

TERM SHEET  
FOR LEASE OF NEW BALLPARK SITE

This term sheet dated as of December \_\_, 1996 summarizes certain of the basic financial terms of a fair market value lease by the City and County of San Francisco, through its Port, (the "City") to the China Basin Ballpark Company ("CBBC"), a limited liability company controlled by San Francisco Baseball Associates L.P. (the "Team Partnership"), of real property bounded generally by the easterly line of Third Street, the southerly line of King Street, the easterly line of Second Street and China Basin Channel, for development and operation of an open air waterfront ballpark and complementary improvements, known as "Pacific Bell Park."

This term sheet is intended to be the basis for a comprehensive ground lease and related agreements appropriate to facilitate development of the ballpark project. Subject to environmental review, the public review process and all required governmental approvals, as further provided in the last paragraph of this term sheet, the parties shall in good faith negotiate the lease and related agreements by May 30, 1997 in accordance with the following principles.

- RENT: CBBC shall pay annual rent to the City's Port, in advance and in quarterly installments, beginning upon delivery of the site, in accordance with the following rent schedule:
- Site delivery (1997) through March 2003: \$1,200,000 per year.
  - April 2003 through March 2006: At the beginning of this period, the \$1,200,000 annual rent will be adjusted by increases in the Consumer Price Index for All Urban Consumers (base years 1982-1984 = 100) for the San Francisco-Oakland-San Jose area ("CPI"), based on compounded increases for the period from site delivery (1997) to the adjustment date; provided, however, the increase in CPI shall be limited to 3% per year for such period.
  - April 2006 through the end of the initial term (October 2022): Annual rent will be adjusted every 3 years, beginning at the start of this period, based on compounded CPI increases for the previous 3-year period; provided, however, the increase in CPI shall be limited to 5% per year for each adjustment period.
  - First extension term (November 2022) through end of maximum term (October 2062): At the beginning of the first extension term, annual rent will be adjusted to fair market rent in accordance with the following procedure. CBBC will give the City at least 24 months' advance written notice of CBBC's intent to extend the initial lease term. The parties will then attempt to agree on fair market rent. Fair market rent shall be

based on the value of the land at the time of the rental adjustment, without regard to the value of the ballpark improvements and unencumbered by the lease. The land shall be valued under a reasonably achievable development scenario consistent with land use regulations then in effect. The development scenario shall not assume any amendment or modification to the land use regulations, other than as permitted under then-existing procedures for exceptions, variances or conditional-use authorizations. Land use regulations shall include regulations relating to urban design, density, height and bulk of structures, compatibility with surrounding land uses, requirements to avoid environmental impacts, and investigation or remediation of hazardous materials, as all such regulations are likely to be applied to any particular development proposal at this location. If the value is determined based on any use which would require the demolition of any or all of the improvements then existing on the premises, the estimated cost of such demolition shall be reflected in the determination of value. If the parties are unable to reach agreement on fair market rent within 12 months of CBBC's notice, CBBC may either (1) withdraw its notice of intent to extend the term, or (2) confirm its election to extend the term, in which case rent shall be determined through the following process. Each party shall select an appraiser who shall arrive at an estimate of fair market rent. If the two appraisals are within 10% of the higher of the two, the fair market rent will be the average of the two appraisals. If the two appraisals differ by more than 10% of the higher of the two, the parties shall select an independent arbitrator. The arbitrator shall consider the data and conclusions of the two appraisals and other relevant information provided by the parties and shall select the appraised fair market rent from one of the first two appraisals that is closer to such arbitrator's determination of fair market rent. The determination of the fair market rent by such appraisal or arbitration process shall be conclusive and binding on the parties.

