

EXECUTIVE SUMMARY:

BUFFALO BILLS NON-RELOCATION AGREEMENT COMPARISON

Executive Summary Comparison of (1) Non-Relocation Agreement dated as of May 6, 2013, as amended, and assigned among the County, the Bills, and ECSC (the “2013 NRA”); (2) Amendment to Non-Relocation Agreement dated March 29, 2023, among the County, the Bills and ECSC (the “Amended NRA”), and (3) the Non-Relocation Agreement dated March 29, 2023, among the County, the Bills, and ECSC (the “2023 NRA”). The 2013 NRA runs for a ten year term coinciding with the related stadium lease term. The Amended NRA commences at the end of the term of the 2013 NRA and terminates upon substantial completion of the new stadium, intended to be 3-4 years from now. The 2023 NRA is intended to run from 2026-2056, to coincide with the term of the proposed stadium lease to become effective upon substantial completion of the new stadium and to run for 30 years.

INTRODUCTION

The 2023 Non-Relocation Agreement strengthens the Bills’ ties to Buffalo and will effectively prevent their departure from Western New York for the next 30 years. The parties to the 2023 Non-Relocation Agreement acknowledge that the Bills obligations under the 2023 NRA are unique and essential consideration for the agreement among the parties, the team is extraordinary and unique and cannot be replaced by the County, State, or ECSC. Therefore, the parties to the 2023 NRA agree that there exists no adequate remedy at law to enforce the 2023 NRA against the Bills, and that specific performance or an injunction (such as a prohibitory injunction barring the Bills from relocating or playing anywhere other than the Stadium or a mandatory injunction requiring the Bills to play games at the Stadium) is the only appropriate remedy.

In the event specific performance is unavailable, both the 2013 NRA and the 2023 NRA provide for liquidated damages. The key difference between the 2023 NRA and its 2013 predecessor is the liquidated damage's structure. In 2013, the NFL reportedly insisted that "if a liquidated damages penalty applies to any club that breaks its stadium lease . . . then those financial damages must start diminishing at a certain point during the lease term, and must reduce to zero by the end of it."¹ This is reflected in the 2023 NRA liquidated damages structure, but the agreement still provides a number of safeguards that will prevent the Bills from re-locating during the 30-year term. Relocation negotiations, or any actions taken thereto, are prohibited until the final five (5) years of the Stadium Lease – but relocation would still not be permitted until after the conclusion of the Lease term.

While the 2013 NRA prohibited the negotiation with any entity that the Bills believe intend to move the Team, and the selling, assigning, or otherwise transferring of the Team to such an entity, this could still be accomplished with the written consent of Erie County and ECSC (except when there is pending arbitration to terminate stadium lease, or where the relocation would be effective after the non-relocation term) throughout the term of the lease. Now, any such relocation negotiations or actions are barred, without written consent, until the final five (5) years of the Agreement. The 2013 NRA offered a much broader definition of untenable stadium condition, a limited geographic region regarding games played at alternate sites, and a specific liquidated damages penalty.

Notably, the Non-Relocation Agreement appears twice in both the 2013 and 2023 documents – once within the Stadium Lease Agreement, and again as a free-standing document. This displays

¹ <https://torontosun.com/sports/football/nfl/nfl-ordered-weaker-non-relocation-penalties-in-stadium-leases>

additional emphasis by the Bills on the NRAs relative to the rest of the NFL, as the majority of NRA provisions across the League are simply shorter clauses in the middle of a much larger agreement.

The Amended Agreement in 2023 made minor changes, such as no longer requiring prior consent from ECSC or Erie County to play games at an alternate site in the case of untenable conditions at the stadium. The 2023 NRA made further specifications for snow-related situations. The Amended Agreement also set forth a liquidated damages structure, which was expounded on in the 2023 Agreement. The Amended Agreement also provided for one game to be played outside of the stadium each season – this was again built upon in the 2023 NRA.

A. Untenable Condition:

2013 NRA: Broad definition of “Untenable Condition” grants broad discretion to Bills to determine existence of untenable condition.

