Agreement. Under the terms of the Settlement Agreement, the Forty Niners have reduced the interest rate on the advances from 5.73% to 4% and have waived the interest on the first payment. The proposed payment provisions set forth in the Settlement Agreement reduce the total payment to the Forty Niners from an estimated $52 million prior to the Redevelopment Agency's dissolution to approximately $34 million as a result of the interest rate reduction and the shortened payment period.

We would be happy to provide you with any additional information you may need regarding this matter and your review. Please feel free to call me or our attorney, Karen Tiedemann at 510-836-6336. You may also contact the Oversight Board's legal counsel, Hilda Cantú Montoy, at 559-579-8358.

Sincerely,

Ronald E. Garratt
Interim City Manager

Enclosures

cc: Hilda Cantú Montoy, Oversight Board Counsel
Harry O'Brien
Karen Tiedemann
Vinod Sharma, Auditor-Controller, Santa Clara County
State Controllers Office
Justyn Howard, State Capitol, Department of Finance
Steve Szalay, State Capitol, Department of Finance
Jennifer Rockwell, State Capitol, Department of Finance

## RESOLUTION NO. 2012-3 (OVERSIGHT BOARD)

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA APPROVING SETTLEMENT AGREEMENT BY AND AMONG FORTY NINERS SC STADIUM COMPANY, LLC, SANTA CLARA STADIUM AUTHORITY, SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY, AND OVERSIGHT BOARD; APPROVING SUCCESSOR AGENCY'S APPROVAL AND EXECUTION OF SETTLEMENT AGREEMENT; AND APPROVING AMENDMENT TO RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JULY TO DECEMBER 31, 2012 AS SET FORTH IN SETTLEMENT AGREEMENT**

**WHEREAS**, on June 29, 2011, California Assembly Bill x1 26 became law as the "Dissolution Act" enacted as Health and Safety Code sections 34170 *et seq.*;

**WHEREAS**, under the Dissolution Act, the Redevelopment Agency was dissolved and the Successor Agency was established to assume its obligations and wind down its affairs and the Oversight Board was established to oversee, direct, and approve certain actions of the Successor Agency;

**WHEREAS**, Health and Safety Code section 34177 provides that the Successor Agency must prepare a Recognized Obligation Payment Schedule ("ROPS") every six months for the enforceable obligations of the former Redevelopment Agency;

**WHEREAS**, Health and Safety Code section 34171 defines a ROPS as "the document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period";

**WHEREAS**, Health and Safety Code section 34177(l)(2)(A) provides, that a ROPS shall not be deemed valid unless certain conditions have been met including listing of the enforceable obligations and the projected dates and amounts of scheduled payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would

have been authorized to obligate property tax increment had the redevelopment agency not been dissolved;

**WHEREAS,** the ROPS prepared by the Successor Agency must be reviewed and approved by the Oversight Board for submittal to the County Auditor-Controller, the State Controller and the California Department of Finance;

**WHEREAS,** payments designated in a ROPS may not be made until the California Department of Finance has approved the ROPS;

**WHEREAS,** disputes have arisen by and among Forty Niners SC Stadium Company LLC ("StadCo") and the Oversight Board relating to:

(i) whether certain agreements constitute enforceable obligations, namely: an agreement, entitled "Cooperation Agreement To Assist Publicly-Owned Stadium" ("Cooperation Agreement"), between Santa Clara Stadium Authority and the Redevelopment Agency of the City of Santa Clara, and an agreement, entitled "Predevelopment Funding Agreement" between the Stadium Authority, the Successor Agency and StadCo with both referenced in this resolution as the "Stadium Agreements";

(ii) whether the Stadium Agreements should be placed on the ROPS;

(iii) whether disbursement of monies is required to be made to StadCo under the ROPS; and,

(iv) whether the Stadium Agreements may be terminated;

**WHEREAS,** on June 22, 2012, the Oversight Board voted to terminate the Stadium Agreements and not to place the Stadium Agreements on the ROPS;

**WHEREAS,** on June 27, 2012, StadCo filed a Petition for Writ of Mandate requesting the Court to order the Oversight Board to rescind its action to terminate the Stadium Agreements and to order the Oversight Board to approve an Amended ROPS including the Stadium Agreements as enforceable obligations;

**WHEREAS,** on June 28, 2012, StadCo filed an application in the Writ Action for an order restraining Vinod Sharma, in his official capacity as Director of the Finance Agency of the County of Santa Clara and County Auditor-Controller, the Finance Agency of the County of Santa Clara and the County of Santa Clara from disbursing $12,803,943, that StadCo contended should have been disbursed to satisfy obligations under the Stadium Agreements but as a consequence of the June 22, 2012, action by the Oversight Board would be disbursed to taxing entities;

**WHEREAS,** on July 3, 2012, the Superior Court issued a Temporary Restraining Order staying the Oversight Board's June 22 action and prohibiting the Auditor-Controller from releasing those monies to any taxing entities pending a Court hearing on the merits of StadCo's Writ;

**WHEREAS,** StadCo and the Oversight Board have participated in settlement discussions and have negotiated a compromise of their disputes as set forth in the Settlement Agreement by and among StadCo, the Stadium Authority, the Successor Agency and the Oversight Board which is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth;

**WHEREAS,** the Successor Agency and the Stadium Authority have approved and authorized the execution of the Settlement Agreement;

**WHEREAS,** among the terms and conditions in the Settlement Agreement is the designation of certain obligations and payments to StadCo in the ROPS in accordance with the Settlement Agreement;

**WHEREAS,** as a result of the payment schedule under the Settlement Agreement, Taxing Entities and StadCo will receive an allocation from the funds currently held by the County Auditor-Controller if: (i) this resolution is approved by the Oversight Board; (ii) this resolution (and the actions approved hereunder) is approved by the California Department of Finance; and, (iii) the Superior Court for the County of Sacramento enters Judgment for payments in accordance with the Settlement Agreement;

**WHEREAS,** the initial payment to StadCo and subsequent payments to StadCo in future ROPS shall be made in accordance with the payment schedule in the Settlement Agreement; and,

**WHEREAS,** payments to taxing entities will be made in accordance with the Dissolution Act.

**NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA AS FOLLOWS:**

**SECTION 1.** The Oversight Board hereby finds that the recitals set forth above are true and correct and are incorporated into this resolution by this reference as if fully set forth.

**SECTION 2.** The Oversight Board hereby approves the Settlement Agreement by and among StadCo, the Stadium Authority, the Successor Agency, and the Oversight Board as set forth in Exhibit A and authorizes the Chairperson of the Oversight Board to execute the Settlement Agreement on behalf of the Oversight Board with such minor and technical revisions as are reasonably determined necessary by the Chairperson. The Chairperson, acting on behalf of the Oversight Board, is authorized to implement the Settlement Agreement and take all further actions and execute all other documents which are necessary and appropriate to carry out the Settlement Agreement.

**SECTION 3.** Payment in accordance with the Settlement Agreement shall be designated in respective ROPS. The Successor Agency's amendment to the ROPS for July 1, 2012, to December 31, 2012, is hereby approved to include the ROPS payment set forth in the Settlement Agreement. Subsequent ROPS will include payment as set forth in the Settlement Agreement.

**SECTION 4.** The Successor Agency is directed to provide this resolution, including exhibits, and the Amended ROPS for July 1, 2012, to December 31, 2012, together with written notice and information about this action, to the California Department of Finance, the County Auditor-Controller, and the State of California Controller as required by law and to post this resolution on the Successor Agency's website as required by law.

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**SECTION 5.** Pursuant to Health and Safety Code section 34179(h), this resolution and the actions approved thereunder shall not be effective until five (5) business days after notice has been provided to the Department of Finance, unless the State of California Department of Finance requests a review.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution passed and adopted by the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of Santa Clara at a special meeting thereof held on the 22nd day of August, 2012, by the following vote:

| | | |
|---|---|---|
| AYES: | BOARD MEMBERS: | Ameling, Maduli, Matthews, Plough and Singh and Chairperson Gage |
| NOES: | BOARD MEMBERS: | Putris |
| ABSENT: | BOARD MEMBERS: | None |
| ABSTAIN: | BOARD MEMBERS: | None |

APPROVE:

Don Gage
Chairperson

ATTEST:

Jennifer Yamaguma
Clerk to the Oversight Board

Attachments incorporated by reference:
*1. Exhibit A: Settlement Agreement including exhibits thereto and Amended ROPS for July through December 31, 2012*

# SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement"), dated, for reference purposes only, as of August 22, 2012, is entered into by and among Forty Niners SC Stadium Company LLC ("StadCo"); the Oversight Board of the Successor Agency to the City of Santa Clara Redevelopment Agency, a public entity (the "Oversight Board"); the Santa Clara Stadium Authority, a joint exercise of powers entity, created through Government Code Section 6500, *et seq.* ("SCSA"); and the Successor Agency to the City of Santa Clara Redevelopment Agency, a public agency of the State of California (the "Successor Agency") (collectively, the "Parties").

## RECITALS

A. On February 28, 2011, SCSA and the Redevelopment Agency for the City of Santa Clara (the "Redevelopment Agency") entered into the Cooperation Agreement to Assist Publicly-Owned Stadium (the "Cooperation Agreement"). StadCo is an express third-party beneficiary of the Cooperation Agreement.

B. The Cooperation Agreement requires the Redevelopment Agency to pay an amount not to exceed $41.6 million to SCSA for the development and construction of a new football stadium in the City of Santa Clara (the "Stadium"). The Cooperation Agreement provides for the Redevelopment Agency to satisfy its obligation to SCSA through a combination of available cash on hand, proceeds from tax allocation bonds and other financings, and the pledge of tax increment received by the Redevelopment Agency for the Project Area.

C. On March 21, 2011, SCSA, the Redevelopment Agency and StadCo entered into the Predevelopment Funding Agreement. The Cooperation Agreement and the Predevelopment Funding Agreement are referred to herein collectively as the "Stadium Agreements."

D. The Predevelopment Funding Agreement established a process by which StadCo would advance funds to SCSA to pay predevelopment costs of the Stadium (the "StadCo

Advance"), with each such advance treated as a contemporaneous advance by SCSA to the Redevelopment Agency (the "SCSA Advance"). As StadCo expended funds on behalf of SCSA to pay predevelopment costs of the Stadium, those funds become repayable to StadCo by SCSA, with SCSA, in turn, entitled to repayment of that amount from the Redevelopment Agency. Interest accrues on the StadCo Advance and the SCSA Advance at a rate of 5.73% per annum.

E. Pursuant to the Stadium Agreements, StadCo advanced funds to pay predevelopment costs on account of the StadCo Advance in the amount of $30,249,620, and SCSA delivered a promissory note (the "StadCo Note") to StadCo dated March 28, 2012 to evidence the StadCo Advance.

F. The Stadium is now under construction on property owned by the City of Santa Clara (the "City"). The City has leased the property to SCSA. SCSA, in turn, leased the facility to StadCo.

G. On June 29, 2011, California Assembly Bill 1x26 became law, adding Health and Safety Code sections 34170 *et seq.* (as amended by AB 1484 enacted on June 25, 2012, the "Dissolution Act"). Under the Dissolution Act, the Redevelopment Agency was dissolved and the Successor Agency was established to assume its existing contractual obligations and to wind down its affairs. The Oversight Board was established to oversee, direct, and approve certain actions of the Successor Agency.

H. The Successor Agency succeeded to the Redevelopment Agency's "Enforceable Obligations," as defined by Health and Safety Code section 34171. Enforceable Obligations are required to be listed on a "Recognized Obligations Payment Schedule," or "ROPS." Health and Saf. Code § 34171(h). As of May 1, 2012, "only those payments listed in the [ROPS] may be made by the successor agency . . . ." Health and Saf. Code § 34177. The Successor Agency

prepares the ROPS, which are then subject to approval by the Oversight Board. Health and Saf. Code § 34180. New or amended ROPS are approved once every six months. Health and Saf. Code § 34177. The ROPS are submitted to the County Auditor-Controller, the DOF and the State Controller. Distribution of funds to the Successor Agency for payment of Enforceable Obligations and distribution to taxing entities is made by the County Auditor-Controller.