The lease shall be on an absolutely net basis. Rent shall be paid to the City's Port without offset or reduction of any kind, except only for a credit against rent for funds advanced by CBBC, to the extent the City may, at its option, request such advances, to pay for certain City transaction costs agreed to by the parties. The total amount of such advances shall not exceed \$500,000. Such

advances shall be reimbursed through credits against annual rent of up to \$75,000 per year, until the total amount of the funds advanced, together with interest accrued thereon, has been reimbursed through such credits. Interest shall accrue on the unreimbursed amount of the funds advanced at an annual rate equal to CBBC's actual cost of funds, not to exceed 8.5% per year (assuming twelve 30-day months). The Port may elect, in its sole discretion, to reimburse such advances from rent payable under the lease or other Port revenues in annual amounts greater than \$75,000, without penalty. Except as provided above and in the paragraphs below regarding site delivery and entitlements, CBBC shall not be required to pay any other sums to the City for its assembly or delivery of the site or for City transaction costs.

**TERM:** Minimum term of approximately 25 years from site delivery, for a term that expires in October 2022, assuming site delivery occurs in 1997. The term may be extended at the option of CBBC for successive 5-year periods, up to a maximum of 66 years from site delivery. CBBC will give advance notice of its intent to extend the initial term as provided above in the paragraph regarding rent. After the first extension option, CBBC will give at least 12 months' notice of its intent to exercise any subsequent extension option.

**SITE DELIVERY:** Prior to site delivery, CBBC shall, among other things, demonstrate to the City's satisfaction that it has secured adequate financing for construction of the ballpark project. The City shall deliver the site to CBBC vacant of Port tenants and other Port occupancies on Pier 46 but otherwise in its as is condition. Concurrently with or before site delivery, the City will acquire the Caltrans parcel (Assessor's Block 3794) pursuant to a negotiated agreement with the State. The City will be responsible for the purchase price for the Caltrans Parcel and ordinary tenant relocation costs, up to a maximum of \$4,100,000. However, if it is determined that the total purchase price and ordinary relocation costs will exceed such maximum amount, the terms and conditions for payment of the excess costs will be subject to mutual agreement of the parties.

**USE:** Subject to applicable zoning regulations and any limitations which the tidelands trust may impose on the premises, the premises may be used for playing the Giants' major league baseball games and for such other purposes consistent with the ballpark project as the

parties may agree upon. The City shall grant to CBBC access rights during the lease term for pedestrians and vehicles over the area east of the easterly line of Second Street, provided that such use will be coordinated with the uses of South Beach Park, as it may be improved, under the redevelopment plan.

**NON-RELOCATION  
AGREEMENT:**

As a material inducement to the City to enter into the lease with CBBC, to approve issuance by the Agency of the financing for certain infrastructure as described below and to undertake other endeavors to achieve the purposes hereof, the Team Partnership shall covenant directly with the City to play its home baseball games at the ballpark for 23 seasons after opening day (assuming site delivery in 1997) under the terms of the baseball sublease referred to below. Except solely in the case of foreclosure or a Work-out Sale under the Team Loan in accordance with the principles of the Intercreditor Agreement described below, the Team Partnership (or any successor) will require any purchaser of the franchise to assume such covenant directly for the City's benefit. The City shall have all remedies at law or in equity, including particularly the remedy of specific performance, for a breach or threatened breach of such covenant by the Team Partnership or any successor purchaser of the franchise. In addition, the Team Partnership shall agree to provide the City with at least 6 months' advance written notice before submitting any written application to the National League for approval of a relocation, or entering into any written agreement to transfer the franchise to another location, where such relocation would occur after the end of such 23-season period. The notice will specify in reasonable detail the reasons for seeking to relocate the team. As a condition to delivery of the site to CBBC, the Team Partnership shall be obligated to deliver the non-relocation agreement, approved by the Office of the Commissioner of Baseball and any other Major League Baseball authorities whose approval is required under Major League Baseball's rules and regulations.