Amended NRA: Bills have the right and do not have to first obtain the ECSC’s or the County’s prior consent to play at an alternate site if there is an untenable condition at the stadium.

2023 NRA: Tightens up definition to require notice to County and ECSC of an untenable condition including the condition itself, the expected duration of the untenable condition, alternate site location, and any contractual commitment by Bills to play at alternate site. Note: the revised definition of untenable condition can be interpreted to include conditions such as blizzards which are not foreseeable. This change addresses the snow events that previously caused two home games to be relocated. One “home game” was played against the New York Jets at Detroit’s Ford Field in November 2014. The second “home playoff game” was also relocated to

Detroit in November 2022 where the Bills played the Cleveland Browns. The Buffalo Bills won both relocated games.

B. Non-Relocation Covenants- Maintenance of the Team and Franchise:

2013 NRA: Except as otherwise allowed by the 2013 Stadium Lease such as for Untenantable Conditions, without the prior written consent of the County and ECSC, which is solely within the discretion of the County and ECSC, the Bills may not apply to the NFL to play games anywhere other than the Stadium. In addition, the Bills may not take any action to relocate, including entertaining, soliciting, negotiating, or attempting to relocate the team except during pendency of arbitration to terminate stadium lease or where the relocation would be effective only after the non-relocation term expires. This prohibits negotiating with, selling, assigning, or otherwise transferring the team to any person who, to the Bill's knowledge, intends to relocate the Team.

Amended NRA: No Change

2023 NRA: Follows the original 2013 NRA with the change that the Bills may negotiate relocation, transfer, or sale of team **ONLY** during the last five (5) years of the non-relocation term, provided that the relocation or other action described in such clause would first take effect after the non-relocation term. Effectively, the team cannot negotiate relocation, transfer, or sale until the last five (5) years of the 2023 NRA, projected to be 2051-2056.

C. Games to Be Played at Stadium:

2013 NRA: 50% of regular season games played at stadium. Note, Section 6(b) of the Stadium Lease modified this term by allowing one regular season home game to be played in Toronto,

Southern Ontario, or some other place in Western New York each season and one regular season home game to be played at an international venue once during the lease term.

Amended NRA: All home games to be played at stadium and team is entitled to play one home game outside the stadium each NFL Season. Right to play one home game outside the stadium is non-cumulative and expires at end of each season.

2023 NRA: Team shall be entitled to play, and the foregoing covenant shall not prevent or prohibit the team from playing, one (1) home game outside the stadium that is scheduled by the NFL pursuant to an international, league-wide program, initiative or series during each NFL season; provided, however, that such exempt home game outside the stadium during any NFL season shall be non-cumulative and shall expire at the end of each NFL Season.

D. County and ECSC Remedies in event of breach of NRA

2013 NRA: County and ECSC entitled to injunctive relief. Bills may not discharge obligations in bankruptcy. If Equitable Relief is not available, Liquidated Damages agreed to at \$400,000,000.

Amended NRA: If equitable relief is not available, “Liquidated Damages Amount” shall mean (i) from the date hereof until July 31, 2024, \$60,000,000, (ii) from August 1, 2024, until July 31, 2025, \$45,000,000, (iii) from August 1, 2025, until July 31, 2026, \$30,000,000, (iv) from August 1, 2026, until July 31, 2027, \$15,000,000 and (v) from and after August 1, 2027, \$0.

2023 NRA: The parties acknowledge that the Bills obligations under the 2023 NRA are unique and essential consideration for the agreement among the parties, the team is extraordinary and unique and cannot be replaced by the County, State, or ECSC. It would be difficult, if not impossible, to determine damages caused by relocation of the team. Therefore, the parties to the

2023 NRA agree that there exists no adequate remedy at law to enforce the 2023 NRA against the Bills, and that specific performance or an injunction (such as a prohibitory injunction barring the Bills from relocating or playing anywhere other than the Stadium or a mandatory injunction requiring the Bills to play games at the Stadium) is the only appropriate remedy.