I. Actions of the Oversight Board become effective five business days after notice of such action is given to the State Department of Finance ("DOF"), unless DOF requests review of the action within such five business days. If DOF requests review, the Oversight Board action is not effective until approved by DOF. Health and Saf. Code § 34179(h).

J. Good faith disputes have arisen between StadCo and the Oversight Board regarding whether the Redevelopment Agency's obligations under the Stadium Agreements constitute Enforceable Obligations, whether the Redevelopment Agency's obligations under the Stadium Agreements are required to be listed on the ROPS, and over the scope of the Oversight Board's power to terminate the Redevelopment Agency's obligations under the Stadium Agreements and the effect of any such termination.

K. At its June 22, 2012 meeting, the Oversight Board approved a motion (the "June 22 Motion") stating as follows: (1) that pursuant to 34181(d), the Oversight Board terminated the Cooperation Agreement and those portions of the Predevelopment Funding Agreement that related to the Redevelopment Agency's Obligation in the Cooperation Agreement because such termination would be in the "best interests of the affected taxing entities"; and (2) no stadium-related obligations would be placed on the ROPS for the period from July 1, 2012 to December 31, 2012 ("ROPS 2").

L. On June 27, 2012, StadCo filed a Petition for Writ of Mandate, entitled *Forty Niners SC Stadium Company LLC v. Oversight Board of the Successor Agency to the City of Santa Clara Redevelopment Agency, et al*, Sacramento County Superior Court, Case No. 34-2012-800011192 (the "Action"). The Petition prayed for, *inter alia*, a writ of mandate under Code of Civil Procedure § 1085, directing the Oversight Board to withdraw or nullify the June 22 Motion, and to approve an amended ROPS that would include the Redevelopment Agency's obligations under the Stadium Agreements.

M. On June 28, 2012, StadCo filed an application in the Action for an order restraining Vinod Sharma, in his official capacity as Director of the Finance Agency of the County of Santa Clara and the Auditor-Controller for the County of Santa Clara (the "Auditor-Controller"), the Finance Agency of the County of Santa Clara (the "Finance Agency"), and the County of Santa Clara (the "County") from disbursing certain monies that StadCo contended should have been disbursed to satisfy obligations under the Stadium Agreements, but that, as a consequence of the June 22 Motion, were to be distributed to various taxing agencies.

N. On July 3, 2012, the Court issued an order restraining the Auditor-Controller, the County, and the Finance Agency from disbursing those monies pending a trial on the merits of the Petition.

O. On July 24, 2012, the Oversight Board rescinded that portion of the June 22 Motion that terminated the Cooperation Agreement and the portion of the Predevelopment Funding Agreement related to the Redevelopment Agency's Obligation in the Cooperation Agreement. The Oversight Board did not amend the portion of the June 22 Motion which determined "to not place the Stadium Agreements on the ROPS."

P. The Parties desire to fully and finally resolve these disputes, and to enter into a final and complete resolution with respect to these matters on the following terms. This Agreement constitutes a negotiated compromise of disputes for which a fully litigated outcome is uncertain. Under this Agreement, StadCo accepts a reduction in the financial benefits to which it would be entitled if it were to prevail in the Action, while the Oversight Board accepts a reduction in the funds that would be available for distribution to taxing entities if it were to prevail in the Action.

## AGREEMENT

1. Recitals. The above recitals and these terms and conditions are contractual and not merely recitals and the agreements contained herein are made to satisfy rights and obligations between and among the Parties.

2. Meaning of Terms. The following capitalized terms, when used in this Agreement, shall have the meaning set forth below.

(a) "Action" means *Forty Niners SC Stadium Company LLC v. Oversight Board of the Successor Agency to the City of Santa Clara Redevelopment Agency, et al*, Sacramento County Superior Court, Case No. 34-2012-800011192.

(b) "Agreement" refers to this Settlement Agreement.

(c) "Approve," "Approved," or "Approval," when used in connection with the authority of the State Department of Finance ("DOF") to approve an action by the Oversight Board, means that either: (1) DOF has communicated its express written approval to the Oversight Board, or (2) the Oversight Board has provided notice to the DOF in the manner required by Health and Safety Code Section 34179(h) and the DOF has not requested a review of such action within five (5) business days after such notice.

(d) "Auditor-Controller" means Vinod Sharma, the Auditor-Controller for the County of Santa Clara.

(e) "City" means the City of Santa Clara.

(f) "Cooperation Agreement" means the Cooperation Agreement to Assist Publicly-Owned Stadium, dated as of February 28, 2011.

(g) "County" means the County of Santa Clara.

(h) "Dissolution Act" means California Health and Safety Code sections 34170 *et seq*.

(i) "DOF" means the State Department of Finance.

(j) "Enforceable Obligations" has the meaning set forth in California Health and Safety Code section 34171(d).

(k) "Final Payment" has the meaning set forth in Paragraph 12 of this Agreement.

(l) "Finance Agency" means the Finance Agency for the County of Santa Clara.

(m) "Full Effective Date" means the date when the conditions set forth in subsections (a), (b), and (c) of Paragraph 4 have been satisfied and Judgment has been entered pursuant to Paragraph 7.

(n) "Initial Effective Date" means the date when the last of the conditions set forth in Paragraph 4 of this Agreement has been satisfied.

(o) "Initial Payment" has the meaning set forth in Paragraph 4(b) of this Agreement.

(p) "Judgment" means a final judgment entered in the Action, in a form substantially similar to Exhibit B to this Agreement, with such other modifications as may be agreed by the Parties.

(q) "June 22 Motion" has the meaning set forth in Paragraph K of the recitals to this Agreement.

(r) "Oversight Board" means the Oversight Board of the Successor Agency to the City of Santa Clara Redevelopment Agency.

(s) "Parties" means StadCo, SCSA, the Oversight Board, and the Successor Agency.

(t) "Predevelopment Funding Agreement" means the Predevelopment Funding Agreement, dated as of March 21, 2011.

(u) "Redevelopment Agency" means the City of Santa Clara Redevelopment Agency.

(v) "ROPS," or "Recognized Obligation Payment Schedule," has the meaning set forth in California Health and Safety Code section 34171(h).

(w) "ROPS 2" has the meaning set forth in Paragraph K of the recitals to this Agreement.

(x) "Revised ROPS 2" has the meaning set forth in Paragraph 4(b) of this Agreement.

(y) "SCSA" means the Santa Clara Stadium Authority.

(z) "SCSA Advance" has the meaning set forth in Paragraph D of the recitals to this Agreement.

(aa) "StadCo" means the Forty Niners SC Stadium Company LLC.

(bb) "StadCo Advance" has the meaning set forth in Paragraph D of the recitals to this Agreement.

(cc) "StadCo Note" has the meaning set forth in Paragraph E of the recitals to this Agreement.

(dd) "Stadium Agreements" means the Cooperation Agreement and the Predevelopment Funding Agreement.

(ee) "Stadium" means that new football stadium currently being constructed in the City of Santa Clara, and which will serve as the new home stadium for the San Francisco Forty Niners NFL Football Team.

(ff) "Stipulation for Entry of Judgment" means the stipulation by and between StadCo, the Oversight Board and the Auditor-Controller in a form substantially similar to Exhibit A to this Agreement.

(gg) "Subsequent Payments" has the meaning set forth in Paragraph 10 of this Agreement.

(hh) "Successor Agency" means the Successor Agency to the City of Santa Clara Redevelopment Agency.

3. Conditions Precedent to Effectiveness of this Agreement. The effectiveness of this Agreement, and each Party's obligations hereunder, are expressly conditioned upon the satisfaction of the conditions for Initial Effective Date, as set forth below in Paragraph 4, and, except for the provisions that are effective on the Initial Effective Date, upon the satisfaction of the conditions for Full Effective Date, as set forth in Paragraph 5 below. If the conditions for the Initial Effective Date have not been satisfied by October 15, 2012, this Agreement shall

automatically terminate and no Party hereunder shall have any further obligation under this Agreement.

If all conditions to the Initial Effective Date have been satisfied, but the Judgment is not entered by stipulation pursuant to Paragraph 7, then the Oversight Board will appear in the Action, and will not oppose the issuance of the writ, as long as (i) StadCo agrees to limit the payment obligations set forth in the writ to the schedule and amounts set forth in Paragraphs 9 through 12 below and (ii) DOF's Approval of the Oversight Board's actions relating to this Agreement continues to be in effect.

4. Conditions for Initial Effective Date. When the conditions set forth in subsections (a), (b), and (c) of this Paragraph have been satisfied, then the rights and obligations of the Parties under this Agreement, other than those set forth in Paragraphs 8 through 12, become effective.

(a) Approval and execution of this Agreement by the Successor Agency, the SCSA, the Oversight Board, and StadCo; and

(b) Adoption by the Oversight Board of a revision to ROPS 2 (the "Revised ROPS 2") to add payment of an Enforceable Obligation to StadCo in the amount of $7,265,193 ( the "Initial Payment") on account of the Stadium Agreements; and

(c) DOF has Approved the Oversight Board's actions, as set forth in the resolution of the Oversight Board approving this Agreement, authorizing entry into this Agreement by the Successor Agency and the Oversight Board, and adopting Revised ROPS 2.

5. Conditions for Full Effective Date. When the conditions set forth in subsections (a), (b), and (c) of Paragraph 4 have been satisfied and Judgment has been entered pursuant to Paragraph 7, then this Agreement, in its entirety, is effective.

6. Rescission of June 22 Motion. Upon the Initial Effective Date of this Agreement, the remaining portion of the June 22 Motion that has not yet been rescinded; namely, that portion that determined to "not place any stadium-related obligations on the Recognized Obligation Payment Schedule," shall be deemed to be rescinded.

7. Judgment. Promptly upon the occurrence of the Initial Effective Date, the Parties will jointly submit the Stipulation for Entry of Judgment and the Judgment to the Sacramento Superior Court, in a form substantially similar to, respectively, Exhibits A and B to this Agreement. The Parties agree to work cooperatively, expeditiously, and in good faith to secure the execution of the Stipulation for Entry of Judgment by the Auditor-Controller.

8. Enforceable Obligations. The Parties agree that the payments set forth in Paragraphs 9 through 12 shall be deemed Enforceable Obligations. All ROPS designating these payments as Enforceable Obligations shall reference this Settlement Agreement and the Judgment entered pursuant to Paragraph 7. As such, the Successor Agency is subject to an Enforceable Obligation to provide such funds directly to StadCo to repay the StadCo Advance, the outstanding principal balance of which is $30,249,620, with interest accruing thereon as set forth in Paragraph 11. Such payments shall be made by the Successor Agency directly to StadCo, and shall be considered by SCSA and StadCo to have been paid by the Successor Agency to SCSA (and applied against the SCSA Advance), and then paid by the SCSA to StadCo (and applied against the StadCo Advance). The Successor Agency shall have no right to

recover, or to claim as offset, amounts previously paid by the Redevelopment Agency pursuant to the Stadium Agreements.

9. Initial Payment. Promptly upon the entry of Judgment, the Parties will cooperate in good faith to cause the Auditor-Controller to disburse the Initial Payment to StadCo, from funds currently held by the Auditor-Controller in the Redevelopment Property Tax Trust Fund, within three (3) business days following the entry of the Judgment.

10. Subsequent Payments. The Successor Agency and the Oversight Board agree that Enforceable Obligations to make payments ("Subsequent Payments") to StadCo shall be included on future ROPS as follows:

| Payment Date | Amount | ROPS Period |
|---|---|---|
| July 31, 2014 | $4,198,333 | July 1, 2014-December 31, 2014 |
| July 31, 2015 | 6,209,333 | July 1, 2015-December 31, 2015 |
| July 31, 2016 | 6,559,333 | July 1, 2016-December 31, 2016 |
| July 31, 2017 | 7,245,333 | July 1, 2017-December 31, 2017 |
| July 31, 2018 | Final Payment per Section 12 below | July 1, 2018-December 31, 2018 |

So long as the Initial Payment and each Subsequent Payment is listed as an Enforceable Obligation on the applicable ROPS by the Successor Agency and approved by the Oversight Board and funds to make such Initial Payment or Subsequent Payment are transferred to the Successor Agency for payment to StadCo, then the SCSA and StadCo shall waive any right to object to the distribution to taxing agencies in such ROPS period of amounts in excess of the Initial Payment or Subsequent Payments, if any, due in such ROPS period.

