

ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney  
John A. Russo  
City Attorney

(510) 238-3601  
FAX: (510) 238-6500  
TDD: (510) 839-6451

December 20, 2005

**HONORABLE CITY COUNCIL**  
Oakland, California

**Subject: City of Oakland, et al. v. Oakland Raiders, et al.**  
**Sacramento County Super. Ct. No. 97AS06708**

President De La Fuente and Members of the City Council:

## I. INTRODUCTION

On October 28, 2005, the Authority approved the terms of a settlement with the Oakland Raiders, and agreed to enter into a Memorandum of Understanding (the "MOU") that outlined the terms of the settlement. This approval was contingent upon the subsequent approval of certain other parties to the MOU, the City of Oakland (the "City"), the County of Alameda (the "County") and Oakland Alameda County Coliseum, Inc. ("OACC"). The Authority, the City, the County, OACC, the Oakland Alameda County Coliseum Financing Corporation (collectively, the East Bay Entities) and the Raiders are sometimes collectively referred to as the Parties. The MOU was approved by the City, contingent on approval by all other necessary parties at the November 1, 2005 closed session and was subsequently approved by each of these parties. The MOU was announced to the public after the OACC approved the MOU on November 2, 2005. The MOU provides that "each of the Parties agrees to instruct its representatives diligently to collaborate in good faith on a definitive settlement agreement and amendments. . . that reflect the terms set forth in the [MOU] as well as all other terms and conditions necessary to effectuate an amendment to the Master Agreement . . ."

## II. BACKGROUND

On September 29, 1997, the City, the County, the Authority and the OACC ("EBEs") filed a lawsuit against the Raiders that became known as *City of Oakland, et al. v. Oakland Raiders, et al.*, No. 97AS06708 (the "Action"), Superior Court of Sacramento County (the "Court"). On July 7, 1998, the Raiders filed a Cross Complaint

**HONORABLE CITY COUNCIL**

**Subject: City of Oakland, et al. v. Oakland Raiders, et al.  
Sacramento County Super. Ct. No. 97AS06708**

**December 20, 2005**

**Page 2**

against the EBEs, that was amended on November 2, 1998 and April 6, 2000 (the "Cross Complaint"). The Raiders filed a cross complaint against the EBEs on July 7, 1998, seeking damages arising out of allegations that included tortious interference with business relations, fraud, negligent misrepresentation, breach of the covenant of good faith and fair dealing and other issues.

On or about October 19, 1998, the Court granted the motion of the City, County, Authority and OACC to compel arbitration of the Raiders' claims relating to breaches of the Marketing Agreement, stayed such claims in the Action, and stayed the arbitration until the remaining claims in the Action were litigated. The non-arbitration allegations were tried to a jury in 2003 resulting in an approximately thirty-five million (\$35,000,000.00) dollar judgment in favor of the Raiders against OACC only.

On April 10, 2003, the Court entered an Order pursuant to the Parties' stipulation providing that the arbitration claims (the "claims") at issue between the Raiders and the City, County, JPA, Financing and OACC be submitted to arbitration and stayed the arbitration until all non-arbitrated claims are litigated. The claims include: (1) the Fifth Claim for Breaches of the Agreements alleged in paragraphs 140(a)-(d), 140 (g)-(j) and 140 (m)-(q) of the Raiders' Second Amended Cross-Complaint; and (2) the Eighth and Ninth Claims for declaratory relief regarding the Visiting Team Share Agreement alleged in the Raiders' Second Amended Cross-Complaint. (The claims referenced in this paragraph and the preceding paragraph shall be collectively referred to as the "claims.>").

It is resolution of these claims that this settlement is intended to accomplish.

On November 1, 2005, the City Council held a closed session discussion regarding the litigation to discuss settlement proposals. The Council approved the parameters of a Memorandum of Understanding ("MOU") among the City of Oakland, Oakland Raiders, the Oakland Alameda County Coliseum Authority (the "Authority"), the County of Alameda, the Oakland Alameda County Coliseum, Inc. and the Oakland Alameda County Coliseum Financing Corporation and authorized its negotiators to negotiate with the other parties a proposed settlement of *City of Oakland, et al v. Oakland Raiders* (Sacramento County Superior Court, Case No. 97AS06708). At the time of the November 1, 2005 closed session the Oakland Alameda County Coliseum Inc. and the Oakland Alameda County Coliseum Financing Corporation had not approved the terms of the MOU. The MOU was subsequently approved by all other parties, thereby removing the contingency from the November 1, 2005 City approval.

**HONORABLE CITY COUNCIL**

**Subject: City of Oakland, et al. v. Oakland Raiders, et al.  
Sacramento County Super. Ct. No. 97AS06708**

**December 20, 2005**

**Page 3**

**III. SETTLEMENT AGREEMENT**

Pursuant to the MOU, staff, in cooperation with the Raiders representatives, prepared the proposed Settlement that includes the following:

1. ATTACHMENT A which consists of:
  - Settlement Agreement and Mutual Release (the "Settlement");
  - Supplement No. 2 to the Master Agreement and Certain Exhibits to the Master Agreement (the "Supplement");
  - Appendices to the Supplement:
    - Appendix A: Football Event Advertising Agreement
    - Appendix B: Raiders Deed of Trust on the Practice Facility.
2. ATTACHMENT B consists of the Master Agreement.

Forms of the Settlement, the Supplement and the Appendices to the Supplement are attached. Also attached is a set of the agreements that are modified by the Supplement and marked to show where the changes have been made.

The Settlement provides the following:

1. The Parties agree to enter into the Supplement (see description of the Supplement below.) (1)
2. The Authority agrees to pay to the Raiders \$1 million for the transition of ticketing services from OFMA to the Raiders and to provide to the Raiders OFMA files, furniture and equipment. (2.1)
3. The Raiders agree to record a deed of trust on their practice facility in Alameda as provided in the Supplement. (2.2)
4. The Authority agrees to commence winding down OFMA after the end of the 2005 football season and to be responsible for the debts and liabilities of OFMA, except the Ticketmaster contract. The Raiders agree to assume all responsibility for the sale and promotion of football tickets. (2.3)
5. The Parties release each other from all claims existing on the date of the Settlement, except those relating to the Sacramento judgment, currently on appeal. (3.1-3.4)
6. The Parties agree to dismiss with prejudice all of the proceedings relating to the released claims, not including the Sacramento judgment. (4.1-4.2)

**HONORABLE CITY COUNCIL**

**Subject: City of Oakland, et al. v. Oakland Raiders, et al.  
Sacramento County Super. Ct. No. 97AS06708**

**December 20, 2005**

**Page 4**

**IV. SUPPLEMENT NO. 2**

The Supplement contains amendments and clarifications to the Master Agreement, the Operating License, the Loan Agreement, the Marketing Agreement and Marketing Strategy, Supplement No. 1, the Visiting Team Share Agreement and the Revenue Trust and Security Agreement. The following briefly describes the content of the Supplement.

1. *Amendments to the Master Agreement* (Section 2):
  - a. The Master Agreement is amended to clarify the agreement of the Parties that the Authority will no longer market Personal Seat Licenses or for funding any marketing expenses, that the Raiders will take responsibility for marketing, and that OFMA will no longer have any responsibilities under the Master Agreement or Marketing Agreement. (2 (a)-(e), (n), (o), (q), (r))
  - b. The Master Agreement is amended to provide that the Raiders retain all ticket revenue, that the Raiders pay the Authority one-half of the club dues on 3300 club seats on the first day of each quarter, and that the Raiders continue to collect and pay to the Authority \$1 for the Public Benefit Fund. (2(e))
  - c. The Master Agreement is amended to reflect that the Authority will retain 100% of parking revenue and be entitled to raise parking rates. (2(l))
  - d. The Master Agreement is amended to reflect that the Authority will retain concession revenue up to a cap of \$1 (increasing annually). The capped amount will be paid to the Raiders.
  - e. The Master Agreement is amended to provide that the allocation certain advertising revenues will be governed by the Football Advertising Agreement, among the A's, the Raiders and the Authority. (2(m)) (See description below.)
  - f. The Master Agreement is amended to provide that the Raiders sell and retain the revenue from the sale of Suites, except for the Suites used by the OACC, City, County and A's. (2(p))
  - g. The Master Agreement is amended to require the recording of a deed of trust, in the form attached to the Supplement as Appendix B, to be recorded simultaneously with the delivery of the Supplement. (2(s))
  - h. The Master Agreement is amended to require mediation as well as a pre-mediation dispute resolution procedure. (2(w))
  - i. The Master Agreement is amended to require amendments to the agreements in the event there are changes in NFL revenue sharing rules, provided there is no impact on the net revenues of the East Bay Entities. (2(x))

**HONORABLE CITY COUNCIL**

**Subject: City of Oakland, et al. v. Oakland Raiders, et al.  
Sacramento County Super. Ct. No. 97AS06708**

**December 20, 2005**

**Page 5**

2. *Amendments of Supplement No. 1 to the Master Agreement and Certain Other Agreements Defined Therein.*
  - a. Supplement No. 1 is amended to delete references to suite deposits and refunds of suite deposits. (3(a))
  - b. Supplement No. 1 is amended to provide that the East Bay Entities are no longer obligated to build additional suites in the Stadium.
  - c. Supplement No. 1 is clarified to provide that the Raiders intended to convey title to the Stadium Capital Improvements and all related causes of action to the East Bay Entities. (3(c))
  - d. Supplement No. 1 is amended to provide that the Football Event Advertising Agreement shall govern the rights of the parties with respect to Stadium advertising revenues. (3(d))
  - e. Supplement No. 1 is amended to raise the percentage of playoff ticket revenue sharing from 12% to 15%. (3(e))
  
3. *Amendments to Operating License.*
  - a. The Operating License is amended to delete all references to the rights of the Authority to sell PSLs. (4(a), (c), (j))
  - b. The Operating License is amended to provide for the Raiders control over the sale of suites. (4(b))
  - c. The Operating License is amended to omit provisions relating to the Raiders ownership of the Stadium Capital Improvements, which were deed to the East Bay Entities in 1996. (4(d),(e))
  - d. The Operating License is amended to omit provisions relating to the Raiders receiving parking revenues. (4(f))
  - e. The Operating License is amended to provide that the East Bay Entities shall not be responsible for paying certain taxes on the Raiders property. (4(h),(i))
  
4. *Amendments to Visiting Team Share Agreement*
  - a. The Visiting Team Share Agreement is amended to provide that each of the Raiders and the East Bay Entities acknowledge that they will pay any revenue sharing due on their respective shares of club dues. The NFL has indicated to the Raiders that it considers that a waiver has been granted to the East Bay Entities. (5(a),(b))
  - b. The Visiting Team Share Agreement is amended to remove the requirement that the Raiders pay a portion of day of game expenses.
  
5. *Confirmation and Clarifications of Loan Agreement.* The provisions of Loan Agreement are clarified to confirm the current payment streams on the loan and to confirm that the transfer of the Training Facility will be final payment for the loans. It also clarifies the recording of a deed of trust on the training facility property. (6)

**HONORABLE CITY COUNCIL**

**Subject: City of Oakland, et al. v. Oakland Raiders, et al.  
Sacramento County Super. Ct. No. 97AS06708**

**December 20, 2005**

**Page 6**

6. *Appendix A – Football Event Advertising Agreement.* This Agreement, to be executed by the Authority, OACC, the Raiders and the Oakland A's provides that the A's will be released from claims relating to past amounts for interior Stadium advertising revenues, that the A's will agree that certain year-round and certain football event signage will be sold and displayed by the Raiders, all subject to certain provisions of the agreement.
7. *Appendix B – Deed of Trust.* This Deed of Trust will be recorded simultaneously with the delivery of the Supplement and evidence the East Bay Entities rights to a conveyance of the Raiders practice facility at the termination of the Operating License.

**V. RECOMMENDATION**

Staff recommends that the City adopt the attached resolution approving the execution and delivery of the Settlement and the Exhibits and recommending similar action to the Authority, County, OACC and Financing.