If equitable relief is not available, the 2023 NRA establishes agreed upon liquidated damage values on a decreasing sliding scale intended to recapture the contributions by ECSC in connection with project costs (currently expected to be \$600 million), County Cash Contribution (\$100 million), and the County Debt Contribution (the sum of scheduled principal and interest payments on bond issuance debt service), the combination of which is known as the Public Contribution and in the aggregate is expected to exceed \$850 million. In addition, the liquidated damages calculation includes any amounts contributed by ECSC to and expended from the maintenance and repair fund (expected to be \$6.67 million per year for 15 years), amounts contributed by the County and ECSC to the Capital Improvement Fund (expected to be \$6 million per year for 30 years). All of these sums combined are considered the Public Contribution to the stadium. Liquidated damages are 100% of the Public Contribution for the first 15 years of the lease and beginning in the fifteenth year of the lease decrease on a sliding scale as set forth in the 2023 NRA with damages reduced to \$0 in final year of stadium lease. In addition, the County and ECSC are entitled to recover from the Bills the reasonable costs incurred in connection with the demolition of the stadium, and the Bills will lose all rights to the funds in the capital improvement fund and the maintenance and repair fund.² The remedies in the 2023 NRA are similar to the 2013 NRA except for the value of and method for calculating liquidated damages.

² It is noteworthy that the Non-Relocation Agreement is also mentioned in the Stadium Lease, specifically related to bankruptcy law. The parties agree that a breach of the terms does not constitute a claim pursuant to Section 101(5) of

LIQUIDATED DAMAGES BREAKDOWN

the United States Bankruptcy Code and is not subject to discharge and is not an executory contract under which the obligation of both parties are so far unperformed that the failure of either to complete performance would constitute a material breach excusing the performance of the other. This is particularly relevant because in the event the Team declares bankruptcy this provision would help keep the Team in Buffalo.

Lease Year	Percentage of Public Contribution Owed
1 st –14 th	100%
15 th	93.75%
16 th	87.5%
17 th	81.25%
18 th	75%
19 th	68.75%
20 th	62.5%
21 st	56.25%
22 nd	50%
23 rd	43.75%
24 th	37.5%
25 th	31.25%
26 th	25%
27 th	18.75%
28 th	12.5%
29 th	6.25%
30 th	0% (\$0)

E. Arbitration Clause:

Although there is an arbitration clause in the Stadium Lease, the three non-relocation agreements do not contain such an arbitration clause, and all disputes and enforcement actions under the

applicable non-relocation agreement are subject to court proceeding in Supreme Court of the State of New York, Erie County, or United States District Court for the Western District of New York.

F. Governing Law:

In all three non-relocation agreements, New York is the governing law.

PROVISION	2013 NRA	AMENDED NRA	2023 NRA
Untenantable Condition	Broad definition of “Untenantable Condition” grants broad discretion to Bills to determine existence of untenatable condition.	Bills have the right and do not have to first obtain the ECSC’s or the County’s prior consent to play at an alternate site if there is an untenatable condition at the stadium.	Tightens up definition to require notice to County and ECSC of an untenatable condition including the condition itself, the expected duration of the untenatable condition, alternate site location, and any contractual commitment by Bills to play at alternate site. Note: the revised definition of untenatable condition can be interpreted to include conditions such as blizzards which are not foreseeable. This change addresses the snow events that previously caused two home games to be relocated. One “home game” was played against the New York Jets at Detroit’s Ford Field in November 2014. The second “home playoff game” was also relocated to Detroit in