11. Interest on StadCo Advance. Under the Stadium Agreements and StadCo Note, interest accrues on the outstanding balance of both the SCSA Advance and the StadCo Advance at the rate of 5.73% per annum, as more particularly provided therein. In addition to accepting

the payment schedule as set forth above, StadCo and the SCSA have agreed, subject to the conditions set forth below, to waive the right to receive a portion of the interest otherwise due as follows:

i. If the Initial Payment is actually received by StadCo on or before October 31. 2012, StadCo and SCSA shall waive any right to receive interest accruing on the amount of the Initial Payment prior to the date of the Initial Payment.

ii. If each Subsequent Payment, including the Final Payment, is actually received by StadCo on or before December 31 of the calendar year of the July 31 Payment Date indicated in Paragraph 10 above, StadCo and SCSA shall waive any right to receive interest accruing on the SCSA Advance and the StadCo Advance in excess of that which would have accrued at the rate of four percent (4%) per annum.

12. Final Payment. The Subsequent Payment due on July 31, 2018 (the "Final Payment") shall be in the amount of the then-outstanding balance of principal and interest on the StadCo Advance, after taking into account, if applicable, the waivers of interest payments provided in Paragraph 11 above. If the Initial Payment is actually received by StadCo on or before December 31, 2012 and all of the Subsequent Payments, including the Final Payment, are actually received by StadCo on the Payment Date set forth in Paragraph 10 above (i.e., July 31 of the year in which such payment is to be made), then the amount of the Final Payment shall be $2,951,211, as reflected in the Amortization Schedule attached as Exhibit C. The Parties acknowledge that the amount of the Final Payment shall be subject to adjustment depending on the actual date that the Initial Payment and Subsequent Payments are received by StadCo and whether the conditions described in Paragraphs 10 and 11 above have been satisfied. Receipt by

StadCo of such Final Payment shall fully satisfy and discharge all obligations under this Agreement.

13. Right to Terminate. If the Judgment is entered by the Superior Court but is subsequently reversed, modified, vacated, or otherwise disturbed by a court of competent jurisdiction in a manner that invalidates or materially impacts the provisions this Agreement, any of the Parties shall have the right to terminate this Agreement by giving written notice to the other Parties within ten (10) days of the reversal, modification, vacation, or disturbance, in which case this Agreement shall terminate and all of the Parties' respective rights, obligations, and covenants hereunder shall terminate. Any termination, regardless of the reason therefor, shall have no effect on the validity, enforceability, or terms of the Stadium Agreements. Any termination of this Agreement under this paragraph shall operate prospectively only, and neither StadCo nor SCSA shall be obligated to return any payments received under the terms of this Agreement, nor shall any taxing entity be obligated to return any distributions received by it from the County Auditor-Controller under the terms of this Agreement. In the event of termination of this Agreement under this paragraph, regardless of the reason therefor, nothing in this Agreement shall be construed or deemed as a waiver of (i) any rights StadCo may have to enforce the Stadium Agreements, or (ii) any rights the Oversight Board may have to consider the Stadium Agreements unenforceable.

14. Cooperation; No Costs. Each of the Parties shall cooperate in good faith and exercise best efforts to complete, execute, and/or deliver any and all documentation reasonably required to effectuate any and all aspects of the settlement that is the subject of this Agreement. Each Party shall bear its own costs, including attorneys' fees, in connection with the Action, and the negotiation, execution and effectuation of this Agreement.

15. Notices. All notices, demands, or other communications provided for or permitted hereunder shall be made in writing and shall be by telecopier, courier service, overnight mail, or personal delivery:

(a) if to StadCo:

Larry MacNeil
Chief Financial Officer
San Francisco 49ers
4949 Centennial Blvd.
Santa Clara, CA 95054
Larry.macneil@niners.nfl.net

With copy to:
Harry O'Brien
Coblentz, Patch, Duffy & Bass
One Ferry Building, Suite 200
San Francisco, CA 94111
hobrien@cpdb.com

(b) if to the Oversight Board:

The Chairperson of the Oversight Board for the Successor Agency to the City of Santa Clara Redevelopment
c/o The Successor Agency to the Redevelopment Agency of the City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

With copy to:
Hilda Cantu Montoy
Montoy Law Corporation
2125 Kern Street, Suite 308
Fresno, CA 93721
hildac@montoylaw.com

(c) if to SCSA:

Executive Director
Santa Clara Stadium Authority
1500 Warburton Avenue
Santa Clara, CA 95050

With copy to:

Karen Tiedemann
Goldfarb & Lipman LLP
1300 Clay Street
Oakland, CA 94612
ktiedemann@goldfarblipman.com

(d) if to the Successor Agency:

The Successor Agency to the Redevelopment Agency of the City of Santa Clara
Attn: City Manager
1500 Warburton Avenue
Santa Clara, CA 95050

All such notices, demands, and other communications shall be deemed to have been duly given when delivered by hand, if personally delivered; when delivered by courier, if delivered by commercial courier service; when delivered by overnight mail, if delivered by overnight mail service; and when receipt is mechanically acknowledged, if telecopied or received by electronic mail. Any Party can, at any time, change its respective notice information by notice to all other Parties as set forth in this section.

16. Knowledge Of Content And Advice Of Counsel. Each of the Parties hereto acknowledges that such Party has fully read and comprehended the contents of this Agreement, and that such Party is in full agreement with each and every one of the terms, conditions, and provisions set forth herein. Each of the Parties further acknowledges that such Party has retained or has been advised to retain his, her or its own separate and independent counsel in connection with the negotiation, drafting, and execution of this Agreement, and has been fully advised and informed of the consequences of executing the Agreement.

17. Drafting; Headings. This Agreement shall be interpreted as if it were mutually prepared and drafted by all the Parties (regardless of which Party or Parties had primary drafting responsibility); such that any rule of construction that would otherwise require that ambiguities be resolved against the drafting party shall not apply. Pronouns shall be deemed to include

masculine, feminine and neuter gender and singular and plural numbers as appropriate. The section headings herein are for convenience only and shall have no force or effect in the interpretation of the substantive terms and conditions set forth in the text of this Agreement.

18. Choice Of Law, Jurisdiction, Enforcement. This Agreement shall be governed by the laws of the State of California. Pursuant to California Code of Civil Procedure Section 664.6, the Parties stipulate and agree that the Sacramento County Superior Court, upon motion, may enter judgment pursuant to the terms of this Agreement, and that the Court retains jurisdiction over the parties to enforce the Agreement until the StadCo Advance is repaid in full, or the obligations of the Stadium Agreements are otherwise fulfilled. The Parties agree that a breach of this Agreement will give rise to irreparable injury. Accordingly, any Party may seek and obtain specific performance of this Agreement, or injunctive relief against the breach or threatened breach of this Agreement pursuant to Code of Civil Procedure Section 664.6, or otherwise, in addition to obtaining any and all other remedies that may be available.

19. Attorneys' Fees. In the event of a dispute between the Parties, arising from or relating to this Agreement, the prevailing party shall be entitled to recover all of its reasonable attorneys' fees, costs, and litigation expenses (including, but not limited to, experts' fees) incurred in resolving said dispute.

20. Severability. If any provision or any part of this Agreement that does not go to the essential purpose of this Agreement shall be held to be invalid or unenforceable, for any reason, the remainder of this Agreement shall not be affected thereby, and shall remain in full force and effect.

21. Integration; No Reliance; No Modification. This Agreement, including exhibits, collectively constitutes the entire agreement and understanding of and between the Parties with

respect to the subject matter hereof and thereof, and to the extent they are inconsistent with or contradict any prior agreements and understandings, whether written or oral, express or implied, between them with respect thereto, this Agreement, including exhibits, collectively shall supersede and replace such prior agreements and understandings. Notwithstanding the foregoing, this Agreement, including exhibits, does not and shall not amend or modify the Stadium Agreements. Each Party acknowledges and agrees that it is entering into this Agreement, and proceeding with the transaction contemplated hereby, based upon its own investigation and evaluation, and that it has not relied on any other Party to this Agreement or on any promises, representations, or statements by any other Party with respect to past, present or future matters not expressly set forth in this Agreement. Any modification of this Agreement shall be specifically set forth in a writing which is executed by the Party to be bound.

**22.** Execution. This Agreement may be executed in duplicate counterparts and delivered by facsimile or electronic delivery (*e.g.*, PDF). Any executed counterparts, taken together, shall constitute the entire Agreement between the Parties. A facsimile or electronically delivered signature shall be deemed to have the force and effect of an original signature. In the event that a Party requests an original signature, the Party to whom the request is made shall promptly deliver an original signature to the requesting Party.

SIGNATURES FOLLOW ON NEXT PAGE

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly appointed representatives.

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

By: Larry MacNeil
Its: Vice President and Chief Financial Officer

THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY, a public entity

By: Don Gage
Its: Chairman

SANTA CLARA STADIUM AUTHORITY, a Joint Exercise of Powers Entity, created through Government Code sections 6500 *et seq.*

By: Ronald E. Garratt
Its: Executive Director

ATTEST:

ROD DIRIDON, JR.
Secretary

SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY, a public entity

By: Ronald E. Garratt
Its: Executive Officer

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly appointed representatives.

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Its: Executive Director

ATTEST:

ROD DIRIDON, JR.
Secretary

SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY, a public entity

By: Ronald E. Garratt
Its: Executive Officer

**APPROVED AS TO FORM:**

MONTOY LAW CORPORATION

By: Hilda Cantu Montoy
HILDA CANTU MONTOY, Attorney for OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY

COBLENTZ, PATCH, DUFFY & BASS LLP

By: _____
HARRY O'BRIEN
Attorneys for FORTY NINERS SC STADIUM LLC

GOLDFARB & LIPMAN LLP

By: _____
KAREN TIEDEMANN
Attorneys for SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY

ATTEST:

_____
ROD DIRIDON, JR.
Secretary

By: _____
RICHARD E. NOSKY
General Counsel for SANTA CLARA STADIUM AUTHORITY

APPROVED AS TO FORM:

MONTOY LAW CORPORATION

By: _____
HILDA CANTU MONTOY, Attorney for OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY

COBLENTZ, PATCH, DUFFY & BASS LLP

By: _____
HARRY O'BRIEN
Attorneys for FORTY NINERS SC STADIUM LLC

GOLDFARB & LIPMAN LLP

By: _____
KAREN TIEDEMANN
Attorneys for SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY

ATTEST:

_____
ROD DIRIDON, JR.
Secretary

By: _____
RICHARD E. NOSKY
General Counsel for SANTA CLARA STADIUM AUTHORITY

**APPROVED AS TO FORM:**

MONTOY LAW CORPORATION

By: _____
HILDA CANTU MONTOY, Attorney for OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY

COBLENTZ, PATCH, DUFFY & BASS LLP

By: _____
HARRY O'BRIEN
Attorneys for FORTY NINERS SC STADIUM LLC

GOLDFARB & LIPMAN LLP

By: _____
KAREN TIEDEMANN
Attorneys for SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY

ATTEST:

_____
ROD DIRIDON, JR.
Secretary

By: _____
RICHARD E. NOSKY
General Counsel for SANTA CLARA STADIUM AUTHORITY

**EXHIBIT A**
**FORM OF STIPULATION FOR ENTRY OF JUDGMENT**

JONATHAN R. BASS (State Bar No. 75779)
LAUREN S. KOWAL (Stat Bar No. 224976)
CHARMAINE G. YU (State Bar No. 220579)
COBLENTZ, PATCH, DUFFY & BASS LLP
One Ferry Building, Suite 200
San Francisco, California 94111-4213
Telephone: 415.391.4800
Facsimile: 415.989.1663
Email: ef-jrb@cpdb.com
ef-cgy@cpdb.com

Attorneys for Petitioner
FORTY NINERS SC STADIUM COMPANY LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SACRAMENTO**

| | |
|---|---|
| FORTY NINERS SC STADIUM COMPANY LLC,<br><br>Petitioner,<br><br>v.<br><br>OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY, a public agency of the State of California; VINOD K. SHARMA, Director of Santa Clara County Finance Agency and Auditor-Controller of the County of Santa Clara, in his official capacity; COUNTY OF SANTA CLARA FINANCE AGENCY, a public agency of the County of Santa Clara; COUNTY OF SANTA CLARA, a political subdivision of the State of California; and DOES 1 through 20,<br><br>Respondents. | Case No. 34-2012-80001192<br><br>**STIPULATION FOR ENTRY OF JUDGMENT**<br><br>Judge: Hon. Lloyd Connelly<br><br>Date:<br>Time:<br>Dept.: 33<br><br>Action Filed: June 27, 2012<br>Trial Date: January 4, 2013 |



COBLENTZ, PATCH, DUFFY & BASS LLP
One Ferry Building, Suite 200, San Francisco, California 94111-4213
415.391.4800 • Fax 415.989.1663

This stipulation is entered into by and among Petitioner Forty Niners SC Stadium Company LLC and Respondents Oversight Board of the Successor Agency to the City of Santa Clara Redevelopment Agency and Vinod K. Sharma, in his official capacity as Director of the Finance Agency of the County of Santa Clara and County Auditor-Controller.