Respectfully submitted,



**JOHN A. RUSSO**  
City Attorney

Attorney Assigned:

Randolph W. Hall  
Doc. No. 359636

Approved as to Form and Legality

  
2007 Oakland City Attorney's Office

# OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

---

RWH:ssl 

**RESOLUTION APPROVING THE EXECUTION AND DELIVERY OF A SETTLEMENT AGREEMENT AND MUTUAL RELEASE, INCLUDING THE EXHIBITS THERETO OF CLAIMS THAT THE OAKLAND RAIDERS WERE ENTITLED TO PAYMENT FOR BREACH OF MARKETING AGREEMENTS, FAILURE TO ACCOUNT FOR OR PAY REVENUE TO THE RAIDERS FOR SIGNAGE IN CERTAIN AREAS OF THE COLISEUM, AND BREACHES OF OTHER AGREEMENTS AMONG THE OAKLAND ALAMEDA COUNTY COLISEUM AUTHORITY, CITY OF OAKLAND, COUNTY OF ALAMEDA, OAKLAND ALAMEDA COUNTY COLISEUM, INC., THE OAKLAND ALAMEDA COUNTY COLISEUM FINANCING CORPORATION AND THE OAKLAND RAIDERS (CITY OF OAKLAND ET AL. V. OAKLAND RAIDERS ET AL.; SACRAMENTO COUNTY SUPERIOR COURT NO. 97AS06708),**

WHEREAS, on September 29, 1997, the City, the County, the Authority and the OACC ("EBEs") filed a lawsuit against the Raiders that became known as *City of Oakland, et al. v. Oakland Raiders, et al.*, No. 97AS06708 (the "Action"), venued in the Superior Court of Sacramento County (the "Court"); and

WHEREAS, on July 7, 1998, the Raiders filed a Cross Complaint against the EBEs, that was amended on November 2, 1998 and April 6, 2000 (the "Cross Complaint"); and

WHEREAS, on or about October 19, 1998, the Court granted the motion of the City, County, Authority and OACC to compel arbitration of the Raiders' claims relating to breaches of the Marketing Agreement, stayed such claims in the Action, and stayed the arbitration until the remaining claims in the Action were litigated.

WHEREAS, on April 10, 2003, the Court entered an Order pursuant to the Parties' stipulation providing that certain claims at issue between the Raiders and the City, County, JPA, Financing and OACC be submitted to arbitration and stayed the arbitration until all non-arbitrated claims are litigated. Those claims included: (1) the Fifth Claim for Breaches of the Agreements alleged in paragraphs 140(a)-(d), 140 (g)-(j) and 140 (m)-(q) of the Raiders' Second Amended Cross-Complaint; and (2) the Eighth and Ninth Claims for declaratory relief regarding the Visiting Team Share Agreement alleged in the Raiders' Second Amended Cross-Complaint. (The claims referenced in this paragraph and the preceding paragraph shall be collectively referred to as "the claims"); and

WHEREAS, the parties have reached agreement on the general terms of settlement that will resolve the claims; and

WHEREAS, on October 28, 2005, the Oakland Alameda County Coliseum Authority (the "Authority") approved and subsequently executed a Memorandum of Understanding (the "MOU"), setting forth the parameters for negotiation of a settlement of the claims between the Authority, the City of Oakland (the "City"), the County of Alameda (the "County"), the Oakland Alameda County Coliseum, Inc. ("OACC"), the Oakland Alameda County Coliseum Financing Corporation ("Financing") and the Oakland Raiders (the "Raiders") and providing for the approval of final agreements consistent with the terms of the MOU; and

WHEREAS, at closed session on November 1, 2005, the City authorized its negotiators to approve the terms of the MOU contingent on approval by all other parties; and

WHEREAS, the MOU, previously approved by the Authority and the City, was subsequently approved and executed by all other parties consisting of the County, the OACC, Financing and the Raiders; and

WHEREAS, the approval by all other parties removed the contingency from the City approval of the MOU; and

WHEREAS, staff has included in the materials accompanying this recommended resolution, a report explaining the provisions of the settlement agreement that is expected to be reached within the guidelines of the MOU; and

WHEREAS, the accompanying report summarizes the proposed terms and conditions under which the Authority, may enter into a Settlement Agreement (the "Settlement"), including the Exhibits thereto consisting of (1) a Supplement No. 2 to the Master Agreement and certain Exhibits thereto (the "Supplement") between the Raiders, the Authority, the City, the County, OACC and Financing and (2) a Deed of Trust executed by the Raiders; and

WHEREAS, forms of the Settlement and the Supplement have been presented to this meeting; and



WHEREAS, the City finds it advisable and now desires to approve such terms and conditions and authorize the execution of the Settlement and the License Amendment; and

WHEREAS, the City also desires to recommend to the Authority, the County, OACC and Financing that each such body also authorize the execution and delivery of the Settlement and the Supplement; and now, therefore, be it

RESOLVED, that all of the recitals above set forth are true and correct, and the City so finds and determines; and be it

FURTHER RESOLVED, that the City hereby approves and authorizes the execution and delivery by the Authority's Chair of the Settlement and the Supplement and the Exhibits thereto, in substantially the form presented to this meeting with only those changes that the Chair, with the advice of counsel to the Authority, shall approve; and be it

FURTHER RESOLVED, that the City Clerk is hereby authorized to attest, if required, the Settlement and the Supplement; and be it

FURTHER RESOLVED, that the City hereby recommends to the Authority, the County, OACC and Financing that each such body approve the execution and delivery of the Settlement and the Supplement; and be it

FURTHER RESOLVED, that all action heretofore taken by the officers and agents of the Authority concerning the negotiations of these agreements are hereby approved, confirmed and ratified, and the City recommends that the Authority direct and authorize its proper officers, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all agreements, and other documents which they, or any of them, may deem *necessary or advisable in order to effectuate the purposes of this resolution.*

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID,  
CHANG, and PRESIDENT DE LA FUENTE

NOES -  
ABSENT -  
ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California

# FISCAL IMPACT

## **FISCAL IMPACT**

Under the Settlement Agreement, there will be no re-marketing of Personal Seat Licenses (PSL). The estimated revenue loss to the Coliseum Authority is estimated at \$17.5 million. This figure is based on an optimistic estimate of \$3.5 million per year in PSL revenues. The Raiders will not be required to pay any day of game expenses, which will result in a \$2.5 million revenue loss to the Authority. These losses are partially offset by an estimated \$6 million in projected additional concession, parking and club revenue.

The existing agreement with the Raiders requires the Coliseum Authority to pay \$1 million per year of the Oakland Football Marketing Association costs and a \$3 million one-time payment for PSL re-marketing costs. The Settlement agreement eliminates all of these payments, except a one-time payment of \$1 million to the Raiders, for a net savings of \$7 million. The Raiders will pay all credit card fees and all property taxes on the practice facility for a cost savings of \$5.9 million. Other agreed cost savings items total \$5.7 million.

The Settlement Agreement resolves a number of issues that were scheduled for arbitration. By settling these issues, the Coliseum Authority eliminates the potential for an adverse arbitration settlement and legal fees. Outside counsel has projected the Authority's exposure between \$21 and \$78 million. Staff conservatively estimates a \$42.3 million financial benefit to the Authority. All of the financial projections related to the settlement were reviewed by an outside Certified Public Accountant. He found the assumptions to be reasonable and the calculations to be accurate.

# ATTACHMENT A

- Settlement Agreement and Mutual Release (the “Settlement”);
- Supplement No. 2 to the Master Agreement and Certain Exhibits to the Master Agreement (the “Supplement”);
- Appendices to the Supplement:
  - Appendix A: Football Event Advertising Agreement
  - Appendix B: Raiders Deed of Trust on the Practice Facility.

## SETTLEMENT AGREEMENT AND MUTUAL RELEASE

**This Settlement Agreement and Mutual Release** (“Settlement Agreement”) is entered into effective as of December \_\_, 2005 (“Effective Date”), by and among (i) **Oakland Alameda County Coliseum, Inc.**, a California non-profit corporation (“OACC”); (ii) **County of Alameda**, a political subdivision of the State of California (the “County”); (iii) **City of Oakland**, a charter city and municipal corporation duly organized and existing under the laws and Constitution of the State of California (the “City”); (iv) **Oakland Alameda County Coliseum Authority**, a joint exercise of powers authority established by the City and the County pursuant to the Amended and Restated Joint Powers Agreement, dated as of July 1, 1995, and December 17, 1996 (the “Authority”); (v) **Oakland Alameda County Coliseum Financing Corporation**, a California non-profit corporation (“Financing”); (vi) The **Oakland Raiders**, a California limited partnership and (vii) **A.D. Football, Inc.**, a California Corporation (the entities listed above in items (vi) and (vii) are referred to collectively as the “Raiders”). The entities listed in (i) through (v) are referred to collectively as the “EBEs.” The entities listed above in items (i) through (vii) are collectively referred to as the “Parties.” This Settlement Agreement is intended by the Parties listed above to fully, finally, and forever resolve, discharge and settle the claims set forth in this Settlement Agreement, subject to the terms and conditions set forth below.

### RECITALS

WHEREAS, on August 7, 1995, the Parties entered into the Master Agreement and Related Agreements, which are attached as Exhibits to the Master Agreement (the Master Agreement, the Related Agreements, and Exhibits to the Master Agreement are sometimes referred to herein as the “Master Agreement”) under which the Raiders agreed to return to Oakland to play football through the 2010 football season, commencing with the 1995 season.

WHEREAS, on September 29, 1997, the EBEs filed a lawsuit against the Raiders that became known as *City of Oakland, et al. v. Oakland Raiders, et al.*, No. 97AS06708 (the “Action”) in the Superior Court of Sacramento County (the “Court”);

WHEREAS, on July 7, 1998, the Raiders filed a Cross Complaint against the EBEs, which was amended on November 2, 1998 and April 6, 2000 (the “Cross Complaint”);

WHEREAS, on or about October 19, 1998, the Court granted the motion of the City, County, Authority and OACC to compel arbitration of the Raiders’ claims relating to breaches of the Marketing Agreement, stayed such claims in the Action, and stayed the arbitration until the remaining claims in the Action were litigated.

WHEREAS, on April 10, 2003, the Court entered an Order pursuant to the Parties’ stipulation providing that certain claims at issue between the Raiders and the City, County, JPA, Financing and OACC shall be submitted to arbitration and stayed the arbitration until all non-arbitrated claims are litigated. Those claims included: (1) the Fifth Claim for Breaches of the Agreements alleged in paragraphs 140(a)-(d), 140 (g)-(j) and 140 (m)-(q) of the Raiders’ Second

Amended Cross-Complaint; and (2) the Eighth and Ninth Claims for declaratory relief regarding the Visiting Team Share Agreement alleged in the Raiders' Second Amended Cross-Complaint. (The claims referenced in this paragraph and the preceding paragraph shall be collectively referred to as the "Arbitration Claims.")

WHEREAS, in March 2003, a jury trial commenced in Sacramento Superior Court relating to the Raiders' claims against the OACC for fraudulent misrepresentation, negligent misrepresentation, and breach of the implied covenant of good faith and fair dealing. Also at issue were the Raiders' fraudulent misrepresentation claims against two other defendants (who are not parties to this Settlement Agreement).

WHEREAS, on August 26, 2003, the jury returned a verdict in the Raiders favor and against the OACC on the negligent misrepresentation claim and awarded the Raiders damages of \$34,203,135. The jury returned a defense verdict in the OACC's favor on the other remaining claims. Subsequently, the Court issued and entered judgment on the jury's verdict, and awarded the Raiders an additional \$884,811 in costs, and interest on the judgment of ten percent (10%) per annum (the "Judgment").

WHEREAS, on or about September 3, 2003, the Raiders voluntarily dismissed without prejudice all of the Arbitration Claims the Raiders were asserting against OACC, specifically the Fifth Claim for Breaches of the Agreements alleged against the OACC in paragraphs 140(g)-(i) in the Raiders' Second Amended Cross-Complaint.

WHEREAS, on August 23, 2004, the OACC filed an appeal in the California Court of Appeal (the "Appeal"). The Raiders filed a cross-appeal in the same court on November 17, 2004 (the "Cross-Appeal"). These appeals are still pending (the Appeal and Cross-Appeal are collectively referred to herein as the "Appeals").

WHEREAS, on or about November 2, 2005, the Parties entered into a written and binding Memorandum of Understanding relating to the Parties' settlement and mutual releases (the "MOU").