In connection with the non-relocation agreement, the Team Partnership shall enter into a sublease with CBBC to play its home games in the ballpark for a minimum term that is equal to the term of the non-relocation agreement. The baseball sublease shall be subject to all of the terms and conditions of the ground lease between the City and CBBC. The City shall have the right to approve, in advance, the form and business terms of the baseball

sublease. The City and the Team Partnership shall enter into a “non-disturbance and attornment” agreement with the lenders to the Team Partnership (the “Team Lenders”) whereby the City would agree to accept the Team Partnership (or any successor) as a direct tenant under the terms of the baseball sublease and the Team Partnership would agree to recognize the City as its direct landlord under the terms of the baseball sublease, if the ground lease between the City and CBBC terminates before the end of the initial term. The non-disturbance and attornment agreement shall also provide that the City shall have the right to cure any default by CBBC of its obligations as landlord under the baseball sublease, provided that the City commences and completes such cure within a reasonable period of time under all circumstances. The City’s cure rights shall be subject to “mortgagee protection” provisions that are reasonably satisfactory to lenders financing the ballpark (the “Ballpark Lenders”), and the City’s cure rights shall begin upon the expiration of the cure rights granted to the Ballpark Lenders.

The Team Partnership, the City, the Ballpark Lenders and the Team Lenders will enter into an Intercreditor Agreement whereby the parties will agree that, notwithstanding the relocation covenants set forth in the non-relocation agreement, the following provisions shall apply to any sale (a “Work-out Sale”) of the franchise as a result of a default under the loan secured by the franchise (the “Team Loan”):

(A) The Team Lenders shall have the right to give notice to the City and all other parties to the Intercreditor Agreement of any outstanding loan default under the Team Loan at any time (the “City Notice Date”);

(B) No Work-out Sale or other foreclosure or transfer in lieu of foreclosure shall be completed for a period of 90 days following the City Notice Date (the “Standstill Period”). This will give the Team Partnership and the City an opportunity to find a buyer which will acquire the franchise and assume in writing the obligations of the Team Partnership under the Non-Relocation Agreement and under the baseball sublease (a “Local Buyer”). Subject to the approval of the Team Lenders, the Team Partnership may sell the franchise at any time to a Local Buyer;

(C) After the expiration of the Standstill Period, the Team Partnership and Team Lenders will be permitted to sell the franchise in a Work-out Sale to a buyer that wishes to relocate the team outside of San Francisco and which will not be subject to the non-relocation agreement (an “Outside Buyer”) only if at the time of such Work-out Sale no Local Buyer has been approved by Major League Baseball and has made a bona fide offer to purchase the franchise at a price and on terms which are either:

(i) sufficient to repay in full all indebtedness owed by the Team Partnership to the Team Lenders and all indebtedness owed by CBBC to the Ballpark Lenders; or

(ii) at least as favorable to the Team Partnership, the Team Lenders and the Ballpark Lenders as the price and terms offered by the Outside Buyer.

The Intercreditor Agreement will not have any effect on the City’s rights under the non-relocation agreement with respect to any transfer of the franchise which is not a Work-out Sale.

The Team Partnership shall agree, separately, to guaranty the City for payment of certain monetary obligations of CBBC under the ground lease (as such obligations are described below) if: (1) the Team Partnership violates the non-relocation covenant or, in the event of a Work-out Sale or foreclosure sells the franchise to an Outside Buyer subject to the principles of the Intercreditor Agreement described above; (2) the City is prevented from or determines not to seek specific performance; and (3) CBBC is in breach of the ground lease (including, but not limited to, a breach by virtue of a default under the non-relocation agreement) or CBBC files for bankruptcy. Such guaranty shall include specifically the obligation to pay unpaid rent at the time of such termination (including rent over the balance of the initial term less rental loss that could be reasonably avoided), the then outstanding principal and any interest on the tax allocation bonds issued by the Agency for certain ballpark related infrastructure as described further below, and the costs of demolishing all or any part of the ballpark improvements if the City elects to require demolition

under the ground lease as provided further below. Except solely in the case of foreclosure or a Work-out Sale under the Team Loan in accordance with the principles of the Intercreditor Agreement described above, the Team Partnership (and any successor) will require any purchaser of the franchise to assume such obligations directly for the City's benefit.