A. Petitioner and Respondent Oversight Board entered into a written Settlement Agreement (the "Settlement Agreement") dated for reference purposes as August 22, 2012 to settle this action. The Santa Clara Stadium Authority, a joint exercise of powers entity, created through Government Code Section 6500, *et seq.* and the Successor Agency to the City of Santa Clara Redevelopment Agency, a public agency of the State of California (the "Successor Agency") are also parties to the Settlement Agreement but are not parties to the litigation or to this stipulation.

B. The Settlement Agreement provides in relevant part:

1. That subject to certain conditions precedent, the funds held by Respondent Vinod K. Sharma and subject to the Temporary Restraining Order issued by this Court on July 3, 2012 are to be distributed in part to the Successor Agency for payment to Petitioner and in part to Taxing Entities as defined in Health and Safety Code section 34171(k). This payment to Petitioner is deemed the "Initial Payment" under the Settlement Agreement and is required to be processed through an amendment to the Recognized Obligations Payment Schedule (ROPS), as defined in Health and Safety Code Section 34171 (h), for July through December 2012; and

2. That the Initial Payment and Subsequent Payments required to be made to Petitioner shall be deemed Enforceable Obligations under Health and Safety Code Section 34170 *et seq.* and shall be listed as Enforceable Obligations on specified future ROPS.

C. Petitioner and Respondents hereby stipulate that Judgment shall be entered in the form attached hereto as Exhibit "A."

SO STIPULATED.

COBLENTZ, PATCH, DUFFY & BASS LLP
One Ferry Building, Suite 200, San Francisco, California 94111-4213
415.391.4800 • Fax 415.989.1663

DATED: COBLENTZ, PATCH, DUFFY & BASS LLP

By: _____
JONATHAN R. BASS
Attorneys for Petitioner FORTY NINERS SC STADIUM COMPANY LLC

DATED: MONTOY LAW CORPORATION

By: _____
HILDA CANTU MONTOY
Attorneys for Respondent OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY

DATED: LORI E. PEGG
Acting County Counsel

By: _____
LIZANNE REYNOLDS
Attorneys for Respondents VINOD K. SHARMA, Director of Santa Clara County Finance Agency and Auditor-Controller of the County of Santa Clara, in his official capacity

COBLENTZ, PATCH, DUFFY & BASS LLP
One Ferry Building, Suite 200, San Francisco, California 94111-4213
415.391.4800 • Fax 415.989.1663

**EXHIBIT B**
**FORM OF JUDGMENT**

JONATHAN R. BASS (State Bar No. 75779)
LAUREN S. KOWAL (Stat Bar No. 224976)
CHARMAINE G. YU (State Bar No. 220579)
COBLENTZ, PATCH, DUFFY & BASS LLP
One Ferry Building, Suite 200
San Francisco, California 94111-4213
Telephone: 415.391.4800
Facsimile: 415.989.1663
Email: ef-jrb@cpdb.com
ef-cgy@cpdb.com

Attorneys for Petitioner
FORTY NINERS SC STADIUM COMPANY LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SACRAMENTO**

| | |
|---|---|
| FORTY NINERS SC STADIUM COMPANY LLC,<br><br>Petitioner,<br><br>v.<br><br>OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY, a public agency of the State of California; VINOD K. SHARMA, Director of Santa Clara County Finance Agency and Auditor-Controller of the County of Santa Clara, in his official capacity; COUNTY OF SANTA CLARA FINANCE AGENCY, a public agency of the county of Santa Clara; COUNTY OF SANTA CLARA, a political subdivision of the State of California; and DOES 1 through 20,<br><br>Respondents. | Case No. 34-2012-80001192<br><br>**[PROPOSED] FINAL JUDGMENT**<br><br>Judge: Hon. Lloyd Connelly<br><br>Date:<br>Time:<br>Dept.: 33<br><br>Action Filed: June 27, 2012<br>Trial Date: January 4, 2013 |



COBLENTZ, PATCH, DUFFY & BASS LLP
One Ferry Building, Suite 200, San Francisco, California 94111-4213
415.391.4800 • Fax 415.989.1663

## Exhibit C
## Amortization Schedule

| | | |
|---|---|---|
| Original Principal | 30,249,620 | |
| Interest Rate | 4.00% | (1) |

| Interest Accrual Start date | Interest Accrual End date | Projected Net TI Available | Projected Distrib to Taxing Agencies | One Time Adjustment (3) | Funds Available for Payment to Stadco | Beginning Balance Due (P&I) | Interest Accrued to Payment Date | Initial Payment Interest Waiver (2) | Payment to Stadco | Ending Balance: Principal & Accrued Interest |
|---|---|---|---|---|---|---|---|---|---|---|
| 04/01/12 | 09/30/12 | 12,803,943 | 5,468,750 | (70,000) | 7,265,193 | 30,249,620 | 606,650 | (145,702) | 7,265,193 | 23,445,375 |
| 10/01/12 | 07/31/13 | 6,072,000 | 6,072,000 | | - | 23,445,375 | 781,084 | | - | 24,226,459 |
| 08/01/13 | 07/31/14 | 11,490,000 | 7,291,667 | | 4,198,333 | 24,226,459 | 969,058 | | 4,198,333 | 20,997,184 |
| 08/01/14 | 07/31/15 | 13,501,000 | 7,291,667 | | 6,209,333 | 20,997,184 | 839,887 | | 6,209,333 | 15,627,738 |
| 08/01/15 | 07/31/16 | 13,851,000 | 7,291,667 | | 6,559,333 | 15,627,738 | 626,822 | | 6,559,333 | 9,695,227 |
| 08/01/16 | 07/31/17 | 14,537,000 | 7,291,667 | | 7,245,333 | 9,695,227 | 387,809 | | 7,245,333 | 2,837,703 |
| 08/01/17 | 07/31/18 | 15,243,000 | 7,291,667 | | 7,951,333 | 2,837,703 | 113,508 | | 2,951,212 | - |
| **Total** | | | | | | | 4,324,819 | -145,702 | 34,428,737 | |

*Footnotes:*

(1) See Section 11 (ii).

(2) See Section 11 (i)

(3) Allowance for Administrative Costs. See Revised ROPS2.

Name of Redevelopment Agency: Redevelopment Agency of the City of Santa Clara

Project Area(s) University and Bayshore North



# OVERSIGHT BOARD APPROVED AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE

**Per AB 26 - Section 34177**

**As Approved by the Oversight Board on August 22, 2012**

| | Debt Obligation | Payee | Description | Total Outstanding Debt or Obligation July 1, 2012 | Total Due During Fiscal Year 2012-13 | Funding Source | Payable from the Redevelopment Property Tax Trust Fund (RPTTF) Payments by Month for First Half of Fiscal Year 2012-13 | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Jul | Aug | Sept | Oct | Nov | Dec | Total |
| 1) | 1999 Tax Allocation Bonds Series A | Bank of New York | Bond issue to fund non-housing projects | 46,079,625.00 | 1,708,862.50 | RPTTF | | | | | 854,431.25 | | $ 854,431.25 |
| 2) | 1999 Tax Allocation Bonds Series B | Bank of New York | Bond issue to fund non-housing projects | 16,158,106.28 | 2,449,556.26 | RPTTF | | | | | 369,778.13 | | $ 369,778.13 |
| 3) | 2002 Tax Allocation Refunding Bonds | Bank of New York | Bond issue to fund non-housing projects | 11,964,325.00 | 5,982,475.00 | RPTTF | | | | | 303,737.50 | | $ 303,737.50 |
| 4) | 2003 Tax Allocation Bonds | Bank of New York | Bond issue to fund non-housing projects | 60,084,000.00 | 2,198,000.00 | RPTTF | | | | | 1,099,000.00 | | $ 1,099,000.00 |
| 5) | 2011 Tax Allocation Bonds | Bank of New York | Bond issue to fund non-housing projects | 63,048,575.00 | 650,612.50 | RPTTF | | | | | 325,306.25 | | $ 325,306.25 |
| 6) | 2002 Series B COPs (Agency Share) | City of Santa Clara | Reimbursement agreement - Agency/City | 670,916.91 | 343,749.00 | RPTTF | | NO PAYMENTS DUE IN THIS SIX MONTH PERIOD | | | | | $ - |
| 7) | Settlement Agreement and Judgment Relating to 2011 Cooperation Agreement | Forty Niners SC Stadium Company LLC | Repayment of a loan to assist a publicly owned stadium | 34,428,737.00 | 7,265,193.00 | RPTTF | | | 7,265,193.00 | | | | $ 7,265,193.00 |
| | Totals - This Page | | | $ 232,434,285.19 | $ 20,598,448.26 | | $ - | $ - | $ 7,265,193.00 | $ - | $ 2,952,253.13 | $ - | $ 10,217,446.13 |
| | Totals - Administrative Cost Allowance | | | $ 195,000.00 | $ 195,000.00 | | $ 32,500.00 | $ 32,500.00 | $ 32,500.00 | $ 32,500.00 | $ 32,500.00 | $ 32,500.00 | $ 195,000.00 |
| | Grand Total - All Pages | | | $ 232,629,285.19 | $ 20,793,448.26 | | $ 32,500.00 | $ 32,500.00 | $ 7,297,693.00 | $ 32,500.00 | $ 2,984,753.13 | $ 32,500.00 | $ 10,412,446.13 |

Notes:

1) Line 7: The Oversight Board approved a settlement agreement on August 22, 2012 which settles Forty Niners SC Stadium Company LLC v. Oversight Board of the Successor Agency to the City of Santa Clara Redevelopment Agency, et al, and establishes a set payment schedule.