WHEREAS, by the MOU, the Parties agreed to enter into a more formal settlement agreement and mutual release further memorializing the terms provided therein.

WHEREAS, this Settlement Agreement is that more formal settlement agreement and mutual release anticipated by the MOU, and the Parties intend that this Settlement Agreement, upon its execution, shall supersede the MOU.

WHEREAS, each of the Parties denies all liability and all allegations of wrongdoing directed at such party in the Action and otherwise, and the settlement provided for herein is not and shall not in any way be construed or deemed to be evidence or an admission or a concession of any fault, liability, fact or amount of damages, or any other matter whatsoever on the part of any Party, and the Parties entered into the MOU and are entering into this successor Settlement Agreement to avoid the further substantial expense and inconvenience of continued litigation.

**WHEREFORE**, in consideration of the promises, assurances and covenants set forth herein, the Parties do hereby agree as follows:

**1. Supplement No. 2 to Master Agreement and Exhibits**

Simultaneously with the execution and delivery of this Settlement Agreement, the OACC, the County, the City, the Authority, Financing, the Raiders and A.D. Football shall duly execute and deliver Supplement No. 2 to the Master Agreement (the "Supplement No. 2") in the form attached hereto as Exhibit A.

**2. Payment, Accountings and Covenants**

**2.1** Simultaneously with the execution of this Settlement Agreement, (i) the Authority shall pay to the Raiders the sum of \$1 million which Raiders shall use, at their sole discretion, for establishing or administering ticketing or box office services; and (ii) Authority shall assign to the Raiders any ownership interest of the Authority in, and cause the Oakland Football Marketing Association ("OFMA") to provide to the Raiders, any and all computers, software, software licenses, records, documents, files, materials, electronically stored information, and equipment at OFMA as requested by Raiders and identified by the Raiders in a mutually agreeable form prior to March 31, 2006.

**2.2** The Raiders shall record a deed of trust on the Training Site and Practice Facility as provided in the Supplement.

**2.3** Upon the execution of this Settlement Agreement, the Authority shall commence the winding down of OFMA, at the expense of the Authority. The Authority shall cause the operations of OFMA to cease as soon as practicable, but not earlier than two weeks after the last Raiders football game of the 2005 season. Upon the execution of this Settlement Agreement, neither the Authority nor the OFMA shall have any right or obligation to sell, market, or collect revenue from the sale or marketing of tickets, club memberships or suites for Oakland Raiders football games. The Authority shall be responsible for satisfying all the debts and liabilities of OFMA, other than any obligations related to the Ticketmaster agreement for ticketing services, and for the eventual dissolution of OFMA.

**3. Mutual Releases**

**3.1** Except (a) as expressly set forth in this Settlement Agreement, (b) for the obligations relating to the Loan Agreement as discussed in section 6 of Supplement No. 2, and (c) the OACC's right to pursue any claim, defense, right, remedy or argument currently asserted in the Appeal and any relief being sought by the Appeal, as of the effective date of this Settlement Agreement, the City, the County, the Authority, OACC and Financing, for themselves and on behalf of

their predecessors, successors and assigns, fully and forever release and discharge the Raiders, their owners and each of their respective employees, agents, other representatives, shareholders, partners, assignees, interest holders, members, officers, directors, commissioners, predecessors, successors and assigns, from any and all claims, rights, demands, liabilities, obligations, damages, actions, and causes of action, of every kind and nature, in law, equity or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed that are accrued as of the Effective Date including but not limited to, all existing or potential claims (including but not limited to the Arbitration Claims)(hereinafter the "Released Claims"), PROVIDED THAT this release and discharge shall not apply to or affect the OACC's right to pursue any claims at issue in the Appeal, or to assert defenses to the collection of the Judgment, or any claims that may accrue after the Effective Date under the Master Agreement, this Settlement Agreement, Supplement No. 2, or any matters referenced in Sections 3.1(a)-(c) above (the "EBE Excluded Claims").

3.2 Except (a) as expressly set forth in this Settlement Agreement, (b) for the obligations relating to the Loan Agreement as discussed in section 6 of Supplement No. 2 , and (c) the Raiders' right to collect and enforce the Judgment and to pursue any claim, defense, right, remedy or argument currently asserted in the Cross-Appeal and any relief being sought by the Cross-Appeal, as of the effective date of this Settlement Agreement, the Raiders, for themselves and on behalf of their predecessors, successors and assigns, fully and forever release and discharge the City, the County, the Authority, OACC and Financing, and each of the City's, the County's, the Authority's, OACC's and Financing's employees, agents, other representatives, shareholders, partners, members, officers, directors, commissioners, predecessors, successors and assigns, from any and all claims, rights, demands, liabilities, obligations, damages, actions, and causes of action, of every kind and nature, in law, equity or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed that are accrued as of the Effective Date, including but not limited to, all existing or potential claims (including, but not limited to, the Arbitration Claims) (hereinafter "Released Claims"), PROVIDED THAT this release and discharge shall not apply to or affect the Raiders' right to collect or enforce the Judgment , or any claims that may accrue after the Effective Date under the Master Agreement, this Settlement Agreement, Supplement No. 2, or any matters referenced in Sections 3.2(a)-(c) above (the "Raider Excluded Claims"). (The EBE Excluded Claims and the Raider Excluded Claims are collectively referred to as the "Excluded Claims".)

3.3 With respect to the foregoing mutual releases and discharges, the parties waive the provisions of Section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."



The Parties understand that if the facts with respect to which this Settlement Agreement is executed are found hereafter to be different from the facts now believed to be true, this Settlement Agreement shall be and remain effective and not subject to termination, rescission or any other remedy by virtue of any such differences in facts. The Parties also understand and acknowledge that it is possible that unknown losses or claims exist, or that present losses may have been underestimated in amount or severity. The Parties explicitly took these possibilities into account in entering into this Settlement Agreement, and the releases given herein were given in exchange for a full accord, satisfaction and discharge relating to the matters released in this Settlement Agreement.

**3.4 No Admission of Liability.** The Parties agree that none of the MOU, this Settlement Agreement, or any Party's agreement to release any claims pursuant to this Settlement Agreement is nor shall be construed to be an admission of liability of any kind, nor shall any Party be deemed a prevailing party with respect to any claim that is released, withdrawn, or dismissed pursuant to this Settlement Agreement.

**3.5 Covenant Not To Sue.** In addition to the foregoing mutual releases and discharges, the Parties promise never to commence, prosecute, or cause to be commenced or prosecuted, any action or arbitration proceeding against any of the other Parties arising out of, based upon, or related in any way whatsoever to any of the Released Claims PROVIDED THAT each Party shall have the right to commence, prosecute, or cause to be commenced or prosecuted, any action or arbitration proceeding against any of the other Parties arising out of, based upon, related to or otherwise reasonably necessary to protect or enforce any of the Excluded Claims.

#### 4. **Dismissals of Pending Proceedings**

**4.1** The Parties hereby agree and promise that they will, within fifteen (15) days of the execution and delivery of this Settlement Agreement and Mutual Release, cause their respective counsel to execute and file with the Court a Request for Dismissal, dismissing with prejudice all of the Arbitration Claims, with all Parties thereto bearing their own attorneys' fees and costs for all Released Claims and Arbitration Claims, except to the extent that any such claims for fees or costs are included in the Judgment or are currently asserted in the Appeal or Cross-Appeal. The Parties agree and promise that, subject to Section 3 above, they will not file or re-file or cause to be filed or re-filed any charge, complaint, cross-complaint, action, claim or cause of action, which, (a) previously was dismissed or adjudicated in the Action (except for those claims that are the subject of the Appeals), or (b) pursuant to this Settlement Agreement, they shall have dismissed, released, or withdrawn.

4.2 The EBEs hereby represent, agree and promise that all claims in the *Donald White v. OFMA* matter have been dismissed and shall be considered fully and completely resolved with prejudice. The EBEs hereby agree that the tolling agreement previously signed regarding the *White v. OFMA* matter shall hereby be terminated and the EBEs agree to take all necessary steps to terminate such tolling agreement. Additionally, the EBEs agree and promise that they will not file or re-file or cause to be filed or re-filed any charge, complaint, cross-complaint, action, claim or cause of action which was asserted in the *White v. OFMA* matter.

5. **Miscellaneous Provisions.**

5.1 **Successors and Assigns.** This Settlement Agreement is binding upon and shall inure to the benefit of each Party to this Settlement Agreement and to all employees, agents, other representatives, shareholders, partners, members, officers, directors, predecessors, successors, and assigns of each Party to this Settlement Agreement.

5.2 **Acknowledgement and Cooperation.** Each of the Parties hereby affirms and acknowledges that it has read this entire Settlement Agreement, understands it, and has had it fully explained to it by its counsel. Each of the Parties acknowledges that this Settlement Agreement is executed without reliance upon any representation by any person concerning the nature or the extent of the damages sustained by such Party or the legal liability therefor, and each of the Parties shall pay its own attorneys' fees and other legal expert and consultant expenses incurred in connection with this Settlement Agreement. The Parties shall cooperate in the preparation and execution of all documents reasonably necessary to effectuate the terms of this Settlement Agreement.

5.3 **No Assignment of Covered Claims/Further Approval.** Each Party individually represents and warrants that (a) no person other than such Party has, or has had, any interest in the claims released herein; and (b) such Party has not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims released herein.

5.4 **Waiver.** No breach of any provision of this Settlement Agreement can be waived unless in writing and signed by the Party against whom enforcement is sought. Waiver of any one breach shall not be deemed to be a waiver any other breach of the same or any other provision of this Settlement Agreement.

5.5 **Integration/Entire Agreement.** This Settlement Agreement, Supplement No. 2, and the Master Agreement including the Exhibits thereto contain the entire agreement of the Parties with respect to the claims released herein, and supersede any and all prior contemporaneous understandings or agreements with respect to the same. The terms set forth in the Settlement Agreement, Supplement No. 2, and the Master Agreement including the Exhibits are intended by the Parties as a final expression of their agreement and may not be contradicted by evidence of

any prior agreement or by any contemporaneous oral agreement. In entering into this Settlement Agreement, no Party is relying on any representation, statement of fact or opinion concerning any matter, except those expressly set forth in this Settlement Agreement, if any.

- 5.6 Governing Law.** This Settlement Agreement shall in all respects be construed, interpreted and enforced in accordance with and governed by the laws of the State of California, except that this Settlement Agreement shall be given a fair and reasonable construction in accordance with the intentions of the Parties and without regard to which Party may have initially drafted any particular portion of this Settlement Agreement and without regard to the provisions of Section 1654 of the California Civil Code.
- 5.7 Authority to Execute Agreement.** Each individual executing this Settlement Agreement on behalf of his or her respective Party represents and warrants that he or she has the authority of such entity to execute, deliver and perform under this Settlement Agreement on its behalf and that all necessary governmental, corporate or other approvals for such entity to execute, deliver and perform under this Settlement Agreement have been obtained.
- 5.8 Alteration and Counterparts.** This Settlement Agreement may not be altered, amended or modified in any respect, except in writing duly executed by each of the Parties expressly reciting such intent. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but such counterparts together shall constitute one and the same instrument. The executed Settlement Agreement may be delivered by means of facsimile transmission.

**CAUTION: THIS IS A RELEASE – READ BEFORE SIGNING. DO NOT SIGN IF YOU DO NOT UNDERSTAND AND AGREE TO BE BOUND BY ITS TERMS.**

**In witness whereof**, this Settlement Agreement has been executed by each of the Parties effective as of the date first written above.

OAKLAND-ALAMEDA COUNTY COLISEUM, INC.

By \_\_\_\_\_

President

OAKLAND ALAMEDA COUNTY COLISEUM AUTHORITY

By \_\_\_\_\_

Chair

Attest: \_\_\_\_\_

Secretary

CITY OF OAKLAND

By \_\_\_\_\_

City Administrator

Approved as to form and legality:

\_\_\_\_\_

City Attorney

COUNTY OF ALAMEDA

By \_\_\_\_\_

President, Board of Supervisors

Approved as to form and legality:

\_\_\_\_\_

County Counsel

OAKLAND ALAMEDA COUNTY FINANCING  
CORPORATION

By \_\_\_\_\_

OAKLAND RAIDERS

By A.D. Football, Inc., its general partner

By \_\_\_\_\_

President

A.D. FOOTBALL, INC.