			November 2022 where the Bills played the Cleveland Browns. The Buffalo Bills won both relocated games.
Non-Relocation Covenants-Maintenance of the Team and Franchise	Except as otherwise allowed by the 2013 Stadium Lease such as for Untenantable Conditions, without the prior written consent of the County and ECSC, which is solely within the discretion of the County and ECSC, the Bills may not apply to the NFL to play games anywhere other than the Stadium. In addition, the Bills may not take any action to relocate, including entertaining, soliciting, negotiating, or attempting to relocate the team except during pendency of arbitration to terminate stadium lease or where the relocation would be effective only after the non-relocation term expires. This prohibits negotiating with, selling, assigning, or otherwise transferring the team to any person who, to the Bill's knowledge, intends to relocate the Team.	No Change.	Follows the original 2013 NRA with the change that the Bills may negotiate relocation, transfer, or sale of team ONLY during the last five (5) years of the non-relocation term, provided that the relocation or other action described in such clause would first take effect after the non-relocation term. Effectively, the team cannot negotiate relocation, transfer, or sale until the last five (5) years of the 2023 NRA, projected to be 2051-2056.
Games to Be Played at Stadium	50% of regular season games played at stadium. Note, Section 6(b) of the Stadium Lease modified this term by allowing one regular season home game to be played in Toronto, Southern Ontario, or some other place in Western New York each season and one regular season home game to be played at an international venue once during the lease term.	All home games to be played at stadium and team is entitled to play one home game outside the stadium each NFL Season. Right to play one home game outside the stadium is non-cumulative and expires at end of each season.	Team shall be entitled to play, and the foregoing covenant shall not prevent or prohibit the team from playing, one (1) home game outside the stadium that is scheduled by the NFL pursuant to an international, league-wide program, initiative or series during each NFL season; provided, however, that such

			exempt home game outside the stadium during any NFL season shall be non-cumulative and shall expire at the end of each NFL Season.
County and ECSC Remedies in event of breach of NRA	County and ECSC entitled to injunctive relief. Bills may not discharge obligations in bankruptcy. If Equitable Relief is not available, Liquidated Damages agreed to at \$400,000,000.	If equitable relief is not available, “Liquidated Damages Amount” shall mean (i) from the date hereof until July 31, 2024, \$60,000,000, (ii) from August 1, 2024, until July 31, 2025, \$45,000,000, (iii) from August 1, 2025, until July 31, 2026, \$30,000,000, (iv) from August 1, 2026, until July 31, 2027, \$15,000,000 and (v) from and after August 1, 2027, \$0.	<p>The parties acknowledge that the Bills obligations under the 2023 NRA are unique and essential consideration for the agreement among the parties, the team is extraordinary and unique and cannot be replaced by the County, State, or ECSC. It would be difficult, if not impossible, to determine damages caused by relocation of the team. Therefore, the parties to the 2023 NRA agree that there exists no adequate remedy at law to enforce the 2023 NRA against the Bills, and that specific performance or an injunction (such as a prohibitory injunction barring the Bills from relocating or playing anywhere other than the Stadium or a mandatory injunction requiring the Bills to play games at the Stadium) is the only appropriate remedy.</p> <p>If equitable relief is not available, the 2023 NRA establishes agreed upon liquidated damage values on a decreasing sliding scale intended to recapture the</p>

			<p>contributions by ECSC in connection with project costs (currently expected to be \$600 million), County Cash Contribution (\$100 million), and the County Debt Contribution (the sum of scheduled principal and interest payments on bond issuance debt service), the combination of which is known as the Public Contribution and in the aggregate is expected to exceed \$850 million. In addition, the liquidated damages calculation includes any amounts contributed by ECSC to and expended from the maintenance and repair fund (expected to be \$6.67 million per year for 15 years), amounts contributed by the County and ECSC to the Capital Improvement Fund (expected to be \$6 million per year for 30 years). All of these sums combined are considered the Public Contribution to the stadium. Liquidated damages are 100% of the Public Contribution for the first 15 years of the lease and beginning in the fifteenth year of the lease decrease on a sliding scale as set forth in the 2023 NRA with damages reduced to \$0 in final year of stadium lease. In addition, the</p>
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			County and ECSC are entitled to recover from the Bills the reasonable costs incurred in connection with the demolition of the stadium, and the Bills will lose all rights to the funds in the capital improvement fund and the maintenance and repair fund. The remedies in the 2023 NRA are similar to the 2013 NRA except for the value of and method for calculating liquidated damages.
Arbitration Clause	Although there is an arbitration clause in the Stadium Lease, the three non-relocation agreements do not contain such an arbitration clause, and all disputes and enforcement actions under the applicable non-relocation agreement are subject to court proceeding in Supreme Court of the State of New York, Erie County, or United States District Court for the Western District of New York.	Although there is an arbitration clause in the Stadium Lease, the three non-relocation agreements do not contain such an arbitration clause, and all disputes and enforcement actions under the applicable non-relocation agreement are subject to court proceeding in Supreme Court of the State of New York, Erie County, or United States District Court for the Western District of New York.	Although there is an arbitration clause in the Stadium Lease, the three non-relocation agreements do not contain such an arbitration clause, and all disputes and enforcement actions under the applicable non-relocation agreement are subject to court proceeding in Supreme Court of the State of New York, Erie County, or United States District Court for the Western District of New York.
Governing Law	New York	New York	New York