Name of Redevelopment Agency: Redevelopment Agency of the City of Santa Clara
Project Area(s) University and Bayshore North



# OVERSIGHT BOARD APPROVED AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE

**Per AB 26 - Section 34177**

**As Approved by the Oversight Board on August 22, 2012**

| | Debt Obligation | Payee | Description | Total Outstanding Debt or Obligation July 1, 2012 | Total Due During Fiscal Year 2012-13 | Funding Source | Payable from the Redevelopment Property Tax Trust Fund (RPTTF) Payments by Month for First Half of Fiscal Year 2012-13 | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Jul | Aug | Sept | Oct | Nov | Dec | Total |
| 1) | 1999 Tax Allocation Bonds Series A | Bank of New York | Bond issue to fund non-housing projects | 46,079,625.00 | 1,708,862.50 | RPTTF | | | | | 854,431.25 | | $ 854,431.25 |
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| 3) | 2002 Tax Allocation Refunding Bonds | Bank of New York | Bond issue to fund non-housing projects | 11,964,325.00 | 5,982,475.00 | RPTTF | | | | | 303,737.50 | | $ 303,737.50 |
| 4) | 2003 Tax Allocation Bonds | Bank of New York | Bond issue to fund non-housing projects | 60,084,000.00 | 2,198,000.00 | RPTTF | | | | | 1,099,000.00 | | $ 1,099,000.00 |
| 5) | 2011 Tax Allocation Bonds | Bank of New York | Bond issue to fund non-housing projects | 63,048,575.00 | 650,612.50 | RPTTF | | | | | 325,306.25 | | $ 325,306.25 |
| 6) | 2002 Series B COPs (Agency Share) | City of Santa Clara | Reimbursement agreement - Agency/City | 670,916.91 | 343,749.00 | RPTTF | | NO PAYMENTS DUE IN THIS SIX MONTH PERIOD | | | | | $ - |
| 7) | Settlement Agreement and Judgment Relating to 2011 Cooperation Agreement | Forty Niners SC Stadium Company LLC | Repayment of a loan to assist a publicly owned stadium | 34,428,737.00 | 7,265,193.00 | RPTTF | | | 7,265,193.00 | | | | $ 7,265,193.00 |
| | Totals - This Page | | | $ 232,434,285.19 | $ 20,598,448.26 | | $ - | $ - | $ 7,265,193.00 | $ - | $ 2,952,253.13 | $ - | $ 10,217,446.13 |
| | Totals - Administrative Cost Allowance | | | $ 195,000.00 | $ 195,000.00 | | $ 32,500.00 | $ 32,500.00 | $ 32,500.00 | $ 32,500.00 | $ 32,500.00 | $ 32,500.00 | $ 195,000.00 |
| | Grand Total - All Pages | | | $ 232,629,285.19 | $ 20,793,448.26 | | $ 32,500.00 | $ 32,500.00 | $ 7,297,693.00 | $ 32,500.00 | $ 2,984,753.13 | $ 32,500.00 | $ 10,412,446.13 |

Notes:

1) Line 7: The Oversight Board approved a settlement agreement on August 22, 2012 which settles Forty Niners SC Stadium Company LLC v. Oversight Board of the Successor Agency to the City of Santa Clara Redevelopment Agency, et al, and establishes a set payment schedule.

Name of Redevelopment Agency: Redevelopment Agency of the City of Santa Clara



Project Area(s) University and Bayshore North

# OVERSIGHT BOARD APPROVED AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE

**Per AB 26 - Section 34177**

**As Approved by the Oversight Board on August 22, 2012**

| | Project Name / Debt Obligation | Payee | Description | Total Outstanding Debt or Obligation July | Total Due During Fiscal Year 2012-13 | Funding Source | Payable from the Redevelopment Property Tax Trust Fund (RPTTF) Payments by Month for First Half of Fiscal Year 2012-13 | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Jul | Aug | Sept | Oct | Nov | Dec | Total |
| 1) | Administrative Cost Allowance | City of Santa Clara | Reimbursement for Administrative Expenses | 195,000.00 | 195,000.00 | RPTTF | 32,500.00 | 32,500.00 | 32,500.00 | 32,500.00 | 32,500.00 | 32,500.00 | $ 195,000.00 |
| 2) | | | | | | | | | | | | | $ - |
| 3) | | | | | | | See Note 1 Below | | | | | | $ - |
| 4) | | | | | | | | | | | | | $ - |
| 5) | | | | | | | | | | | | | $ - |
| 6) | | | | | | | | | | | | | $ - |
| 7) | | | | | | | | | | | | | $ - |
| 8) | | | | | | | | | | | | | $ - |
| 9) | | | | | | | | | | | | | $ - |
| 10) | | | | | | | | | | | | | $ - |
| 11) | | | | | | | | | | | | | $ - |
| 12) | | | | | | | | | | | | | $ - |
| 13) | | | | | | | | | | | | | $ - |
| 14) | | | | | | | | | | | | | $ - |
| 15) | | | | | | | | | | | | | $ - |
| 16) | | | | | | | | | | | | | $ - |
| 17) | | | | | | | | | | | | | $ - |
| 18) | | | | | | | | | | | | | $ - |
| 19) | | | | | | | | | | | | | $ - |
| 20) | | | | | | | | | | | | | $ - |
| 21) | | | | | | | | | | | | | $ - |
| 22) | | | | | | | | | | | | | $ - |
| 23) | | | | | | | | | | | | | $ - |
| 24) | | | | | | | | | | | | | $ - |
| 25) | | | | | | | | | | | | | $ - |
| 26) | | | | | | | | | | | | | $ - |
| 27) | | | | | | | | | | | | | $ - |
| 28) | | | | | | | | | | | | | $ - |
| | **Totals - Administrative Cost Allowance** | | | **$ 195,000.00** | **$ 195,000.00** | | **$ 32,500.00** | **$ 32,500.00** | **$ 32,500.00** | **$ 32,500.00** | **$ 32,500.00** | **$ 32,500.00** | **$ 195,000.00** |

Notes:

1) Line 1: The Total Outstanding Debt or Obligation July 1, 2012 and the Total Due During Fiscal Year 2012-13 equals one half of the minimum allowance of $250,000, plus $70,000 (total of $195,000). The calculated Administrative Cost Allowance for this Amended ROPS based on 3% of the enforceable obligations on page 1 is $306,523.38. The difference of $111,523.38 will be included as an enforceable obligation on the ROPS for the January 1, 2013 to June 30, 2013 period.

2) Line 1: An Administrative Budget of $1,406,283 was approved by the Successor Agency at its May 8, 2012 meeting and by the Oversight Board at its May 18, 2012 meeting for this July 1, 2012 to December 31, 2012 period.

# COOPERATION AGREEMENT TO ASSIST PUBLICLY-OWNED STADIUM

THIS COOPERATION AGREEMENT TO ASSIST PUBLICLY-OWNED STADIUM (this "Agreement") is made as of February 28, 2011, by and among the Santa Clara Stadium Authority, a California joint powers authority (the "Stadium Authority") and the Redevelopment Agency of the City of Santa Clara, a public body corporate and politic (the "Agency"), with reference to the following facts, purposes, and understandings.

## RECITALS

A. Capitalized terms used herein are defined in Article 1 of this Agreement.

B. On June 8, 2010, the voters of the City approved Measure J, which endorses the construction, operation and maintenance of a stadium in the City suitable for NFL games,

C. The Stadium Authority is a joint powers authority formed by, and comprised of, the City and the Agency pursuant to the Joint Powers Agreement for the purpose of acquiring, financing, constructing, owning, managing, operating and maintaining the Stadium and related facilities.

D. The Stadium Authority intends to lease from the City approximately twenty-two (22) acres of real property located in the City within the Redevelopment Project Area.

E. Pursuant to authority granted under California law, the Agency is charged with administration and enforcement of the Bayshore North Redevelopment Plan for the Bayshore North Redevelopment Project Area. The Redevelopment Plan controls the development and use of all real property located within the Bayshore North Redevelopment Project Area as more particularly described in the Plan.

F. To assist in implementing the Redevelopment Plan, the Agency has adopted a five (5)-year implementation plan (the "Implementation Plan") pursuant to Section 33490 of the Redevelopment Law.

G. The construction of the Stadium will further the Agency's and City's goals of creating an entertainment destination in the Redevelopment Project Area, and will provide significant economic benefits to the City and its residents and businesses.

H. Assistance to the Stadium is consistent with the Implementation Plan. The development of the Stadium will benefit the Project Area and will assist in the elimination of blight in the Project Area. The Agency's use of funds as provided in this Agreement is authorized by the Redevelopment Law, and the Agency, the City and the Stadium Authority have made all findings required under the Redevelopment Law for such use.

I. Pursuant to CEQA, the Agency and the Stadium Authority (each in its capacity as "responsible agency") has prepared, reviewed, and certified that certain Final Environmental

Impact Report, 49ers Santa Clara Stadium Project for the transactions contemplated by this Agreement, following conduct of a duly noticed public hearing (the "Final Environmental Impact Report"). The Final Environmental Impact Report has served as the environmental documentation for the Stadium Authority's consideration and approval of this Agreement and the transactions contemplated by this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Stadium Authority and the Agency agree as follows:

## ARTICLE 1.
## DEFINITIONS

Section 1.1 In addition to the terms defined elsewhere in this Agreement, the following capitalized words shall have the following meanings:

(a) "Agency" means the Redevelopment Agency of the City of Santa Clara, a public body corporate and politic.

(b) "Agency Administrative Costs" shall mean the total cost shown on the adopted Agency 2008/2009 budget in the amount of Four Million Eighteen Thousand Five Hundred Nine Dollars ($4,018,509) or such other amount as agreed upon by the Agency and the Stadium Authority; provided, however, that if legislation is adopted to suspend or substantially reduce the Agency's ability to undertake redevelopment activities, "Agency Administrative Costs" shall not exceed the lesser of (i) the actual costs incurred by the Agency or its successor entity in administering the redevelopment programs for that fiscal year or (ii) the amount of Four Million Eighteen Thousand Five Hundred Nine Dollars ($4,018,509).

(c) "Agreement" means this Cooperation Agreement to Assist Publicly-Owned Stadium.

(d) "DDA" shall mean the Disposition and Development Agreement proposed to be entered into by and between the Stadium Authority and the Forty Niners Stadium, LLC, a Delaware limited liability company.

(e) "Final Financing Plan" means the detailed plan approved by the Stadium Authority pursuant to the DDA for the financing of the development of the Stadium.

(f) "Net Tax Increment" means Tax Increment, generated in the Redevelopment Project Area for the then current fiscal year net of the following amounts: (i) amounts required to be set aside in the Low and Moderate Income Housing Fund pursuant to California Health & Safety Code Section 33334.3; (ii) existing debt service payments on the 1992 North Bayshore Redevelopment Project Area Tax Allocation Bonds, the 1999 North Bayshore Redevelopment Project Area Tax Allocation Bonds, the 2002 North Bayshore Redevelopment Project Area Tax Allocation Bonds, and the 2003 North Bayshore Redevelopment Project Area Tax Allocation Bonds, (iii) payments on the following City/Agency

Reimbursement Agreements: Reimbursement Agreement dated as of July, 1988, Reimbursement Agreement dated as of March 1, 1989, Reimbursement Agreement dated as of June 30, 1998;Reimbursement Agreement dated as of 2002, (iv) pass-through payments to local taxing agencies as required by Health & Safety Code Section 33607.5, Health & Safety Code Section 33676 or any successor legislation (v) other State mandated payments, including, without limitation, the County of Santa Clara Administration Fee, as appropriate, payments to the Education Revenue Augmentation Fund and Supplemental Education Revenue Augmentation Fund (or such successor replacement funds as may be enacted), but not including any State mandated payments to taxing entities made directly or indirectly by any successor entity to the Agency, (vi) debt service on one or more new tax allocation bond issuances resulting in net bond proceeds of Twenty Five Million Dollars ($25,000,000) for future Agency projects other than the Stadium; and (vii) Agency Administrative Costs, escalated by four percent (4%) annually, commencing on July 1, 2009 and continuing on each July 1st thereafter.

(g) "Project Area" shall mean the Bayshore North Redevelopment Project Area.

(h) "Redevelopment Plan" shall mean Bayshore North Redevelopment Plan for the Bayshore North Redevelopment Project Area

(i) "Stadium" means a stadium in the City suitable for NFL games, with a permanent seating capacity of up to 68,500 seats (with the possibility for expansion to approximately 75,000 seats for larger events such as an NFL Super Bowl.), landscaping and infrastructure, all as more fully set forth in the Scope of Development.

(j) "Stadium Authority" means the Santa Clara Stadium Authority, a California joint powers authority.

(k) "Stadium Authority Advance" shall have the meaning ascribed to it in Section 3.2(b).

(l) "Tax Allocation Bonds" means the bonds to be issued by the Agency as described in Section 3.2(b).

(m) "Tax Increment" means that portion of taxes levied upon taxable property in the Project Area which is allocated to and paid into a special fund of the Agency or any successor agency pursuant to Article 6 of Chapter 6 (commencing with Section 33670) of the Community Redevelopment Law and Section 16 of Article XVI of the Constitution of the State of California, including all subventions or payment in lieu of business inventory subventions received by the Agency or any successor agency.

## ARTICLE 2.
## PRECONDITONS TO DISBURSEMENT OF AGENCY ASSISTANCE

Section 2.1 Conditions Precedent to the Agency's Obligation to Disburse. As conditions precedent to the Agency's obligation to disburse funds to the Stadium Authority under this Agreement, the conditions set forth in this Article 2 must be satisfied. Only the Agency can waive satisfaction of the conditions in this Article 2.