By \_\_\_\_\_

President

**EXHIBIT A**

**SUPPLEMENT NO. 2 TO MASTER AGREEMENT AND CERTAIN EXHIBITS TO  
THE MASTER AGREEMENT**

**SUPPLEMENT NO. 2 TO MASTER AGREEMENT  
AND CERTAIN EXHIBITS TO THE MASTER AGREEMENT**

**RECITALS**

1. The Oakland Alameda County Coliseum, Inc. ("OACC," "Licensor" or "Coliseum"), the Oakland Alameda County Coliseum Authority (the "Authority" or "JPA"), the City of Oakland (the "City"), the County of Alameda (the "County"), the Oakland-Alameda County Coliseum Financing Corporation ("Financing") and the Oakland Raiders, a California Limited Partnership (the "Raiders" or the "Licensee") (collectively, the "Parties") have previously entered into a Master Agreement, dated August 7, 1995. The Master Agreement contained, as exhibits, the Definitional Annex and certain additional agreements that certain of the Parties executed on August 7, 1995, including (i) the Oakland-Alameda County Coliseum Stadium Operating License, between OACC and the Raiders (the "Operating License"), (ii) the Loan Agreement, between Financing and the Raiders (the "Loan Agreement"), (iii) the Stadium Capital Improvement Design and Construction Coordination Agreement, (iv) the Marketing Agreement, between the JPA and the Raiders (the "Marketing Agreement"), and the associated Marketing Strategy, (v) the Stadium Improvement Plan, (vi) the Visiting Team Share Agreement, among the City, the County, the Authority and the Raiders, and (vii) Revenue Trust and Security Agreement, among OACC, the JPA, the Raiders and the Alameda County Treasurer, as trustee (the "Revenue Trust Agreement") (collectively, the Definitional Annex and items (i) through (vii) are collectively referred to as the "Exhibits").
2. As of June 1, 1996, the Parties entered into Supplement No. 1 to Master Agreement and Other Agreements Defined Therein ("Supplement No. 1"), amending and modifying certain provisions of the Master Agreement and the Exhibits.
3. The Parties have entered into a Settlement Agreement and Mutual Release, dated effective December 1, 2005 (the "Settlement Agreement"), pursuant to which the Parties thereto agreed, among other things, to modify and amend certain provisions of the Master Agreement and the Exhibits, as previously modified by Supplement No. 1.
4. The Parties desire to enter into this Supplement No. 2 to the Master Agreement and to the Exhibits ("Supplement No. 2"), dated as of the Supplement Effective Date, as part of the agreement contemplated by the parties to the Settlement Agreement.

**SUPPLEMENT**

1. **Definitions.** Except as defined or modified specifically herein, all definitions contained in this Supplement No. 2 shall have the meanings set forth in Exhibit A (Definitional Annex) to the Master Agreement.

a. *Additional definitions.* The following terms shall have the following meanings:

"Club Dues" shall mean the total annual amount of fees charged by the Raiders to be permitted entry and access to the Stadium Clubs, but not including any Ticket Revenue.

“Football Event Advertising Agreement” shall mean that certain OACC Stadium and Football Event Advertising Agreement, among the JPA, the Raiders and the Oakland Athletics in the form attached hereto as Appendix A.

“Public Benefit Charge” shall mean the \$1.00 charge added to the price of each ticket.

“Raiders Concession Cap” shall mean \$1,000,000 for the 2006 Football Season, \$1,030,000 for the 2007 Football Season, \$1,060,900 for the 2008 Football Season, \$1,092,727 for the 2009 Football Season and \$1,125,509 for the 2010 Football Season.

“Stadium Club Area” shall mean certain seating areas in the bowl of the OACC Stadium, which shall include a minimum of 5800 seats, designated as such by the Raiders.

“Supplement Effective Date” shall mean the first day following the last Raiders game of the 2005 Football Season.

b. *Amended definitions.* The following definitions shall be amended to read as follows:

“Football Tickets” shall mean tickets for entry to all Football Events held at the Coliseum Complex.

“Football Ticket Revenue” shall mean the total annual revenue received from the sale of Tickets, but not including Club Dues and the Public Benefit Charge.

c. *Other revisions.* On and after the Supplement Effective Date, the following definitions will have no further force or effect:

- “Average Admission Price”
- “Cancelled Events”
- “Club Loge Annual Fees”
- “Club Loge Initial Fees”
- “Club Loge Seats”
- “Club Seats”
- “Club Seat Annual Fees”
- “Club Seat Initial Fees”
- “Collateral”
- “Disbursement Statement”
- “Excluded Taxes”
- “Expense Requisitions”
- “Football Ticket Surcharge”
- “Location Premium Fees”
- “Location Premium Seats”
- “Marketing Agreement”



“Marketing Association”  
“Marketing Director”  
“Marketing Director Contract”  
“Marketing Strategy”  
“Nonclub Advertising Revenues”  
“Personal Seat Licenses”  
“PSL Initial Fees”  
“PSL Annual Fees”  
“Receipt by the Trustee”  
“Retained Seats”  
“Retained Suites”  
“Seat Rights”  
“Seat Revenues”  
“Second Marketing Proceeds”  
“Secured Party”  
“Security Instruments”  
“Suite Annual Fees”  
“Suite Deposits”

2. **Master Agreement.** The Master Agreement is hereby amended and supplemented as follows:

- a. Section 2.1(b) is hereby amended in its entirety to read as follows:  

“License. Pursuant to the terms and conditions of the Operating License, Coliseum shall grant to Raiders a license to play Football Events at the OACC Stadium during the term of the Operating License, subject to any specific reservations of rights contained in the Operating License.”
- b. Section 2.1(c) is hereby deleted in its entirety.
- c. Section 2.1(d) is hereby deleted in its entirety.
- d. Section 2.3(b) is hereby clarified by deleting the parenthetical “(other than as set forth in Section 2.3(a) hereof).”
- e. Section 4.2 is hereby deleted in its entirety.
- f. Section 5.1 is hereby amended to add the following after the first sentence:  

“On the Supplement Effective Date, the Marketing Agreement and the related Marketing Strategy shall terminate and the JPA, with the necessary cooperation of the Raiders, shall proceed to wind down and dissolve the Marketing Association. Furthermore, immediately prior to the termination of the Marketing Agreement as provided herein, Section 7.2(b) of the Marketing Agreement shall be amended to delete all words in such section after the words “Master Agreement.”

- g. Section 5.1(a) is hereby amended to add the following last sentence:

“Notwithstanding the foregoing, on the Supplement Effective Date, this Section 5.1(a) shall be null and void and shall in no way govern the rights and obligations of the Parties.”

- h. Section 5.1(b) is hereby amended in its entirety to read as follows:

“The Marketing Association shall establish initial and annual or other periodic fees, deposits and other forms of payment for the reservation, licensing and use of Seat Rights (the “Seat Revenues”) in accordance with the Marketing Strategy for use of Seat Rights in the period commencing with the 1995 Football Season and extending through and including the 2005 Football Season (the “First Marketing Period”). Notwithstanding any other provision in the Master Agreement, any Exhibit or Supplement No. 1 to the contrary, there shall be no marketing, sales or licensing of Seat Rights (as such term was defined prior to this Supplement No. 2) after the 2005 Football Season.”

- i. Section 5.1(c) is hereby amended to add the following final sentences:

“Notwithstanding the foregoing, on the Supplement Effective Date, Section 5.1(e) shall govern the sale and pricing of Football Tickets, the disposition of Football Ticket Revenue and the Public Benefit Charge. On the Supplement Effective Date, this Section 5.1(c) shall be null and void and shall in no way govern the rights and obligations of the Parties.”

- j. Section 5.1(d) is hereby amended to add the following final sentences:

“Notwithstanding the foregoing, on the Supplement Effective Date, Section 5.1(e) shall govern the payment of all costs and expenses related to selling Football Tickets. On the Supplement Effective Date, this Section 5.1(d) shall be null and void and shall in no way govern the rights and obligations of the Parties.”

- k. A new Section 5.1(e) is hereby added to read as follows:

“(e) Sale of Football Tickets and Collection of Football Ticket Revenue. Commencing on the Supplement Effective Date, the Raiders shall provide and pay all expenses associated with all services necessary to sell Football Tickets, Suites and Stadium Club memberships. Neither the Marketing Association nor the East Bay Entities shall have any obligation whatsoever to provide such services or to pay or reimburse the Raiders for any expenses associated with such services, except for the obligations set forth in the Settlement Agreement. The Raiders shall collect and retain all Football Ticket Revenue and all Suite revenue. In addition to Football Ticket Revenue, the Raiders shall collect Club Dues in connection with the sale of Football Tickets located in the Stadium Club Area. The Raiders, at their sole discretion, may use 2500 of the Football Tickets in the Stadium Club Area for the Raiders’ sponsors, families and staff,

to satisfy visiting team obligations or for similar uses without charging Club Dues. The Raiders shall impose Club Dues on the purchasers of at least 3300 Football Tickets in the Stadium Club Area in such amounts as the Raiders, in their sole discretion, determine appropriate. On the first Business Day of each calendar quarter, the Raiders shall pay to the JPA fifty percent (50%) of the Club Dues collected during the preceding calendar quarter. The Raiders shall add to the ticket price of each Football Ticket (including each Football Ticket used in a Suite or a Stadium Club Area) a Public Benefit Charge of \$1.00. The Raiders shall pay the Public Benefit Charges collected in each month to the JPA on a monthly basis on a time frame consistent with the time frame in which concession payments are made to Raiders. Within three (3) Business Days following the completion of the NFL Ticket Audit for the immediately preceding Football Season, the Raiders shall provide to the JPA a report that sets forth the total number of Football Tickets distributed for the foregoing Football Season that includes the total number of Football Tickets sold and the total number of Football Tickets provided without charge, separately setting forth, in each case, Football Tickets for the Stadium Club, Suites and general seating. Such report shall also include a statement of the Football Ticket Revenue and Club Dues. Such report shall be in substantially the form the Raiders are required to provide in the ordinary course of business to the NFL. To the extent the amounts paid to the JPA as provided in this paragraph are different from the amounts set forth in such report, the Parties agree that an appropriate reconciliation of such amounts will be accomplished within 30 days of the JPA's receipt of such report.

1. Section 5.2 is hereby amended to delete the third and fourth sentences and to add the following at the end:

“(a) Football Parking Net Revenue.

Subject to the foregoing, the JPA shall be authorized to collect, and shall be responsible for collecting, all Football Parking Net Revenue. The parties agree that after the conclusion of the 2005 Football Season, all Football Parking Net Revenues for subsequent seasons shall be split equally between the Raiders and the JPA; provided that the parties acknowledge and reconfirm that the Raiders' fifty percent (50%) share of such future revenues shall continue to secure the Raiders' payment obligations under the outstanding Loan Agreement and shall continue to be applied as amounts due from the Raiders under such Loan Agreement. The JPA shall be entitled to charge parking fees for Football Events of no more than \$20 for the 2006 and 2007 Football Seasons, of no more than \$25 for the 2008 and 2009 Football Seasons and of no more than \$30 for any subsequent Football Season; provided, however, that the parking charges shall in no event exceed the average parking charges for similar professional football events in the San Francisco Bay Area. The Coliseum shall provide parking services consistent with those of other premier NFL facilities.

(b) Football Concession Net Revenues.

Subject to the foregoing, the JPA shall be authorized to collect, and shall be responsible for collecting, all Football Concession Net Revenues. The parties agree that after the conclusion of the 2005 Football Season, all Football Concession Net Revenues for subsequent Football Seasons shall be split between the Raiders and the JPA as follows:

(1) Fifty percent (50%) of Football Concession Net Revenues shall be collected by the JPA for the benefit of the Raiders and applied as provided in the Loan Agreement; provided that the parties acknowledge and confirm that this fifty percent (50%) share of Football Concession Net Revenues shall continue to secure the Raiders' future payment obligations under the Loan Agreement and shall continue to be applied against amounts due from the Raiders under such Loan Agreement; and

(2) The other fifty percent (50%) of Football Concession Net Revenues shall be collected for the benefit of and paid to the Raiders within three (3) Business Days of the date upon which the JPA receives Football Concession Net Revenues from any concessionaire licensed to provide food and beverage concessions for Football Events until the amount paid to the Raiders under this sub-clause (b)(2) for any Football Season equals the Raiders Concession Cap for that Football Season. The JPA shall be entitled to receive, and shall retain for itself, Football Concession Net Revenues for any such subsequent Football Season to the extent 50% of such Football Concession Net Revenues in any such Football Season exceeds the Raiders Concession Cap.