G. Non-Relocation Agreement Comparisons

Team	Stadium	Non-Relocation Clause? (yes/no)	Terms & penalties of Non-Relocation Clauses
ATL Falcons	Mercedes-Benz Stadium	Yes	<u>Term Sheet</u> . 30 years - renews with the lease if it is renewed
BUF Bills	Bills Stadium (naming rights TBD)	Yes	<p><u>Non-Relocation Agreement Document</u>. 2013-2023 - Specific Penalty of 400 Million to County and State in Liquidated damages if Bills break lease</p> <p>2023: 30-year NRA – Team may not enter into relocation negotiations or take any such relocation actions until final (5) years of agreement.</p> <p>Penalty for breach: decreasing sliding scale of liquidated damages, beginning at agreed upon value, and decreasing to \$0 in final year of Lease</p>
BAL Ravens	M&T Bank Stadium	Yes	<u>Section 21. No Relocation: Maintenance of Franchise</u> . 30-year non-relocation agreement; no penalties for specifically breaking the agreement.
CHI Bears	Soldier Field	Yes	<u>Section 29.3.5. Liquidated Damages/Improper Relocation</u> . In the event of an improper relocation, the CPD shall be entitled to collect from the Club, as liquidated damages, an amount equal to 150% of the aggregate of all Financial obligations... until 2033.
CLE Browns	Cleveland Browns Stadium	Yes	<u>Section 9(b)(2)(iii)</u> . The team shall not sell the Franchise to another person or entity which has the then present intent to relocate, transfer or otherwise move the

			Franchise to any other city or location. (30 years?)
CIN Bengals	Paycor Stadium	Yes	<u>Article 16.1.2. Transfer of Team's Franchise.</u> Team shall not enter into any contract or agreement of any kind to transfer, during the Term (30 years, until June 30, 2026), its NFL Franchise outside the County. If the team violates this agreement, the team will suffer the penalty of a temporary restraining order.
DAL Cowboys	AT&T Stadium	Yes	<u>Section 12.3(b).</u> Obligates the Cowboys to stay and play all home games in the Cowboys Complex for 30 years and during each renewal term (if renewal is exercised)
DET Lions	Ford Field	Yes	<u>Non-Relocation Agreement - Article 14:</u> Cannot relocate the team for Term of the lease (not sure of the term), there's no adequate remedy at law for a lease, but the lions grant the authority of right of specific performance to enforce the agreements of the Lions of this article.
GB Packers	Lambeau Field	Yes	<u>Section 13.4.</u> The Team hereby acknowledges that the City and the District will be irreparably harmed by the transfer of the Team's Franchise to a location other than the Lambeau Field Complex during the Initial and Primary Terms of the Lease. No penalties except for the option for a temporary restraining order together w/ preliminary and permanent injunctive declaratory relief; no liquidated damages.
HOU Texans	NRG Stadium	Yes	<u>Houston Non-Relocation Agreement</u> - separate doc. Houston shall not relocate the Club or the Home Territory of the