Section 2.2 Execution of DDA. The DDA has been fully executed by the Stadium Authority and the Forty Niners Stadium, LLC, and is in full force and effect.

Section 2.3 Financing Plan Approval Procedure. The Stadium Authority has certified to the Agency that the Stadium Authority has approved the Final Financing Plan and that the Final Financing Plan demonstrates that adequate funding for the development of the Stadium is available.

Section 2.4 Stadium Financing. The Stadium Authority has certified to the Agency that the construction financing for the development of the Stadium is ready to close prior to or concurrently with the initial disbursement of Agency funds under this Agreement.

Section 2.5 Commencement of Construction. The Stadium Authority has certified to the Agency that the Stadium Authority is ready to commence construction of the Stadium and has met all the preconditions for the close of escrow and commencement of construction contained in the DDA.

Section 2.6 SB 211 Ordinance. The City has adopted a so-called "SB 211 Ordinance", amending the Redevelopment Plan to eliminate the Agency's time limit for incurring indebtedness.

## ARTICLE 3.AGENCY FINANCING AND STADIUM AUTHORITY CONSTRUCTION OF THE STADIUM

Section 3.1 Agency Contribution Toward Development Fees. The Agency shall pay to the City, on behalf of the Stadium Authority one-half (½) of the development fees to be paid to the City in connection with the construction of the Stadium. The Agency shall remit payment, estimated to be One Million Six Hundred Thousand Dollars ($1,600,000), to the City concurrently with the Stadium Authority's payment of its share of the development fees.

Section 3.2 Agency Contribution Toward Project Development. In addition to the Agency's payment of development fees pursuant to Section 3.1 above, the Agency shall pay an amount not to exceed a total of Forty Million Dollars ($40,000,000) (exclusive of debt service and other financing costs) toward Stadium development costs. The Agency's commitment to provide assistance to the Stadium Authority will be derived from the available funds and from the receipt of future Net Tax Increment. The Agency pledges to the Stadium Authority future Net Tax Increment in sufficient amounts to pay to the Stadium Authority Forty Million Dollars ($40,000,000) (exclusive of debt service and other financing costs). The Agency shall pay to the Stadium Authority an amount from available funds specified in Section 3.2(a) and use the

proceeds from one or more tax allocation bond issuances specified in Section 3.2 (b) to pay Stadium development costs (the "Agency Upfront Investment"). To the extent the Agency Upfront Investment does not equal a total of Forty Million Dollars ($40,000,000) (exclusive of debt service and other financing costs), the Stadium Authority shall advance funds (the "Stadium Authority Advance") on behalf of the Agency so that the total Agency assistance totals Forty Million Dollars ($40,000,000) (exclusive of debt service and other financing costs). The Stadium Authority Advance will be repaid by the Agency in accordance with Section 3.3, below.

(a) Available Funds. The Agency agrees to pay toward the development costs the cash on hand from existing unallocated Agency funds, not otherwise needed to make any State-mandated payments, in the amount not less than Four Million Dollars ($4,000,000).

(b) Tax Allocation Bonds. The Agency, in consultation with the Stadium Authority shall issue one or more new bonds to be secured by available Net Tax Increment ("Tax Allocation Bonds"). The proceeds of the Tax Allocation Bonds (net of issuance costs and fees) shall be used to pay development costs of the Stadium, including the Stadium Authority Advance, in accordance with the disbursement provisions to be agreed upon by the Agency and the Stadium Authority.

(c) Conditions to the Issuance of Tax Allocation Bonds. The conditions set forth in this Section 3.2 (c) must be met prior to the Agency's issuance of the Tax Allocation Bonds.

(1) The Agency's bond counsel shall be irrevocably prepared to issue an opinion letter in connection with issuance of Tax Allocation Bonds, in a form reasonably approved by the Agency, stating, among other things, that the Tax Allocation Bonds constitute the valid and binding obligations of the Agency, enforceable against the Agency, and the indenture between the Agency and the trustee has been duly executed and delivered by, and constitutes the valid and binding obligation of, the Agency enforceable against the Agency.

(2) The Agency shall have approved the projected proceeds to be realized from the Tax Allocation Bonds and such projections are in accordance with the Final Financing Plan.

(3) The proposed issuance complies with all covenants of the Agency's existing bonded indebtedness with regards to parity or subordinate indebtedness.

(4) No condition, event or act exists that would constitute a default by Forty Niners Stadium, LLC under the DDA.

(5) No existing, pending or threatened litigation, suit, action or proceeding before any court or administrative agency exists affecting the Agency, the Stadium Authority or the Forty Niners Stadium, LLC that would, if adversely determined, adversely affect the Tax Allocation Bonds.

Section 3.3 Stadium Authority Advance. If the Stadium Authority makes the Stadium Authority Advance to the Agency, the Agency shall repay the Stadium. The Stadium Authority

Advance, including annual compound interest at an annual fixed rate equal to the lower of the rate on 30-year BB-rated corporate bonds or eight and one-half percent (8½%), calculated as of the date of the first funding by Stadium Authority of the Stadium Authority Advance, will be repayable by the Agency only from the Net Tax Increment remaining after payment of debt service on the Tax Allocation Bonds. In addition, prior to making a payment on the Stadium Authority Advance, the Agency may make, based on an annual election by the Agency, an additional deposit into the Agency Low and Moderate Income Housing Fund of up to ten percent (10%) of gross Tax Increment (after excluding Tax Increment generated from the taxes imposed on the Stadium). The additional deposit into the Agency Low and Moderate Income Housing Fund, if any, will cease as of December 2016 with the termination of the Redevelopment Plan for the Redevelopment Project Area. Upon the expiration of the ability of the Agency or any successor agency to collect tax increment from the Project Area, any principal or interest amount of the Stadium Authority Advance still outstanding shall no longer be due from the Agency and shall no longer be a debt of the Agency.

Section 3.4 Indebtedness of the Agency. Subject to the provisions of Section 2.6, the obligation of the Agency to pay the funds to the Stadium Authority under this Agreement shall constitute an indebtedness of the Agency incurred in carrying out the Redevelopment Plan and a pledge of tax increment received by the Agency from the Project Area to repay such indebtedness under the provisions of Article XVI, Section 16 of the Constitution of the State of California, the Redevelopment Law, and the Redevelopment Plan.

Section 3.5 Subordination. The parties agree that the obligation of the Agency to make payments pursuant to this Agreement is subordinate to any obligation of the Agency to pay debt service on tax increment bonds currently issued or issued following the date of this Agreement.

Section 3.6 Commencement and Completion of Construction. The Stadium Authority shall commence and diligently prosecute to completion the construction of the Stadium in accordance with the terms of the DDA and within the time set forth in the schedule of performance incorporated into the DDA. The Stadium Authority, in accordance with the terms of the DDA, shall enter into such agreements as the Stadium Authority deems necessary with the Forty Niners Stadium, LLC, to utilize the extensive design and engineering work product already developed as of the date of this Agreement. The Agency acknowledges that the Stadium Authority intends to use the completed design and engineering work in the development of the Stadium and that the Stadium Authority will reimburse the Forty Niners Stadium, LLC for all or a portion of the costs of this work.

Section 3.7 Indemnity. The Stadium Authority shall indemnify, defend, and hold the Agency, its officers, agents, and employees, harmless against all claims, demands, damages, losses, costs, expenses, including without limitation, attorneys' fees and costs of litigation, or liabilities made against them which arise out of, or in connection with, the construction of the Stadium; provided, however, that this indemnity shall not extend to any claim arising solely from the Agency's negligence or the Agency's negligent failure to perform its obligations under this Agreement.

## ARTICLE 4.
## GENERAL PROVISIONS

Section 4.1 Non-Liability of Officials. No member, official, employee or agent of the Agency shall be personally liable to the Stadium Authority, or any successor in interest, in the event of any default or breach by the Agency for any amount which may become due to the Stadium Authority or successor or on any obligation under the terms of this Agreement. No member, official, employee or agent of the Stadium Authority shall be personally liable to Agency, or any successor in interest, in the event of any default or breach by the Stadium Authority for any amount which may become due to the Agency or successor or on any obligation under the terms of this Agreement.

Section 4.2 Actions of the Parties. Except as otherwise provided in this Agreement, whenever this Agreement calls for or permits a party's approval, consent, or waiver, the written approval, consent, or waiver of the Agency's Executive Director and the Stadium Authority Executive Director (or their respective designees) shall constitute the approval, consent, or waiver of the Agency and the Stadium Authority, respectively, without further authorization required from the governing board of the party; provided, however, that the person vested with such authority may seek such further advice or authorization from the applicable governing board when she/he deems it appropriate.

Section 4.3 Nondiscrimination.

(a) In Performance of Agreement. The Stadium Authority and its contractors, subcontractors, agents, and employees shall not, because of the race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, age, or disability of any person, refuse to hire or employ the person, or refuse to select the person for a training program leading to employment, or bar or discharge the person from employment or from a training program leading to employment, or discriminate against the person in compensation or in terms, conditions or privileges of employment with respect to performance of this Agreement.

(b) With Respect to Use of the Stadium. The Stadium Authority covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, age, or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Infrastructure Improvement Projects.

Section 4.4 Third Party Beneficiaries. The Forty Niners Stadium, LLC, and its successor and assignees, will expend substantial resources in reliance on the representations and promises of the Agency and the Stadium Authority contained in this Agreement. The Agency and the Stadium Authority intend that the Forty Niners Stadium, LLC directly benefit from this Agreement and intend to confer on the Forty Niners Stadium, LLC, and its successor and assignees, the rights, benefits and remedies of this Agreement. Except as otherwise expressly provided in this Section 4.4, the Agency and the Stadium Authority do not intend by any provision of this Agreement to confer any right, remedy or benefit upon any other third party,

and no other third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

Section 4.5 State Law. This Agreement, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the State of California.

Section 4.6 Records. The Stadium Authority shall maintain complete and accurate financial accounts, documents and records with respect to the performance of its obligations under this Agreement, and shall make same available to the Agency's authorized agents for copying and auditing upon reasonable prior notice. Such accounts, documents and records shall be retained by the Stadium Authority for the longer of two (2) years following completion of the Stadium or whatever retention period the Stadium Authority has designated for such documents.

Section 4.7 Inspection of Documents. During the regular office hours and upon reasonable prior notice, the Stadium Authority and the Agency, by their duly authorized representatives, shall have the right to inspect and make copies of any books, records or reports of the other party pertaining to this Agreement.

Section 4.8 Additional Acts. The parties each agree to take such other and additional actions and execute and deliver such other and additional documents as may be reasonably requested by the other party for purposes of consummating the transactions contemplated in this Agreement.

Section 4.9 Litigation Regarding Agreement Validity. In the event litigation is initiated attacking the validity of this Agreement, each party shall in good faith defend and seek to uphold the Agreement.

Section 4.10 Validity of Agreement. If any provisions of this Agreement, or the application thereof to any person, party, transaction, or circumstance, is held invalid, the remainder of this Agreement, or the application of such provision to other persons, parties, transactions, or circumstances, shall not be affected thereby.

Section 4.11 Entire Agreement; Modification and Amendment. This Agreement contains all of the agreements and understandings of the parties pertaining to the subject matter contained herein and supersedes all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement cannot be amended or modified except by written agreement of the parties.

Section 4.12 Defaults and Remedies. If either party breaches any other material provision of this Agreement, the other party shall first notify the breaching party in writing of the purported breach or failure, giving the breaching party thirty (30) days from receipt of such notice to cure or, if cure cannot be accomplished within thirty (30) days, to commence to cure such breach, failure, or act. In the event the breaching party does not then so cure within such thirty (30) days, or if the breach or failure is of such a nature that it cannot be cured within thirty (30) days, the breaching party fails to commence to cure within such thirty (30) days and thereafter diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days, then the non-breaching party shall be afforded all of its

rights at law or in equity, by taking all or any of the following remedies: (a) terminating in writing this Agreement (provided, however, that the indemnification provisions of this Agreement shall survive such termination); and (b) prosecuting an action for damages or specific performance.