Within 60 days of the end of each Football Season, the JPA shall provide to the Raiders, in addition to concessions sales reports for each Football Event as requested by the Raiders and provided by the Concessionaires such further reports which shall set forth, among other things, the total Football Concession Net Revenues received for such Football Season, the amount of Football Concession Net Revenues collected and applied on the outstanding loans of the Raiders under the Loan Agreement, the amount of Football Concession Net Revenues paid directly to the Raiders and the amount of Football Concession Net Revenues retained by the JPA (exclusive of amounts paid by the Raiders under the Loan Agreement). Such reports shall also provide sufficient information and data to determine the method by which such Football Concession Net Revenues were determined, including the gross receipts collected, the percentage commission applied and an itemization of all other expenses deducted from gross receipts.

- m. Section 5.4 is hereby amended in its entirety to read as follows:

“Advertising. The JPA shall have the sole right to market and sell advertising for the interior and exterior of the OACC Stadium during Football Events and at all other times, and shall have the right to collect and receive all revenues therefrom and shall pay all expenses and costs in connection therewith, except (i) the Raiders have the right to market and sell advertising in the Club Area of the Stadium and the Raiders shall have the right to collect and receive all revenues with respect to such advertising; and (ii) as specifically provided in the Football Events Advertising Agreement.”

- n. Section 5.6 is hereby amended to add the following final sentence:

“On the Supplement Effective Date, this Section 5.6 shall be null and void and shall in no way govern the rights and obligations of the Parties.”

- o. Section 5.7(a) is hereby amended to add the following at the end of the paragraph:

“Notwithstanding the foregoing, on the Supplement Effective Date, Section 5.7(c) shall govern the rights of the parties concerning Retained Suites. On the Supplement Effective Date, this Section 5.7(a) shall be null and void and shall in no way govern the rights and obligations of the Parties.”

- p. A new Section 5.7(c) is hereby added to read as follows:

“Suites for Football Events and Retained Suites. The Raiders shall be entitled to sell tickets to or otherwise use the Suites and shall be entitled to retain all revenue from the Suites, except that Suites numbered L16, L23, L24, L53, and L54 and an additional Suite to be designated by the Raiders in advance of each Football Season to be used as a command center during Football Events shall be reserved for, and be made available for the use by, the East Bay Entities (L16, L53, and L54) and for the Oakland Athletics (L23 and L24) for all Football Events without obligation for payment of any fees or charges. The Raiders will provide without charge to the JPA or Athletics (as appropriate) or another party designated by the JPA, in advance of the first Football Event of each Football Season, the appropriate number of Football Tickets for each excepted Suite referenced in this section.”

- q. Section 5.8 is hereby amended to delete the phrase “and in accordance with the Marketing Strategy.”

- r. A new Section 6.5 is hereby added, amending Sections 6.1 through Section 6.4, to read as follows:

“On and after the Supplement Effective Date, Sections 6.1 through 6.4 above shall be null and void and shall in no way govern the rights and obligations of the Parties. As soon after the Supplement Effective Date as all funds held by the Revenue Trustee shall have been disbursed, the Coliseum, the JPA, and the

Raiders shall take all steps necessary to terminate the Revenue Trust Agreement (which shall include securing the consent of the Revenue Trustee).”

- s. Section 7.1(e) is hereby amended to add the following last sentence:

“To evidence the rights and obligations of the parties pursuant to this Section 7.1(e) (including the reversionary interest in the Permanent Training Facility and Training Site held by the East Bay Entities), on the Supplement Effective Date, the Raiders shall execute and record a deed of trust, substantially in the form attached hereto as Appendix B, related to the Raiders’ ownership of, and formal grant of a security interest to the East Bay Entities in, the Permanent Training Facility and Training Site, including Alameda County parcels No. [REDACTED] and \_\_\_\_\_. Such deed of trust shall be recorded simultaneously with the delivery of this Supplement by the Parties to each other.”

- t. Section 10.1 is hereby amended, effective as the Supplement Effective Date, to read in its entirety as follows:

“All Club Advertising Net Revenue (as such term was defined in Section 10.1 of the Master Agreement prior to this amendment) shall be paid to the Raiders.”

- u. Section 10.6 is hereby amended to change the addresses listed as follows:

“Raiders:                      Oakland Raiders  
   1220 Harbor Bay Parkway  
   Alameda CA 94502  
   Attention: Amy Trask”

“JPA                                      Oakland Alameda County Coliseum Authority  
   7000 Coliseum Way  
   Oakland CA 94621  
   Attention: Executive Director”

- v. Section 10.14 is hereby amended to delete the entirety of the clause beginning with the words “provided that” and continuing through the end of the sentence.

- w. Section 10.16 is hereby added to read as follows:

“The parties agree to engage in non-binding mediation with respect to any dispute or disagreement arising out of or related to the Agreements prior to filing any arbitration demands or lawsuits. If any such dispute or disagreement among the parties arises with respect to any provision of or interpretation of any Agreement, the parties agree in good faith to attempt to resolve such dispute or disagreement (a “Dispute”) prior to submitting the Dispute to mediation (“Pre-Mediation Dispute Resolution”). Any Party may commence a Pre-Mediation Dispute Resolution by giving notice, in writing, to any other Party, with a copy to all other Parties. Such notice shall include at least a

description of the Dispute and any remedial action that the Party commencing the Dispute asserts would resolve the Dispute. Upon receiving such notice, the Party against whom the Dispute is brought shall respond in writing within 10 Business Days. The Parties shall then meet and confer in a good faith attempt to resolve the Dispute. If the Dispute has not been resolved within sixty (60) days, and unless the Party initiating the Dispute does not wish to pursue its rights relating to such Dispute or desires to continue the Pre-Mediation Dispute Resolution, then such Dispute will be automatically submitted to mediation. The mediation will be conducted in Alameda or San Francisco County by a single mediator selected by the Parties to the Dispute by mutual agreement. The mediator shall have ninety (90) days from the submission to mediation to attempt to resolve such Dispute. If the Dispute is not resolved within that time period, the parties will be entitled to pursue such matter through arbitration and court proceedings, as appropriate. The Parties to the Dispute shall evenly share the fees and costs of the mediator.”

- x. Section 10.17 is hereby added to read as follows:

“If there is a change in the revenue sharing rules promulgated by the National Football League (including any change in the interpretation or application of such rules as determined in the sole discretion of the Raiders), such that certain of the revenues hereafter payable to the East Bay Entities in accordance with the applicable agreements between the parties (including this Supplement No. 2) become subject to the revenue sharing rules of the National Football League, the Raiders shall notify the East Bay Entities of such event, including a short description of the anticipated economic consequences of such “rule change”. At any time following the receipt of any such “rule change” notice, the East Bay Entities shall at such time be obligated to change, modify and/or alter the revenue sharing arrangements it has with the Raiders in whatever manner may be proposed by the Raiders (other than a proposal that would necessitate an amendment to, or otherwise affect the amount and/or timing of payments required to be made under, the Loan Agreement); provided, further, that such obligation of the East Bay Entities is subject to the additional requirement that the proposal by the Raiders would not cause any net negative effect on the revenues to be received by the East Bay Entities (including the amounts required to be expended by the East Bay Entities) in accordance with the agreements between the parties (as modified by this Supplement No. 2).”

**3. Supplement No. 1 to Master Agreement and Other Agreements Defined Therein.**

Supplement No. 1 to the Master Agreement and Other Agreements Defined Therein (“Supplement No. 1”) is hereby amended and supplemented as follows:

- a. On and after the Supplement Effective Date, Sections 2(a) through 2(e) shall be null and void and shall in no way govern the rights and obligations of the Parties.
- b. Section 2(f) is hereby amended in its entirety to read:

“The Parties agree that none of the East Bay Entities is obligated to provide or to construct more Suites than are available for use on the Supplement Effective Date. In the event the Raiders desire to construct additional Suites in the OACC Stadium, the Raiders will be fully responsible for the construction, cost, permitting and accommodations to other tenants and events necessary to complete such Suites. The JPA agrees to cooperate with the Raiders to accomplish the construction of additional Suites, provided, however, that neither the JPA nor any other of the East Bay Entities shall be required to provide funds or equipment to assist the Raiders in the construction of such Suites.”

c. Section 8(c)(ix) of Supplement No. 1 shall be clarified by insertion of the following at the end of the section:

“The parties clarify and confirm their intention that conveyance of full title and ownership of the Stadium Capital Improvements to the East Bay Entities in this Supplement No. 1 includes the conveyance of any and all of the Raiders’ rights, title, and interest under the Design-Build Contract, including, without limitation, any and all causes of action and choses in action arising out of the Design-Build Contract and the Architect’s Contract, to the EBES.”

d. On and after the Supplement Effective Date, Section 4 shall be null and void and shall in no way govern the rights of the Parties. The provisions of Section 10.1 of the Master Agreement (as amended herein) and the Football Event Advertising shall govern all rights and obligations related to advertising in the OACC Stadium and the revenues associated therewith.

e. Section 5 is hereby amended to increase the percentage of Football Ticket Revenue from twelve percent (12%) to fifteen percent (15%).

#### 4. **Operating License.**

a. Section 1.2 is hereby amended to delete the entirety of the clause beginning with the words “provided, however” and continuing through the end of the sentence.

b. Sections 3.2.1, 3.2.2 and 3.2.3 are hereby deleted in their entirety.

c. Section 3.8 is hereby deleted in its entirety.

d. Section 7.1 is hereby amended to delete all except the last sentence thereof.

e. Section 7.2 is hereby amended in its entirety to read as follows:

“During each Football Season, Raiders shall pay to Licensor an amount for Raiders’ use of the OACC Stadium in accordance with the applicable provisions of the Master Agreement.”

f. Section 8.1 is hereby amended to delete the first five sentences thereof.



- g. Section 8.6 is hereby deleted in its entirety.
- h. Section 18.1 is hereby amended in its entirety to read:  

“Raiders shall be solely responsible for payment of any income taxes and any other taxes imposed by any governmental agency based on the ownership or operation of its football franchise including but not limited to the City of Oakland Business Tax (except under the circumstances and to the extent provided for in Section 18.2 below) and taxes based upon the sale of novelties and other property as described in Section 8 above.”
- i. Section 18.2 is hereby amended in its entirety to read:  

“In the event that (i) a tax which is not in effect as of the date of this License is imposed by any of the East Bay Entities on admissions or the right to attend events including Football Events, (ii) a tax which is specifically directed at the operation of sports franchises or the use of the OACC Complex (other than an income or franchise tax or tax on net income) is imposed by any other level of government and the request for such tax is initiated by any of the East Bay Entities, (iii) there is an increase in the rate of any tax imposed by any of the East Bay Entities or (iv) there is an increase by any other level of government over the rates in effect as of the date of this License and the request for such increase is initiated by any of the East Bay Entities, and such new tax described in (i) or (ii) above or increase described in (iii) or (iv) above is specifically directed at admissions or the right to attend events including Football Events, at the operation of sports franchises or the use of the OACC Complex (other than an income or franchise tax or tax imposed on net income) East Bay Entities shall pay the full amount of such new tax or tax increase directly to the taxing authority or reimburse Raiders for the full amount of such taxes attributable to such increase in rates if Raiders elects or is required to pay such tax directly.”
- j. Section 29 is hereby deleted in its entirety.
- k. Section 30.2 is hereby amended to provide for the following corrected addresses:  

“RAIDERS:                      Oakland Raiders  
    1220 Harbor Bay Parkway  
    Alameda CA 94502”

5. **Visiting Team Share Agreement**

- a. Section 2.1 is hereby amended to add the following:  

(c) The Raiders and East Bay Entities acknowledge that any VTS owed on the portion of Club Dues received by Raiders shall be paid by Raiders.
- b. Section 3.1 is hereby amended to add the following:

(c) The East Bay Entities and Raiders acknowledge that any VTS owed on the portion of Club Dues received by any of the East Bay Entities shall be paid by the East Bay Entities.

c. The second paragraph of Section 4.5 is hereby deleted.