**IMPROVEMENTS:** CBBC shall be responsible for all costs of constructing and operating the ballpark project, including, without limitation, demolition, hazardous materials investigation and remediation in accordance with a remediation plan approved in advance by the Port and acceptable to the Regional Water Quality Control Board ("RWQCB"), substructure improvements and other site preparation work. CBBC shall also cooperate with the Agency in the design and construction of open space and parking garage improvements to the adjoining area of South Beach Park, provided that the Agency provides the funds for such design and construction.

Property tax increment generated from the ballpark project site (exclusive of the affordable housing set aside and the statutory allocation for other public agencies) shall be made available to finance public improvements needed in connection with development of the ballpark. The uses and amounts of such increment shall be as agreed to by the parties. Availability of increment for such purposes shall be subject to, among other things, approval by the Redevelopment Agency Commission and Board of Supervisors of a redevelopment project area amendment covering the site and an allocation of tax increment revenues. If the term of the tax increment bonds exceeds the minimum term of the lease, then the availability of tax increment may also be subject to provision by CBBC of a guaranty or other financial assurance, as agreed by the parties, as needed to support the debt service for the term of the bonds in excess of the lease term. If after the Agency issues such tax increment bonds, property tax revenues collected from the ballpark project are reduced due to a reassessment or otherwise, rent under the lease shall be increased for such period and by such amount, if any, as needed to pay the debt service for such bonds issued to finance ballpark-related infrastructure. The additional rent shall be paid to the Agency and shall not exceed the amount of the reduction in property taxes.

If CBBC does not renew the lease for at least 2 renewal periods after the end of the initial term (for an extended term of at least 35

years from site delivery), the City shall have the option to require CBBC to raze the improvements or portions thereof as the City may designate, remove the rubble and cause the site to be surrendered in a safe condition, in accordance with then applicable laws.

**ENTITLEMENTS:** Subject to applicable laws, the City and CBBC shall cooperate to expedite required environmental review and review of development applications, permits, and approvals necessary to allow the ballpark project to be developed in accordance with the attached anticipated project schedule. The attached schedule reflects projections based on current information and certain assumptions. No assurance can be given that the schedule will be met. CBBC shall obtain all required regulatory permits and approvals and bear the costs associated therewith.

While this term sheet summarizes certain essential financial terms of the proposed ground lease, it does not set forth all of the material terms and conditions of the lease. The signature of the Mayor below acknowledges his support for the proposed lease on the terms specified herein. However, this term sheet is not intended to be, and shall not become, contractually binding on the City (including its Port), CBBC or the Team Partnership, and no legal obligation shall exist unless and until the parties have negotiated, executed and delivered mutually acceptable agreements based upon information produced from the environmental review (CEQA) process and on other public review and hearing processes and subject to all applicable governmental approvals. The City retains the absolute discretion before action on the project by the Board of Supervisors, Port Commission or any other commission, to (i) make such modifications to the form of the lease and the ballpark project that are deemed necessary to mitigate significant environmental impacts; (ii) select other feasible alternatives to avoid such impacts; (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided; or (iv) determine not to proceed with the project.



Read and approved by:

CITY:

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Mayor Willie L. Brown, Jr.

CBBC:

China Basin Ballpark Company, LLC  
a Delaware limited liability company

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Peter A. Magowan, Chairman and Chief Executive Officer

Read and approved as to the non-relocation  
agreement set forth above:

TEAM PARTNERSHIP:

San Francisco Baseball Associates, L.P.,  
a limited partnership  
By: Magowan Baseball, Inc.  
its Managing General Partner

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Peter A. Magowan, President

## ANTICIPATED PROJECT SCHEDULE

Certification of Ballpark Project EIR	June 1997
Approval of Lease and Other Project Documents and Actions by City Boards and Commissions and the Redevelopment Agency, including Adoption of Redevelopment Plan Amendment	June-July 1997
Approval of Lease by State Lands Commission and Issuance of BCDC Permit	July-August 1997
Closing of Purchase of Caltrans Parcel	July-September 1997
Delivery of Site	July-September 1997
Commencement of Site Preparation Work	July-September 1997
Opening of Ballpark to the Public	April 2000