Section 4.13 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties to this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

Section 4.15 Time of The Essence. Time is of the essence in the performance of all duties and obligations under this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth in the opening paragraph of this Agreement.

Approved as to Form

Elizabeth H. Silver
Interim Stadium Authority General Counsel

**SANTA CLARA STADIUM AUTHORITY**

Jennifer Sparacino
Executive Director

Attest:

Rod Diridon, Jr.
Stadium Authority Secretary

Approved as to Form

Elizabeth H. Silver
Interim Agency General Counsel

**REDEVELOPMENT AGENCY OF THE CITYOF SANTA CLARA**

Jennifer Sparacino
Executive Director

Attest:

Rod Diridon, Jr.
Agency Secretary

# PREDEVELOPMENT FUNDING AGREEMENT

THIS PREDEVELOPMENT FUNDING AGREEMENT (this "Agreement") is made as of March 21, 2011, by and among the Santa Clara Stadium Authority, a California joint powers authority (the "Stadium Authority"), the Redevelopment Agency of the City of Santa Clara, a public body corporate and politic (the "Agency"), and Forty Niners Stadium, LLC, a Delaware limited liability company ("Stadco"), with reference to the following facts, purposes, and understandings.

## RECITALS

A. On June 8, 2010, the voters of the City of Santa Clara approved Measure J, which endorses the construction, operation and maintenance of a stadium in the City suitable for NFL games (the "Stadium"), and requires that contributions to the costs thereof 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.

B. The Stadium Authority is a joint powers authority formed by, and comprised of, the City and the Agency pursuant to the Joint Powers Agreement for the purpose of acquiring, financing, constructing, owning, managing, operating and maintaining the Stadium and related facilities.

C. The Stadium Authority intends to lease from the City approximately twenty-two (22) acres of real property located in the City within the Project Area (the "Stadium Site").

D. Pursuant to authority granted under California law, the Agency is charged with administration and enforcement of the Redevelopment Plan. The Redevelopment Plan controls the development and use of all real property located within the Bayshore North Redevelopment Project Area as more particularly described in the Redevelopment Plan.

E. To assist in implementing the Redevelopment Plan, the Agency has adopted a five (5)-year implementation plan (the "Implementation Plan") pursuant to Section 33490 of the Redevelopment Law.

F. The construction of the Stadium will further the Agency's and City's goals of creating an entertainment destination in the Project Area, and will provide significant economic benefits to the City and its residents and businesses.

G. Assistance to the Stadium is consistent with the Implementation Plan. The development of the Stadium will benefit the Project Area and will assist in the elimination of blight in the Project Area. The Agency's use of funds as provided in this Agreement is authorized by the Redevelopment Law, and the Agency, the City and the Stadium Authority have made all findings required under the Redevelopment Law for such use.

H. On February 22, 2011, the Stadium Authority and the Agency entered into a Cooperation Agreement to Assist Publicly Owned Stadium (the "Cooperation Agreement"),

pursuant to which, among other things, the Agency agreed (i) to pay on behalf of the Stadium Authority one-half (½) of the development fees to be paid to the City in connection with the construction of the Stadium, (ii) to pay an amount not to exceed a total of Forty Million Dollars ($40,000,000) (exclusive of debt service and other financing costs) toward Stadium development costs, and (iii) to pledge Net Tax Increment (as defined therein) in sufficient amounts to meet such obligations. Capitalized terms used, but not defined in Article 1 or elsewhere in this Agreement, shall have the definitions given them in the Cooperation Agreement.

I. To further the goal of the Stadium Authority, the Agency and the City of timely completion of the Stadium Project, Stadco has performed predevelopment work and as a result thereof, incurred predevelopment costs for the benefit of the Stadium Project, and the Parties hereto acknowledge that the Stadium Authority and Stadco will incur further predevelopment costs for the benefit of the Stadium Project prior to the Stadium Authority's receipt of sufficient funds to pay such predevelopment costs.

J. In accordance with the terms of this Agreement, the Parties desire to establish the process for the reimbursement and/or payment from Net Tax Increment by the Stadium Authority and the Agency, as applicable, of the Stadium Authority's Operating Costs and Stadco's Predevelopment Costs.

K. Pursuant to CEQA, the Agency and the Stadium Authority (each in its capacity as "responsible agency") have prepared, reviewed, and certified that certain Final Environmental Impact Report, 49ers Santa Clara Stadium Project for the transactions contemplated by this Agreement, following conduct of a duly noticed public hearing (the "Final Environmental Impact Report"). The Final Environmental Impact Report has served as the environmental documentation for the Stadium Authority's consideration and approval of this Agreement and the transactions contemplated by this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Stadium Authority, the Agency and Stadco agree as follows:

## ARTICLE 1.
## DEFINITIONS

Section 1.1 Capitalized words used in this Agreement, and not defined below or elsewhere in this Agreement, shall have the meanings set forth in the Cooperation Agreement. In addition to the terms defined elsewhere in this Agreement and in the Cooperation Agreement, the following capitalized words shall have the following meanings:

(a) "Agreement" means this Predevelopment Funding Agreement.

(b) "Budget" is defined in Section 2.3.

(c) "Cooperation Agreement" is defined in Recital H.

(d) "Initial Make-Ready Work Funds" means the funds in the amount of Four Million Dollars, as further described in Section 3.1, plus any interest earned thereon.

(e) "Make-Ready Work" means the work required to prepare the site for the construction of the Stadium as generally described in Exhibit A to this Agreement.

(f) "Maximum Principal Amount" means the sum of Forty Million Dollars ($40,000,000) less the amount of the Initial Make-Ready Work Funds paid to Stadco pursuant to Section 3.1 below.

(g) "Party" means the Stadium Authority, the Agency or Stadco, as applicable.

(h) "Parties" collectively means the Stadium Authority, the Agency and Stadco.

(i) "Redevelopment Law" means the Community Redevelopment Law set forth in the California Health and Safety Code (commencing with Section 33000).

(j) "Stadium Authority Operating Costs" means such out-of pocket, third-party costs for staff, financial consultants, agents, legal counsel, and other consultants reasonably required to assist the Stadium Authority in predevelopment matters and ongoing operations of the Stadium, solely to the extent such consultants provide services directly related to the development and operation of the Stadium, as such costs are set forth in the approved Budget.

(k) "Stadium Project" means the development of the Stadium and all related physical construction on and off the Stadium Site.

## ARTICLE 2.
## PREDEVELOPMENT COSTS INCURRED BY STADCO

Section 2.1 Predevelopment Costs. Stadco has incurred various predevelopment costs for the benefit of the Stadium Project prior to the date of this Agreement ("Previously Incurred Predevelopment Costs"). Stadco intends to transfer, assign or otherwise convey to the Stadium Authority its assignable, non-privileged interest in the work product resulting from the Previously Incurred Predevelopment Costs and requests reimbursement for certain of those costs from the Stadium Authority in accordance with the terms of this Agreement. Stadco expects to supervise and/or produce or cause to be produced additional predevelopment work product for the benefit of the Stadium Authority subsequent to the execution of this Agreement and to incur additional predevelopment costs as a result of such activity for which Stadco requests reimbursement in accordance with this Agreement. Without limiting the generality of the foregoing, with respect to the Make-Ready Work in particular, Stadco will retain consultants and contractors to design and construct the Make-Ready Work for the benefit of Stadium Authority; provided, however, that it is acknowledged that construction of the Make-Ready Work is subject to the further approvals by the Stadium Authority, issuance of permits and the requirement to obtain licenses to enter property from the appropriate City agencies and others. Pursuant to this Agreement the Stadium Authority will reimburse Stadco for certain of those costs, including,

without limitation, costs related to the design and engineering of the Stadium, and design engineering and construction of the Make-Ready Work (collectively, "Continuing Predevelopment Costs"). Previously Incurred Predevelopment Costs and Continuing Predevelopment Costs shall hereafter be referred to as "Predevelopment Costs". Predevelopment Costs shall also include, without limitation, Stadium Authority Operating Costs. Only Predevelopment Costs related to the Make-Ready Work and Stadium Authority Operating Costs may be paid with the Initial Make-Ready Work Funds.

Section 2.2 Stadium Operating Cost Budget. Prior to the submittal to the Stadium Authority of the proposed Budget pursuant to Section 2.3 below, the Stadium Authority and Stadco shall negotiate in good faith a Stadium Authority budget to pay Stadium Authority Operating Costs to be incurred by the Stadium Authority for the time period until the commencement of construction for the Stadium.

Section 2.3 Budget. Stadco shall submit to the Stadium Authority as promptly as possible following the date of this Agreement, an estimated budget of costs related to the Make-Ready Work and for Stadium Authority Operating Costs, and which shall also include an estimated schedule for the Make-Ready Work expenditures through December 31, 2011. By November 30, 2011, Stadco shall submit an estimated budget of costs related to the Make-Ready Work and Stadium Authority Operating costs from January 1, 2012 to commencement of construction of the Stadium. Stadco shall submit to the Stadium Authority updates of such Budgets from time to time as necessary. Such budgets, and any updates thereto, shall be subject to the approval of the Stadium Authority Executive Director, which approval shall not be unreasonably withheld or delayed, and are referred to herein collectively as the "Budget".

Section 2.4 Books and Records. Stadco shall keep and maintain in accordance with generally accepted accounting principles full, complete and appropriate books, records and accounts of the Predevelopment Costs for which Stadco requests reimbursement, including the disbursements made from the Initial Make-Ready Work Funds. Stadco shall submit monthly reports to the Stadium Authority setting forth any disbursements from the Initial Make-Ready Funds and the balance remaining. All Predevelopment Costs shall be subject to the review by the Executive Director of the Stadium Authority of reasonably satisfactory evidence of Stadco's actual incurrence of the Predevelopment Costs. Such evidence may be in the form of invoices, cancelled checks, wire confirmations or similar types of proof of incurrence and/or payment. Disbursement of funds to pay Predevelopment Costs, other than the Initial Make-Ready Work Funds, shall be in accordance with Section 4.3 below.

## ARTICLE 3.

## PAYMENT OF INITIAL MAKE-READY FUNDS AND DEVELOPMENT FEES

Section 3.1 Payment for Make-Ready Work. The Stadium Authority hereby agrees to advance to Stadco in lawful money of the United States, immediately upon execution of this Agreement, funds previously transferred by the Agency to the Stadium Authority pursuant to the Cooperation Agreement in the amount of Four Million Dollars ($4,000,000) (the "Initial Make-Ready Work Funds"). Stadco shall maintain the Initial Make-Ready Work Funds, including any

interest earned thereon, in an account, separate from any other account, at a financial institution reasonably approved by the Stadium Authority. The Initial Make-Ready Work Funds shall only be used to pay invoices related to the design and construction of the Make-Ready Work and Stadium Authority Operating Costs consistent with the Budget approved pursuant to Section 2.3. If construction on the Stadium Project has not commenced by December 31, 2015, as such date may be extended by the Stadium Authority, or if funds are released from Escrow pursuant to Section 4.3(c) below, then Stadco shall repay the Stadium Authority, promptly upon demand, any Initial Make-Ready Work Funds that have not been expended in accordance with this Agreement prior to such date. In addition, Stadco shall deliver to the Stadium Authority all its assignable, non-privileged interest in any work product relating to the Make-Ready Work for which Stadco received reimbursement.

Section 3.2 Payment of Development Fees. The Stadium Authority confirms receipt of $1,600,000.00 from the Agency, which the Parties agree satisfies the Agency's obligation under the Cooperation Agreement to pay its share of development fees to the City for the development of the Stadium ("Agency's Share of Development Fees"). The Stadium Authority agrees to maintain the Agency's Share of Development Fees in an account with the Stadium Authority Treasurer, separate from all other accounts, and shall pay all such funds to the City at the time payment of such development fees are required for the development of the Stadium Project. If construction on the Stadium Project has not commenced by December 31, 2015, as such date may be extended by the Stadium Authority, the Stadium Authority may retain the Agency's Share of Development Fees for reimbursement of Stadium Authority Operating Costs.

Section 3.3 Waiver of Conditions. Pursuant to the terms of the Cooperation Agreement, the Agency hereby waives the conditions to disbursement of Net Tax Increment set forth in Article 2 thereof, and disbursement of Net Tax Increment shall occur in accordance with the terms of this Agreement.