## 6. **Loan Agreement**

a. No Modifications To Loan Agreement. In the context of voluntarily amending and revising various provisions of the Master Agreement and certain Exhibits, the parties hereby confirm that they have made no modifications to the outstanding Loan Agreement (attached as Exhibit C to the Master Agreement), as the same was amended as part of Supplement No. 1 Dated As Of June 1, 1996 To Master Agreement and Other Agreements Defined Therein. In particular, the parties acknowledge that the amendments being made to the Master Agreement (and certain Exhibits) in accordance with this Supplement No. 2 will have no economic effect on the Loan Agreement and will result in no change in the payment expectations regarding, or non-recourse nature of, such loans.

b. Confirmation of Material Terms of Loan Agreement. For the avoidance of doubt, and solely for purposes of clarification only, the parties hereby confirm the following material provisions of the Loan Agreement (as last amended in June 1996, but taking into account the reversion of the Stadium Improvements in September 1996 in full and complete satisfaction of the Stadium Improvements Loan):

(1) As of the date hereof, there is no disagreement among the Parties regarding the aggregate balance outstanding on the Training Facility Loan and the Operations Loan (together, the "Loans"), and by entering into this Supplement, the Parties do not intend to make, and are not making, any change or adjustment to the outstanding balance on such Loans (including unpaid principal and accrued interest)..

(2) The rate at which non-default interest will continue to accrue on the unpaid balance of the Loans is unchanged, and will remain at 6.07% per annum, compounded annually.

(3) The final maturity date for the loans continues to be August 7, 2035 (unless such date is otherwise accelerated in accordance with the terms of the Loan Agreement).

(4) In accordance with the Loan Agreement, the Raiders continue to be obligated to pay the following amounts at the times specified:

(A) on November 1, 2006, and continuing on each subsequent anniversary date thereof until the termination of the Operating License, the amount of \$525,000;

(B) an amount equal to fifty percent (50%) of all Football Concession Net Revenues; and

(C) an amount equal to fifty percent (50%) of all Football Parking Net Revenues.

In addition, upon termination of the Master Agreement or the Operating License, the Raiders continue to be obligated pursuant to the Loan Agreement to transfer to the East Bay Entities all right, title and interest that the Raiders have in the Permanent Training Facility and the Training Site, and to execute such documentation as is reasonably necessary to effect such transfer of title and rights as contemplated by the parties. Except as noted herein, the Raiders have no other payment obligations with respect to the Training Facility Loan or Operations Loan.

(5) The Training Facility Loan and Operations Loan will continue to be non-recourse obligations of the Raiders as provided in Article V of the Loan Agreement, repayment of which is secured only by a first-priority security interest in 50% of Football Concession Net Revenues and 50% of Football Parking Net Revenues and by a first-priority security interest in the Permanent Training Facility and Training Site.

(6) In accordance with the terms of the Master Agreement and Loan Agreement, the Raiders acknowledge their pre-existing contractual obligation to execute whatever documentation is reasonably necessary to cause the transfer of the Permanent Training Facility and Training Site to the East Bay Entities upon the termination of the Operating License as was agreed in 1995, and reaffirmed in 1996, by the parties as final payment under the Loan Agreement. In accordance with such loan repayment obligation, the Raiders will execute certain documentation related to this "end-of-term" property transfer obligation, which the parties agree shall include the execution and recordation of a deed of trust, substantially in the form attached hereto as Appendix \_\_, related to the Raiders' ownership of, and more formal grant of a security interest in, the Permanent Training Facility and Training Site.

(7) Following the termination of the Operating License, and upon the recording of a deed (including, but not limited to, a deed in lieu of foreclosure) in which ownership of the Permanent Training Facility and Training Site is transferred to the East Bay Entities (or is otherwise transferred in such form and/or manner as may then be reasonably directed or approved by the East Bay Entities), such conveyance shall be in full and complete satisfaction of all amounts then due or otherwise owing under the Training Facility Loan and Operations Loan (other than amounts previously due and required to be paid as identified in paragraph 4(A), 4(B) and 4(C), above, but which remain unpaid past due obligations) without regard to the then fair market value of such properties. The East Bay Entities hereby covenant to provide to the Raiders, immediately upon receiving confirmation of the Raiders' compliance with the property transfer provisions included herein, a written certificate confirming that such property transfer is in full and complete satisfaction of all amounts outstanding (or otherwise owing) on the Training Facility Loan and Operations Loan (other than any amount previously due and required to be paid as identified in paragraph 4(A), 4(B) and 4(C), above, but which remain unpaid past due obligations). The parties hereby confirm that the entirety of such debt shall be discharged in full as consideration for, and as a result of, the transfer of the subject properties to the East Bay Entities. The parties acknowledge that the language in this paragraph b.7 serves to clarify a potential unintended ambiguity in the Loan Agreement and comports with the parties' initial intentions and expectations regarding the matters addressed herein.

## **7. General Provisions.**

a. To the extent the Raiders are permitted under the Agreements to take any action whatsoever regarding the sale, marketing, merchandising or exploitation of any rights, goods or services, such permission shall also include and extend to any action taken by the Raider Image LLC (or any other subsidiary of, or other entity wholly-owned by, the Raiders).

b. Except as otherwise specifically supplemented, interpreted or modified by this Supplement No. 2, all terms and provisions of the Agreements shall remain unmodified and in full force and effect. This Supplement No. 2 and the other agreements and schedules referred to herein (including the Settlement Agreement) shall constitute the entire agreement among the parties relating to the subject matter hereof and thereof, and shall supersede any negotiations, understandings, or agreements, written or oral, relating to the subject matter hereof and thereof, and shall not be changed or terminated orally. The parties further agree that the Agreements (as modified by this Supplement No. 2) shall be fairly and reasonably interpreted in the context of the time when the provision was drafted and applicable to the parties. To the extent there is any conflict between any provision in this Supplement No. 2 and any provision in the Master Agreement, any Exhibit or Supplement No. 1, the provision in this Supplement No. 2 shall control. In entering into this Supplement No. 2, no Party is relying on any representation, statement of fact or opinion concerning any matter, except those expressly set forth in this Supplement No. 2, of any.

OAKLAND-ALAMEDA COUNTY COLISEUM, INC.

By \_\_\_\_\_  
President

OAKLAND ALAMEDA COUNTY COLISEUM  
AUTHORITY

By \_\_\_\_\_  
Chair

Attest: \_\_\_\_\_  
Secretary

CITY OF OAKLAND

By \_\_\_\_\_  
City Administrator

Approved as to form and legality:

\_\_\_\_\_  
City Attorney

COUNTY OF ALAMEDA

By \_\_\_\_\_  
President, Board of Supervisors

Approved as to form and legality:

\_\_\_\_\_  
County Counsel

OAKLAND ALAMEDA COUNTY FINANCING  
CORPORATION

By \_\_\_\_\_

OAKLAND RAIDERS

By A.D. Football, Inc., its general partner

By: \_\_\_\_\_  
President

A.D. FOOTBALL, INC.

By: \_\_\_\_\_  
President

APPENDIX A  
FOOTBALL EVENT ADVERTISING AGREEMENT

**This Football Event Advertising Agreement** (“Advertising Agreement”) is entered into effective as of January , 2006, by and among **The Oakland Raiders**, a California limited partnership (the “Raiders”), the **Athletics Investment Group LLC**, a California limited liability company (the “A’s”), the **Oakland Alameda County Coliseum, Inc.**, a California non-profit corporation (“OACC”) and the **Oakland Alameda County Coliseum Authority**, a California joint exercise of powers entity (the “Authority”). This Advertising Agreement is intended by the parties listed above (the “Parties”) to set forth the certain terms and conditions governing the sale and display of interior advertising signage (as described in Section 11 of the A’s License) in McAfee Coliseum. This Advertising Agreement will terminate at the end of the 2010 NFL football season.

RECITALS

1. The A’s have entered into an Amended and Restated Stadium License Agreement, dated October 31, 1995, and five subsequent amendments thereto (the “A’s License”), with the OACC and the Authority, pursuant to which the A’s have the right to use the McAfee Coliseum (the “Stadium”) during the baseball season. Among other provisions of the A’s License, Section 23.5 provides that the A’s will share certain advertising signage revenues with the OACC, which are to be paid to OACC annually (the “Shared Revenues”).
2. The Raiders have entered into a Master Agreement, dated August 7, 1995, including various exhibits thereto as amended to the date hereof (the “Raiders Agreements”), pursuant to which the Raiders have the right to use the Stadium for football games during the football season. Among the other provisions of the Raiders Agreements, Section 10.1 of the Master Agreement, as amended, the Raiders are entitled to receive 50% of all advertising revenues received by OACC from the A’s.
3. The A’s have reported, but not paid, Shared Revenues for years 2001 through 2004. There are unresolved disputes between the Raiders, the OACC and the Authority relating to the Shared Revenues (the “Advertising Claim”). The Raiders have subpoenaed the A’s records in connection with the Advertising Claim. The Raiders, the OACC and the Authority stipulated on April 10, 2003 that the Advertising Claim would be submitted to arbitration, together with various other claims (the “Arbitration Claims”).
4. The Raiders, the Authority, the OACC, together with the City of Oakland, the County of Alameda and the Oakland Alameda County Coliseum Financing Corporation, have reached a settlement agreement with respect to the Arbitration Claims and certain other disputes.

5. The Parties are now desire to resolve the Advertising Claim by entering into this Advertising Agreement.

### AGREEMENT

1. Section 23.5 of the A's License shall be of no force and effect after the date of this Advertising Agreement.
2. The A's shall retain the right to sell interior signage at the Stadium as provided in the A's License except that the Raiders shall have the right to display advertising signage at each of the following locations during all stadium events, including during baseball season, subject to Section 4 below:
  - a. one panel of each of the Diamond Vision Scoreboards, at the locations set forth in Attachment A hereto.
  - b. one panel of each tri-vision signs located on the fascia of the second deck of the Stadium at the northeast and southeast sides of the field, with such panel receiving at least one-third of the rotational exposure during all events.
  - c. four permanent fascia signs, two in each end zone, below the upper deck, to be installed by the A's at the A's cost, which shall be of similar size and quality as the fascia signs existing on the date of this Advertising Agreement.
  - d. one permanent terrace level sign located at the northeast corner of the field.
  - e. banner signage at the top of the left and right field stairways, provided that that the banners do not restrict access to the field.

The Raiders shall be entitled to retain all revenue it receives from the display of the above referenced advertising and shall pay all costs associated with such displays, including, but not limited to sales staff, agency commissions, creative, production, maintenance and installation.

3. The Raiders shall be entitled to install unlimited banner signage during Football Events (as defined in the Raiders Agreements) with the following restrictions:
  - a. No banners shall obscure permanent signage.
  - b. No banners shall be installed that compete with exclusive signage as provided in Section 4 below.

After September 1 of any year, A's banner signage shall be removed during football events. The Raiders shall be entitled to retain all revenue it receives from the display of the banner signage and shall pay all costs associated with such displays, including, but not limited to sales staff, agency commissions, creative, production, maintenance and installation.



4. The Raiders shall not be entitled to sell any advertising signage in the Stadium in the exclusive categories and for the terms listed below (“A’s Exclusives”). Neither the Raiders nor the A’s shall grant category exclusivity for Stadium advertising signage after the date of this agreement unless the Raiders and A’s agree that such exclusivity may be granted. If either the A’s or the Raiders desire to grant category exclusivity in connection with the sale of signage in the Stadium, the proposing party must give at least sixty day’s notice to the other party and negotiate an agreement with the other party. The categories listed below are defined on Exhibit 1. The following are the A’s Exclusives:

Category	Current Advertiser	Term
Beer	Anheuser Busch	Through the term of this Advertising Agreement
Bottled Water	Arrowhead	Through 2006
Indian Casinos	Cache Creek	Through the term of this Advertising Agreement
Auto after market	Kragen	Through 2007
Computer security	McAfee	Through the term of this Advertising Agreement
Beverages	Pepsi	Through end of this Advertising Agreement
Automotive	GM	Through end of this Advertising agreement

5. The Authority, OACC and the Raiders hereby waive all rights to collect from the A’s any advertising revenues that may be due and payable for past years and agree to make no claims for future years advertising revenues. In addition, the Authority, OACC and the Raiders waive all rights to audit past and future advertising receipts, contracts or other documents or statements relating to the A’s sale and display of advertising signage in the Stadium.
6. The Parties agree that the form and content of all advertising in the Stadium shall not be offensive or objectionable to users of the Stadium, including the general public.

