Ordinance authorizing a settlement agreement and related lease amendment with the San Francisco Forty Niners, Ltd. (the 49ers) to settle a claim made by the 49ers on June 18, 2010, against the City and County of San Francisco relating to the condition of Candlestick Stadium; exempting any new City policy requirements that the City's Administrative Code would otherwise require for a material amendment to the lease.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are *strike-through italics Times New Roman*. Board amendment additions are *double-underlined*; Board amendment deletions are *strikethrough normal*.

Be it ordained by the People of the City and County of San Francisco:

1. On June 18, 2010, the San Francisco Forty Niners, Ltd. ("the 49ers") filed a government claim against the City and County of San Francisco, alleging that the City is in breach of the Candlestick Park Stadium Lease dated as of December 3, 1969 between the City and the 49ers, as amended (the "Lease") based upon the City's alleged failure to maintain and repair the stadium commonly referred to as Candlestick Stadium ("the Stadium") as required under the Lease (the "49ers Claim").

2. In May 2009, the City's Controller's Office released a report finding that the 49ers owed the City for underpaying rent relating to parking fees that the 49ers charged on property under the Lease, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 110313 (the "City's Claim").

3. In settlement of the 49ers' Claim and of the City's Claim (collectively "the Claims"), the parties negotiated a settlement agreement (the "Settlement Agreement") and a related amendment to the Lease (the "Lease Amendment") that include: (1) a $3 million payment to...
the 49ers to make improvements to the Stadium; (2) the provision of $3.4 million in rent
credits for further improvements to the Stadium; (3) a rent reduction in the amount of
$3.4 million; (4) an extension of the lease term to May 31, 2016, with an option to terminate
the lease early, on May 31, 2015, exercisable by the 49ers; (5) a revision to the remaining
extension options under the lease to permit annual extensions to May 31, 2023 exercisable by
the 49ers, and providing additional rent credits and rent reductions during each annual
extension; (6) changes to the maintenance and repair provisions of the Lease, including new
provisions relating to the City's continuing maintenance and future unanticipated capital
repairs at the Stadium; (7) a mutual withdrawal of claims, covenant not to sue, and release of
existing claims; and (8) the termination of an existing tolling agreement between the City and
the 49ers; all as further described in the Settlement Agreement and Lease Amendment.

(4) The 49ers and the City understand and agree that as a material part of settlement
of the Claims, the Lease Amendment shall not be subject to any new City policy requirements
that the City's Administrative Code would otherwise require for a material amendment to the
Lease since the date of the last amendment to the Lease.

Section 2. The Board of Supervisors authorizes the San Francisco City Attorney's
Office to settle the Claims according to the terms set forth herein, and the Board of
Supervisors further approves and authorizes the Recreation and Park Commission, the
Recreation and Park General Manager, the Controller and the City Attorneys' Office, on behalf
of the City, to take any and all steps necessary or appropriate to effectuate the execution,
delivery and performance of the Settlement Agreement and the Lease Amendment in
substantially the form filed with the Clerk of the Board in File No. 110313, and any
additions, amendments or other modifications to the Settlement Agreement and Lease
Amendment that the Recreation and Park General Manager determines, in consultation with
the City Attorney, are in the best interests of the City and do not materially increase the
obligations or liabilities of the City or decrease the benefits to the City, and are necessary or
advisable to effectuate the purpose and intent of this Ordinance. Any and all actions taken by
City officials consistent with this Ordinance are hereby ratified and approved.

APPROVED AS TO FORM AND
RECOMMENDED:

DENNIS J. HERRERA
City Attorney

By: CHARLES SULLIVAN
Deputy City Attorney

RECOMMENDED BY RECREATION AND
PARK COMMISSION
RESOLUTION NO.:
DATE:

MARGARET MCARTHER
Government Liaison

FUNDS AVAILABLE:

BEN ROSENFIELD
Controller

Mayor Lee
BOARD OF SUPERVISORS

3/15/2011
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March 21, 2011 Land Use and Economic Development Committee - CONTINUED

March 28, 2011 Land Use and Economic Development Committee - RECOMMENDED

April 05, 2011 Board of Supervisors - PASSED ON FIRST READING
Ayes: 10 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Mar, Mirkarimi and Wiener
Absent: 1 - Kim

April 12, 2011 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 4/12/2011 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

Date Approved 4/14/11