## ARTICLE 4.
## ADVANCES OF PRECONSTRUCTION COSTS

Section 4.1 Stadco Advance. Stadco's payment of Predevelopment Costs, up to the Maximum Principal Amount, shall be considered a loan by Stadco to the Stadium Authority (the "Stadco Advance") in accordance with the terms of this Agreement. Stadium Authority is incurring the Stadco Advance in reliance on the Agency's agreement to repay the Stadium Authority Advance pursuant to Section 3.2 of the Cooperation Agreement. With each such payment of Predevelopment Costs, the Stadium Authority, for purposes of the Cooperation Agreement, shall be considered to have made a corresponding Stadium Authority Advance to the Agency. Pursuant to the Cooperation Agreement, the Agency may pay the Stadium Authority Advance with cash on hand, proceeds from Tax Allocation Bonds and from Net Tax Increment. Payment of the Stadium Authority Advance, other than the Initial Make-Ready Work Funds, shall be deposited by the Agency into the escrow account established pursuant to Section 4.3 below.

Section 4.2 Terms of Stadco Advance. The outstanding amount of the Stadco Advance, including compound interest at an annual fixed rate equal to the lower of the rate on 30-year BB-rated corporate bonds or eight and one-half percent (8½%), calculated from the

commencement of construction of the Stadium, will be repayable by the Stadium Authority only from Net tax Increment, whether through payments on the Stadium Authority Advance, from proceeds of Tax Allocation Bonds issued pursuant to the Cooperation Agreement, or otherwise. The Parties anticipate that the Stadium Authority will obtain funds from various sources to assist with the development costs of the Stadium (including, without limitation, the repayment of Predevelopment Costs), and agree that this Agreement solely deals with the Stadium Authority's obligation to pay from Net Tax Increment the portion of Predevelopment Costs equivalent to the Stadco Advance, and that any other Predevelopment Costs not paid from Net Tax Increment may be repaid from sources other than Net Tax Increment, as may be further provided in the Final Financing Plan.

Section 4.3 Escrow of Net Tax Increment. In order to induce Stadco to continue to incur Predevelopment Costs on behalf of the Stadium Project, the Agency and the Stadium Authority agree that the Agency shall deposit all Net Tax Increment, other than the Initial Make-Ready Work Funds, into an escrow account, which shall be established by the Stadium Authority and Stadco with an escrow holder mutually approved by the Stadium Authority and Stadco ("Escrow"); provided, however, that the total Net Tax Increment which the Agency is obligated to deposit into Escrow shall not exceed the Maximum Principal Amount, plus all interest accrued to date on the Stadium Authority Advance. Upon commencement of construction of the Stadium, all funds released from the Escrow shall be deposited into a development fund to reimburse Predevelopment Costs and to pay other Stadium development costs in accordance with the terms of the Final Financing Plan. The establishment and terms of the Escrow shall be subject to irrevocable escrow instructions of the Stadium Authority and Stadco, which shall provide that:

(a) Upon the written direction of Stadco, specified amounts can be released, from time to time, to pay the Stadium Authority's Operating Costs.

(b) Upon commencement of construction of the Stadium, all funds remaining in Escrow will be disbursed in accordance with the written direction of Stadco to the development fund referenced above.

(c) If construction of the Stadium has not commenced by December 31, 2015 as such date may be extended by the Stadium Authority, or if jointly directed prior to that date by Stadco and the Stadium Authority, all amounts remaining in the Escrow will be paid to the Stadium Authority.

To the extent that the aggregate amount of funds from Escrow received by Stadco and the Stadium Authority following the commencement of construction exceeds the Maximum Principal Amount, plus applicable interest accrued on the Stadco Advance, Stadco shall pay any such excess that it received to the Stadium Authority and the Stadium Authority shall pay that amount, together with any such excess that it received from Escrow to the Agency, or its successor.

Section 4.4 Indebtedness of the Agency. The obligation of the Agency to pay the Net Tax Increment into Escrow under this Agreement shall constitute an indebtedness of the Agency incurred in carrying out the Redevelopment Plan and a pledge of tax increment received by the

Agency from the Project Area to repay such indebtedness under the provisions of Article XVI, Section 16 of the Constitution of the State of California, the Redevelopment Law, and the Redevelopment Plan.

## ARTICLE 5.
## GENERAL PROVISIONS

Section 5.1 Non-Liability of Officials. No member, official, employee, manager or agent of any Party shall be personally liable to any other Party, or any successor in interest, in the event of any default or breach by such Party for any amount which may become due to any other Party or successor or on any obligation under the terms of this Agreement.

Section 5.2 Actions of the Parties. Except as otherwise provided in this Agreement, whenever this Agreement calls for or permits the Stadium Authority's or the Agency's approval, consent, or waiver, the written approval, consent, or waiver of the Agency's Executive Director or the Stadium Authority Executive Director (or their respective designees) shall constitute the approval, consent, or waiver of the Agency or the Stadium Authority, respectively, without further authorization required from the governing board of such Party; provided, however, that the person vested with such authority may seek such further advice or authorization from the applicable governing board as she/he deems it appropriate.

Section 5.3 Nondiscrimination.

(a) In Performance of Agreement. The Stadium Authority and its contractors, subcontractors, agents, and employees shall not, because of the race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, age, or disability of any person, refuse to hire or employ the person, or refuse to select the person for a training program leading to employment, or bar or discharge the person from employment or from a training program leading to employment, or discriminate against the person in compensation or in terms, conditions or privileges of employment with respect to performance of this Agreement.

(b) With Respect to Use of the Stadium. The Stadium Authority covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, age, or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Stadium.

Section 5.4 Third Party Beneficiaries. The Agency, the Stadium Authority and Stadco do not intend by any provision of this Agreement to confer any right, remedy or benefit upon any other third party, and no other third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

Section 5.5 State Law. This Agreement, and the rights and obligations of the Parties hereto, shall be construed and enforced in accordance with the laws of the State of California.

Section 5.6 Records. The Stadium Authority shall maintain complete and accurate financial accounts, documents and records with respect to the performance of its obligations under this Agreement, and shall make same available to the Agency's authorized agents for copying and auditing upon reasonable prior notice. Such accounts, documents and records shall be retained by the Stadium Authority for the longer of seven (7) years following completion of the Stadium or whatever retention period the Stadium Authority has designated for such documents.

Section 5.7 Inspection of Documents. During the regular office hours and upon reasonable prior notice, the Stadium Authority, the Agency and Stadco, by their duly authorized representatives, shall have the right to inspect and make copies of any books, records or reports of the Stadium Authority and the Agency pertaining to this Agreement. During regular office hours and upon reasonable prior notice, the Stadium Authority and the Agency, by their duly authorized representatives, shall have the right to inspect and make copies of any books, records or reports of Stadco's Predevelopment Costs.

Section 5.8 Additional Acts. The Parties each agree to take such other and additional actions and execute and deliver such other and additional documents as may be reasonably requested by the other Parties for purposes of consummating the transactions contemplated in this Agreement.

Section 5.9 Validity of Agreement. If any provisions of this Agreement, or the application thereof to any person, Party, transaction, or circumstance, is held invalid, the remainder of this Agreement, or the application of such provision to other persons, parties, transactions, or circumstances, shall not be affected thereby. In the event litigation is initiated attacking the validity of this Agreement, each Party shall in good faith defend and seek to uphold the Agreement. In the event the Stadium Authority or the Agency is ordered by a court of law, pursuant to a final nonappealable judgment by such court of law, to return the Initial Make-Ready Work Funds to the City or a successor agency, Stadco, upon request of the Stadium Authority or the Agency, shall immediately pay to the Stadium Authority or the Agency, as directed, any Initial Make-Ready Work Funds that have not been expended in accordance with this Agreement prior to such date.

Section 5.10 Entire Agreement; Modification and Amendment. This Agreement contains all of the agreements and understandings of the Parties pertaining to the subject matter contained herein and supersedes all prior or contemporaneous agreements, representations and understandings of the Parties. This Agreement cannot be amended or modified except by written agreement of the Parties.

Section 5.11 Defaults and Remedies. If any Party breaches any other material provision of this Agreement, any of the other Parties shall first notify the breaching Party in writing of the purported breach or failure, giving the breaching Party thirty (30) days from receipt of such notice to cure or, if cure cannot be accomplished within thirty (30) days, to commence to cure such breach, failure, or act. In the event the breaching Party does not then so cure within such thirty (30) days, or if the breach or failure is of such a nature that it cannot be cured within thirty (30) days, the breaching Party fails to commence to cure within such thirty (30) days and thereafter diligently complete such cure within a reasonable time thereafter but in

no event later than one hundred twenty (120) days, then each non-breaching Party shall be afforded all of its rights at law or in equity, including to prosecute an action for damages or specific performance.

Section 5.12 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties to this Agreement. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any successor, heir, administrator, executor or assign of such Party who has acquired an interest in compliance with the terms of this Agreement, or under law.

Section 5.13 Time of The Essence. Time is of the essence in the performance of all duties and obligations under this Agreement.

Section 5.14 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different Parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(signatures on following page)

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth in the opening paragraph of this Agreement.

Approved as to Form

for Elizabeth H. Silver
Interim Stadium Authority General Counsel

SANTA CLARA STADIUM AUTHORITY

for Jennifer Sparacino
Executive Director

Attest:

for Rod Diridon, Jr.
Stadium Authority Secretary

Approved as to Form

for Elizabeth H. Silver
Interim Agency General Counsel

REDEVELOPMENT AGENCY OF THE CITYOF SANTA CLARA

for Jennifer Sparacino
Executive Director

Attest:

for Rod Diridon, Jr.
Agency Secretary

FORTY NINERS STADIUM, LLC, a Delaware limited liability company

By: _____

Name: Lawrence MacNeil

Title: VP & CFO

EXHIBIT A

DESCRIPTION OF MAKE-READY WORK

## GENERAL DESCRIPTION OF MAKE-READY WORK

Phase I – Utility Relocation and Ramp Construction at Southwest Corner of Site

- Install fire hydrants for construction period and future use as stadium site hydrants
- Relocate Silicon Valley Power (SVP) high voltage poles along Southerly property line
- Isolate recycled water line at Bridge and cap line for relocation
- Demolition, clearing and grading in Southwest work area
- Construct retaining walls for ramp south of Stadium
- Place partial embankment adjacent to ramp
- Design, testing and regulatory approvals for bridges spanning San Tomas Aquino Creek
- Geotechnical investigation and testing of the stadium site
- Environmental investigation and testing of the stadium site
- Place new utilities in ramp area and Southwest corner of site
- Locate and work around existing north/south fiber optic cable
- Relocate transformer in Centennial Blvd right-of-way to SVP property corner
- Pull SVP conductors and fiber optic cables in previously installed duct banks
- Begin abandonment of SVP ducts that are no longer required
- Construct remaining utilities in Southwest work area
- Design, engineering, surveying, title work, estimating, development fees, inspection, and preconstruction services relating to the above work

Phase II – Access and Utility Installation at East and Southeast Portions of Site

- Install fencing to separate 49ers Training Facility from new access road and parking lot construction
- Clearing and grubbing of new Parking Lot Area and new South Access Roadway
- Install utilities adjacent to South Access Roadway
- Install new temporary sanitary sewer line from 49ers Training Facility to existing sanitary sewer main at Youth Soccer Park
- Construct East-West public utilities corridor on North side of existing 49ers Training Facility property
- Reconnect Youth Soccer Park utility services after utility relocations have been completed
- Construct South Access Road for access to 49ers Training Facility, Northern Receiving Station, reconnect utilities to City water tanks and City emergency generators after utility relocations have been completed
- Reconnect utilities to SVP Northern Receiving Station after utility relocations have been completed
- Switch over SVP electrical service and PG&E gas service to 49ers Training Facility upon completion of new utilities and obtaining of signoffs from SVP and PG&E
- Centennial Blvd. right-of-way clearing and grubbing in preparation for new stadium construction
- Abandonment and removal of replaced and no-longer-needed utilities in Centennial Blvd right-of-way
- Design, engineering, surveying, title work, estimating, development fees, inspection, and preconstruction services relating to the above work