7. **Miscellaneous Provisions.**

- a. **Successors and Assigns.** This Advertising Agreement is binding upon and shall inure to the benefit of each Party to this Advertising Agreement and to all employees, agents, other representatives, shareholders, partners, members, officers, directors, predecessors, successors, and assigns of each Party to this Advertising Agreement.
- b. **Waiver.** No breach of any provision of this Advertising Agreement can be waived unless in writing and signed by the Party against whom enforcement is sought. Waiver of any one breach shall not be deemed to be a waiver any other breach of the same or any other provision of this Advertising Agreement.
- c. **Integration/Entire Agreement.** This Advertising Agreement contains the entire agreement of the Parties with respect to the Stadium signage revenues, and supersede any and all prior contemporaneous understandings or agreements with respect to the same. The terms set forth in the Advertising Agreement, are intended by the Parties as a final expression of their agreement and may not be contradicted by evidence of any prior agreement or by any contemporaneous oral agreement. In entering into this Advertising Agreement, no Party is relying on any representation, statement of fact or opinion concerning any matter, except those expressly set forth in this Advertising Agreement, if any.
- d. **Governing Law.** This Advertising Agreement shall in all respects be construed, interpreted and enforced in accordance with and governed by the laws of the State of California.
- e. **Authority to Execute Agreement.** Each individual executing this Advertising Agreement on behalf of his or her respective Party represents and warrants that he or she has the authority of such entity to execute, deliver and perform under this Advertising Agreement on its behalf and that all necessary governmental, corporate or other approvals for such entity to execute, deliver and perform under this Advertising Agreement have been obtained.
- f. **Alteration and Counterparts.** This Advertising Agreement may not be altered, amended or modified in any respect, except in writing duly executed by each of the Parties expressly reciting such intent. This Advertising Agreement may be executed in counterparts, each of which shall be deemed an original, but such counterparts together shall constitute one and the same instrument. The executed Advertising Agreement may be delivered by means of facsimile transmission.
- g. **Mediation.** The parties agree to engage in non-binding mediation with respect to any dispute or disagreement arising out of this Advertising Agreement prior to filing any arbitration demands or lawsuits. If any such dispute or disagreement among the parties arises with respect to any provision or interpretation of this

Advertising Agreement, the parties agree in good faith to attempt to resolve such dispute or disagreement (a "Dispute") prior to submitting the Dispute to mediation ("Pre-Mediation Dispute Resolution"). Any Party may commence a Pre-Mediation Dispute Resolution by giving notice in writing to any Party, with a copy to all other Parties. Such notice shall include at least a description of the Dispute and any remedial action that the Party commencing the Dispute asserts would resolve the Dispute. Upon receiving such notice, the Party against whom the Dispute is brought shall respond in writing within 10 Business Days. The Parties shall then meet and confer in a good faith attempt to resolve the Dispute. If the Dispute has not been resolved within sixty 60 days, and unless the Party initiating the Dispute does not wish to pursue its rights relating to such Dispute or desires to continue the Pre-Mediation Dispute Resolution, then such Dispute will be automatically submitted to mediation. The mediation will be conducted in Alameda or San Francisco County by a single mediator selected by the Parties to the Dispute by mutual agreement. The mediator shall have ninety (90) days from the submission to mediation to attempt to resolve such Dispute. If the Dispute is not resolved within that time period, the parties will be entitled to pursue such matter through arbitration and court proceedings, as appropriate. The Parties to the dispute shall pay equally the fees and costs of the mediator.

In witness whereof, this Advertising Agreement has been executed by each of the Parties effective as of the date first written above.

OAKLAND ALAMEDA COUNTY COLISEUM AUTHORITY

By \_\_\_\_\_  
Chair

Attest: \_\_\_\_\_  
Secretary

OAKLAND-ALAMEDA COUNTY COLISEUM, INC.

By \_\_\_\_\_  
President

OAKLAND RAIDERS

By A.D. Football, Inc., its general partner

By: \_\_\_\_\_  
President

ATHLETIC INVESTMENT GROUP LLC,

By \_\_\_\_\_  
Manager

Exhibit 1

After Recording Mail To:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPENDIX B

---

---

**DEED OF TRUST,  
ASSIGNMENT OF RENTS AND FIXTURE FILING**

TRUSTOR: The Oakland Raiders, a California limited partnership

BENEFICIARY OR  
LENDER: Oakland-Alameda County Coliseum Financing  
Corporation, a California nonprofit corporation

TRUSTEE: [\_\_\_\_\_]

LEGAL  
DESCRIPTION: See Exhibit "A" attached hereto and incorporated  
herein by reference

THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND FIXTURE FILING ("*Deed of Trust*") is made this \_\_\_\_ day of \_\_\_\_\_, 2005, by THE OAKLAND RAIDERS, a California limited partnership, ("*Trustor*"), in favor of [Insert Trustee Name] ("*Trustee*"), for the benefit of OAKLAND-ALAMEDA COUNTY COLISEUM FINANCING CORPORATION, a California nonprofit corporation ("*Beneficiary*" or "*Lender*").

This Deed of Trust constitutes a Financing Statement filed as a fixture filing pursuant to Section 9502(c) of the Uniform Commercial Code ("*UCC*"), as amended or recodified from time to time, covering any portion of the Property (as defined below) which now is or later may become a fixture attached to the Property or any of the Improvements (as defined below). Trustor is the "Debtor" and Lender is the "Secured Party" (as those terms are defined and used in the UCC) insofar as this Deed of Trust constitutes a Financing Statement.

In consideration of the loan ("*Loan*") described below, Trustor hereby irrevocably GRANTS, TRANSFERS, CONVEYS and ASSIGNS to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Lender, all of Trustor's present and future estate, right, title, claim, and interest, either in law or in equity, in and to the following property ("*Property*"):

(a) The real property legally described on the first page of this Deed of Trust, all rights to the alleys, streets and roads adjoining or abutting the real property, all easements, access, air and development rights, minerals and oil, gas and other hydrocarbon substances, and all other rights, hereditaments, privileges, and appurtenances now or hereafter belonging or in any way appertaining to such real property ("*Land*").

(b) All buildings, improvements and tenements now or hereafter located on the Land ("*Improvements*"), but in all events excluding any training and exercise equipment located on the Property which is used by the Trustor's football players and staff.

(c) All of the present and future rents, revenues, issues, profits and income of the Land and Improvements, and all present and future leases and other agreements for the occupancy or use of all or any part of the Land and Improvements, including without limitation all cash or security deposits, advance rentals and deposits or payments of similar nature, and all guarantees of tenants' or occupants' performance under such leases and agreements.

(d) All proceeds (including claims and demands therefor) of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including without limitation the insurance proceeds and condemnation awards.

(e) All proceeds of the foregoing.

TO SECURE THE FOLLOWING ("*Secured Obligations*"): The Loan and any amounts due from time to time by Trustor in accordance with the terms and conditions of that

certain Loan Agreement dated August 7, 1995, as amended and supplemented in June 1996 (the "*Loan Agreement*").

As used herein, the term "*Loan Documents*" means this Deed of Trust and the Loan Agreement.

TRUSTOR HEREBY REPRESENTS, WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

**ARTICLE I  
TITLE AND USE**

Trustor warrants, represents, covenants and agrees as follows: to the best of Trustor's knowledge (a) Trustor holds marketable title to the Property with the full right and power to grant, convey and assign the Property; and (b) the Property is free from liens, encumbrances, exceptions and other charges of any kind whatsoever except as disclosed in a preliminary title report delivered by Trustor to Lender prior to the date hereof.

**ARTICLE II  
TRUSTOR'S COVENANTS**

2.1 **Payment and Performance of Secured Obligations.** Trustor shall pay and perform all Secured Obligations in accordance with the terms of the Loan Agreement.

2.2 **Payment of Taxes, Liens and Charges.**

(a) **Taxes and Assessments.** To the extent required in the Loan Agreement, Trustor shall pay when due directly to the payee thereof all taxes and assessments (including without limitation, non-governmental levies or assessments such as maintenance charges, owner association dues or charges, or fees, levies or charges resulting from covenants, conditions or restrictions) levied, assessed or charged against or with respect to the Property or this Deed of Trust. Upon written request, Trustor shall promptly furnish to Lender all notices of amounts due under this subparagraph and all receipts evidencing such payments.

(b) **Labor and Materials** To the extent required in the Loan Agreement, Trustor shall pay when due the claims of all persons supplying labor or materials to or in connection with the Property.

(c) **Liens and Charges.** To the extent required in the Loan Agreement, Trustor shall promptly discharge any lien, encumbrance, or other charge, whether superior or inferior to this Deed of Trust, which may be claimed against the Property.

(d) **Contests.** Notwithstanding anything contained in subparagraphs 2.1(a)-(c) to the contrary, Trustor shall have the right to contest the amount or validity in



whole or in part of any tax, lien, encumbrance or other charge against the Property by appropriate proceedings conducted in good faith and with due diligence, in which event Trustor, upon prior written notice to Lender, may postpone or defer payment of such tax, lien, encumbrance or other charge so long as (i) such proceedings shall operate to prevent the collection of the lien, encumbrance or other charge; and (ii) neither the Property nor any part thereof will, by reason of such postponement or deferment, be in danger of being forfeited or lost.

2.3 **Insurance.**

(a) **Coverage Required.** Trustor shall maintain insurance coverage regarding fire, hazard and other casualty in effect with respect to the Property consistent with its historic practices; provided that such insurance is available at commercially reasonable rates.

(b) **Policies.** To the extent obtained, any insurance policy shall be with a company licensed to do business in the State of California. Each hazard insurance policy shall include a Form 438BFU or equivalent mortgagee endorsement in favor of Lender. Each liability insurance policy shall name Lender as an additional insured. All required policies will provide for at least ten (10) days' written notice to Lender prior to the effective date of any cancellation or material amendment.

(c) **Application of Insurance Proceeds.** In the event of any loss in excess of \$[50,000], Trustor shall give prompt written notice thereof to the insurance carrier and Lender. Trustor shall use any such insurance proceeds as provided in Section 3.4 of the Loan Agreement. Except to the extent that insurance proceeds are applied to payment of the Secured Obligations, nothing herein contained shall be deemed to excuse Trustor from maintaining the Property as provided in paragraph 2.4, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount.

2.4 **Preservation and Maintenance of Property; Right of Entry.**

(a) **Preservation and Maintenance.** Trustor shall (i) not commit or suffer any material waste or permit any material impairment or deterioration of the Property, (ii) keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon, in reasonably good condition and repair, and (iii) generally operate and maintain the Property in a commercially reasonable manner.

(b) **Right of Entry.** After the occurrence of an Event of Default, Lender is hereby authorized to enter the Property, including the interior of any structures, at reasonable times and after reasonable notice, for the purpose of inspecting the Property to determine Trustor's compliance with this paragraph.

2.5 **Use of Property.** Trustor shall continue to use the Property for its intended use, which is generally to provide training and practice facilities and administrative offices for the Oakland Raiders professional football team. Except where the failure to comply

would not have a material adverse effect in the Property or the rights of Lender hereunder, Trustor shall comply with all laws, ordinances, regulations and requirements of any governmental body, and all other covenants, conditions and restrictions applicable to the Property and its intended use, and pay all fees and charges in connection therewith.

2.6 **Condemnation Proceedings.** Trustor shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking (including without limitation any change in the grade of the Property), whether direct or indirect, of the Property or part thereof or interest therein. All awards, payments, damages, direct, consequential and otherwise, claims, and proceeds thereof, in connection with any such condemnation or other taking, or for conveyances in lieu of condemnation, shall be applied as provided in Section 3.4 of the Loan Agreement.

2.7 **Protection of Lender's Security.** Trustor shall give notice to Lender of any action or proceeding that may adversely affect the Property, the interests of Lender or Trustee therein, or the rights or remedies of Lender or Trustee under the Loan Documents. If any such action or proceeding is commenced, Lender may, at its option, make any appearances, disburse any sums, make any entries upon the Property, and take any actions as may be necessary or desirable to (i) protect or enforce the security of this Deed of Trust, (ii) remedy Trustor's failure to perform the Secured Obligations (without waiving such default by Trustor), or (iii) otherwise protect Lender's or Trustee's interests. Lender shall pay all losses, damages, fees, costs, and expenses incurred by Lender and Trustee in taking such actions, including without limitation reasonable legal fees; provided, however, that Trustor shall be responsible for the payment of any such items to the extent they are reasonable and are incurred by Lender as a direct result of a material breach by Trustor of the Loan Agreement or this Deed of Trust.

2.8 **Reimbursement of Lender's Expenses.** All amounts required to be paid by Trustor pursuant to paragraph 2.7 shall be immediately due and payable and shall bear interest from the date of disbursement at the lesser of the default interest rate under the Loan Agreement or the maximum rate permitted by law.

**ARTICLE III  
RESTRICTIONS ON TRANSFER OR ENCUMBRANCE;  
MANDATORY CONVEYANCE UPON MATURITY DATE**

Except for Trustor's right to lease all or a part of the Property in its sole discretion, neither the Property nor any part thereof or interest therein shall be encumbered, sold (by contract or otherwise), conveyed, or otherwise transferred by Trustor. Any such action without Lender's prior written consent shall be deemed to increase the risk of Lender, and shall constitute an Event of Default if not corrected within twenty (20) business days after Lender's delivery of written demand to Trustor. In accordance with the terms of the Loan Agreement, Trustor hereby confirms that upon the maturity of the Loan (including any accelerated maturity date provided in the Loan Agreement), and if the Loan has not otherwise been fully paid before such time, Trustor shall convey to Lender all right, title

and interest that it has in the Property in full and complete satisfaction of all amounts then due under the Loan Agreement.

#### ARTICLE IV ASSIGNMENT OF RENTS AND LEASES

4.1 **Assignment of Rents and Leases.** As security for the Secured Obligations, Trustor assigns and transfers to Lender and grants Lender a security interest in and to all right, title and interest of Trustor in and to: (a) any and all present and future leases, subleases, and other agreements for the occupancy or use of all or any part of the Property, and any and all extensions, renewals and replacements thereof ("***Leases***"); (b) all cash or security deposits, advance rentals and deposits of a similar nature under the Leases; (c) any and all guarantees of tenants' or occupants' performances under any and all Leases; and (d) all rents, issues, profits and revenues ("***Rents***") now due or which may become due or to which Trustor may now or shall hereafter become entitled or may demand or claim (including Rents coming due during any redemption period), arising or issuing from or out of any and all Leases, including without limitation minimum, additional, percentage and deficiency rents and liquidated damages.

4.2 **Collection of Rents.** Prior to any Event of Default hereunder, Trustor shall have a license to, and shall, collect and receive for its own benefit all Rents of the Property. Upon delivery of written notice by Lender to Trustor of an Event of Default hereunder and stating that Lender exercises its rights to the Rents, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all Rents from the Property as the same become due and payable, including without limitation Rents then due and unpaid, and all such Rents shall immediately upon delivery of such notice be held by Trustor as trustee for the benefit of Lender only. Any payments made directly to Lender by tenants or occupants shall, as to such tenants and occupants, be in discharge of the payors' obligations to Trustor. Lender may exercise, in Lender's or Trustor's name, all rights and remedies available to Trustor with respect to collection of Rents. Nothing herein contained shall be construed as obligating Lender to perform any of Trustor's obligations under any of the Leases.

#### ARTICLE V EVENTS OF DEFAULT

Any one or both of the following (but no other event or circumstance) shall constitute an "***Event of Default***":

- (a) There is an Event of Default as defined in the Loan Agreement.
- (b) There is an Event of Default as expressly provided in Article III hereof.

**ARTICLE VI  
REMEDIES**

6.1 **Remedies.** Upon any Event of Default, Lender may, at its option and without notice to or demand upon Trustor, exercise any one or more of the following actions:

- (a) Bring a court action to enforce the provisions of this Deed of Trust or any of the other Loan Documents.
- (b) Foreclose this Deed of Trust as a mortgage.
- (c) Cause any or all of the Property to be sold under the power of sale granted by this Deed of Trust in any manner permitted by applicable law.
- (d) Elect to exercise its rights with respect to the Leases and the Rents.
- (e) Exercise any or all of the other rights and remedies under this Deed of Trust and the Loan Agreement.
- (f) Exercise any other right or remedy available under law or in equity; provided, however, that in no event may Lender or Trustee exercise any remedy provided in this Article VI unless there has been a material breach by Trustor that also expressly constitutes an Event of Default within the meaning of Article V.

Notwithstanding the foregoing, at any time following the delivery of a deed, a trustee's deed, or a deed in lieu of foreclosure which grants all right, title and interest of the Trustor in the Property to the Lender (or another "East Bay Entity" as defined in the Loan Agreement), Trustee and Lender shall immediately cease pursuing any remedies under this Article VI. Further, immediately upon receipt of a deed, a trustee's deed, or a deed in lieu of foreclosure which grants all right, title and interest of the Trustor in the Property to the Lender (or another "East Bay Entity" as defined in the Loan Agreement), Lender shall immediately provide Trustor with written confirmation that the transfer of such Property is in full and complete satisfaction of all amounts outstanding (or otherwise owing) on the Loan (other than any amount previously due and required to be paid under the Loan Agreement, but which remains an unpaid past due obligation of Trustor).

6.2 **Non-Recourse.** By acceptance of this Deed of Trust, Lender hereby confirms, consistent with the Loan Agreement, that no recourse shall be had for the payment of the principal or interest or for any other Secured Obligations or for any claim based hereon or thereon or otherwise in respect hereof or thereof against (i) Trustor or any asset of Trustor; (ii) any partner, interest holder, agent, contractor, director, officer, member, consultant, manager, stockholder, subscriber to capital stock, incorporator, beneficiary, participant, trustee or advisor of Trustor, any partner, interest holder or shareholder in Trustor, or any partner, interest holder or member therein; (iii) any legal representative, heir, estate, successor or assign of any thereof; (iv) any corporation (or any officer, director, employee or shareholder thereof), limited liability company (or member thereof), partnership (or any partner thereof), individual or entity to which any ownership

interest in Trustor shall have been directly or indirectly transferred; (v) any purchaser of any asset of Trustor; or (vi) any other person or entity, for any deficiency or other sum owing with respect to the Loan Agreement or any other indebtedness, obligation or liability or arising under the Loan Documents. It is understood that neither the Loan Agreement nor any other indebtedness, obligation or liability under or with respect to the Loan Documents may be enforced against any person or entity described in clauses (i) through (vi) above; provided, however that the foregoing provisions of this paragraph shall not prevent recourse to the Property or the assets of Trustor that are pledged as security for the Loan pursuant to the Loan Documents.

6.3 **Exercise of Power of Sale.** For any sale under the power of sale granted by this Deed of Trust, Lender or Trustee shall record and give all notices required by law and then, upon the expiration of such time as is required by law, Trustee may sell the Property upon any terms and conditions specified by Lender and permitted by applicable law. Trustee may postpone any sale by public announcement at the time and place noticed for the sale. Any person permitted by law to do so may purchase at any sale. Upon any sale, Trustee will execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property sold, but without any covenant or warranty, express or implied, and the recitals in the Trustee's deed showing that the sale was conducted in compliance with all the requirements of law shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value.

6.4 **Application of Sale Proceeds.** Except as may otherwise be required by law, the proceeds of any sale under this Deed of Trust shall be applied in the following priority:

(a) Payment of the costs and expenses of the sale; including without limitation Trustee's fees, legal fees and disbursements, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Trustee, together with interest on all advances made by Trustee from date of disbursement at the lesser of the default interest under the Loan Agreement, or the maximum rate permitted by law.

(b) Payment of all sums expended by Lender under the terms of this Deed of Trust and not yet repaid, together with interest on such sums from date of disbursement at the lesser of the default interest under the Loan Agreement, or the maximum rate permitted by law.

(c) Payment of all other Secured Obligations in any order that the Lender chooses.

(d) The remainder, if any, to the person or persons legally entitled to it.

6.5 **Waiver of Order of Sale and Marshalling.** Lender shall have the right to determine the order in which any or all portions of the Secured Obligations are satisfied from the proceeds realized upon the exercise of any remedies provided herein. To the fullest extent permitted by law, Trustor, any party who consents to this Deed of Trust and any party who now or hereafter acquires a security interest in the Property and who has

actual or constructive notice hereof, hereby waives any and all right to require marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein, or to direct the order in which any of the Property will be sold in the event of any sale under this Deed of Trust.

6.6 **Non-Waiver of Defaults.** The entering upon and taking possession of the Property, the collection of Rents or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release thereof as herein provided, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

6.7 **Expenses During Redemption Period.** If this Deed of Trust is foreclosed as a mortgage and the Property sold at a foreclosure sale, the purchaser may during any redemption period allowed, make such repairs or alterations on the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the lesser of the default interest under the Loan Agreement, or the maximum rate permitted by law, shall be added to and become a part of the amount required to be paid for redemption from such sale.

6.8 **Foreclosure Subject to Tenancies.** Lender shall have the right at its option to foreclose this Deed of Trust subject to the rights of any tenant or tenants of the Property.

6.9 **Remedies Cumulative.** To the extent permitted by law, every right and remedy provided in this Deed of Trust is distinct and cumulative to all other rights or remedies under this Deed of Trust or afforded by law or equity or any other agreement between Lender and Trustor, and may be exercised concurrently, independently or successively, in any order whatsoever. Lender may exercise any of its rights and remedies at its option without regard to the adequacy of its security.

## ARTICLE VII GENERAL

7.1 **Reconveyance.** Upon payment of all Secured Obligations, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all agreements evidencing the Secured Obligations to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

7.2 **Successor Trustee.** In accordance with applicable law, Lender may from time to time appoint a successor trustee to any Trustee appointed hereunder. Without

conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

7.3 **Lender's Powers.** Without affecting the liability of any person for payment or performance of the Secured Obligations or any of Lender's rights or remedies, Lender, at its option, may release the lien of this Deed of Trust on any part of the Property, take or release other or additional security, release or reconvey or cause to be released or reconveyed all or any part of the Property, or consent and/or cause Trustee to consent to the making of any map or plat of the Property, consent or cause Trustee to consent to the granting of any easement or creating any restriction on the Property, or join or cause Trustee to join in any subordination or other agreement affecting this Deed of Trust or the lien or charge hereof. Trustor shall pay Lender a reasonable service charge, together with attorneys' fees as may be incurred at Lender's option, for any such action if taken at Trustor's request.

7.4 **Forbearance by Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy, and no waiver by Lender of any particular default shall constitute a waiver of any other default or of any similar default in the future. Without limiting the generality of the foregoing, the acceptance by Lender of payment of any of the Secured Obligations after the due date thereof shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment.

7.5 **Modifications and Waivers.** This Deed of Trust may not be waived, changed, discharged or terminated except by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

7.6 **Governing Law; Severability; Captions.** This Deed of Trust shall be governed by the laws of the State of California. If any provision or clause of this Deed of Trust conflicts with applicable law, such conflicts shall not affect other provisions or clauses hereof which can be given effect without the conflicting provision, and to this end the provisions hereof are declared to be severable. To the extent there is any conflict between this Deed of Trust and the Loan Agreement, the provisions of the Loan Agreement shall control. The captions and headings of the paragraphs and articles of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

7.7 **Definitions.** As used herein: the term "Trustor" means the Trustor herein named, together with any subsequent owner of the Property or any part thereof or interest therein; the term "Trustee" means the Trustee herein named, together with any successor Trustee; and the term "Lender" means the Lender herein named, together with any subsequent owner or holder of the Loan Agreement or any interest therein, including pledgees, assignees and participants. Any other term used but not defined herein shall have the meaning ascribed to such term in the Loan Agreement.





DRAFT  
12/06/2005

Exhibit "A"  
Legal Description