			Club outside the boundaries of the Local Area. In the event of a breach they'll suffer injunctive relief, declaratory or liquidated damages. Depending on the date, the liquidated damages change.
IND Colts	Lucas Oil Stadium	Yes	<u>Article 4. Section 4.3(a).</u> During the Term...Club shall not schedule any Club Games to be played during the Term at a location other than the Stadium, Club shall not file an application w/ the NFL to relocate its Franchise, unless such application relates solely to a period that begins after the Term...no penalties (?)
KC Chiefs	Arrowhead Stadium	Yes	<u>Article 7. Section 7.1 (?)</u> - lease states: Landlord and Tenant hereby confirm and agree that Tenant's covenant to play its home games in the Stadium...is a material part of the Amended Lease which covenant, at Landlord's option, may be enforced by a Landlord legal proceeding... No specific verbiage about relocation
LV Raiders	Allegiant Stadium	Yes	<u>Non-Relocation Agreement Document.</u> During the Non-Relocation Term(30 years), the team shall not Relocate. Furthermore, the team shall not apply for or seek approval from the NFL for a relocation or enter into agreements or substantive negotiations with third parties concerning transactions that would result in a Relocations. Except for the last seven (7) years of the Non-Relocation Term the team shall not enter into negotiations for playing home games at a location other than the Stadium. In addition, the team cannot seek the permission or approval of the NFL for playing home games, during Non-Relocation Term, at a location other than the Stadium. Due to COVID, the Agreement was expanded to 31 years.

MIN Vikings	U.S. Bank Stadium	Yes	<u>Section 3.6.</u> The Team agrees that, beginning on the Commencement Date and ending on the expiration of the Term, during each NFL Season, the Team will play all Team Games at the Stadium... No specific language about relocation.
NY Giants	MetLife Stadium	Yes	<u>Section 8.05.</u> “Each of the Giants and the Jets shall not enter into any contract or agreement with respect to or which would result in the move or relocation, or make application to the NFL with respect to or which would result in the move or relocation, and shall not move or otherwise relocate or attempt to move or otherwise relocate or permit the move or relocation, of Home Games of either the Jets or the Giants to a location other than the Stadium Premises, except that the prohibitions regarding prospective applications or agreements set forth in this <u>Section 8.05(a)(iv)</u> shall not apply during the last five (5) Lease Years of the Term (or the five (5) Lease Years prior to each successive date as of which the Giants or Jets can exercise its Early Termination Rights) to the extent any such proposed move or relocation would not take effect during the Term of this Agreement (or until the effective date of the Early Termination Right).”
NY Jets	MetLife Stadium	Yes	<i>See Giants</i>
PIT Steelers	Acrisure Stadium	Yes	<u>Section 6.5 Covenant Not to Relocate.</u> In consideration for the participation of the Authority and the Commonwealth in the Project, the Lessee affirmatively covenants that for the Term of this Lease, there shall be no relocation, or attempted relocation, of the Franchise outside of the City of Pittsburgh.

SF 49ers	Levi's Stadium	Yes	<p><u>Stadium Lease Article 19.</u> Concurrently with the Parties' execution and delivery of this Lease, the Stadium Authority shall execute and deliver, and Tenant shall cause the Team to execute and deliver, the Non-Relocation Agreement.</p> <p><u>Ground Lease: 1.86</u> "Non-Relocation Agreement" means an agreement, or the agreements, among City,</p> <p>Lessee and the Team pursuant to which the Team will commit, conditioned on the Completion of the Stadium, to play in the Stadium not less than one preseason game each year (so long as there are at least two scheduled preseason home games in that year) and all of its regular season and post-season</p> <p>home games for the not less than forty (40) year term of the Stadium Lease and the Team Sublease, except as may be prescribed by the NFL or as may otherwise be agreed upon by the Team, StadCo and Lessee (for example, during Restoration in the event of a Casualty).</p>
SEA Seahawks	Lumen Field	Yes	<p>(document ml-6) <u>Section 5.1 Playing of All Home Games:</u> Team shall play all of its regular season home games and playoff home games in the Stadium, other than Regular Season or Playoff Home Games scheduled elsewhere by the League.</p> <p><u>See also: Section 12 Team Default; Section 17 Exclusivity Covenant.</u></p>
TB Buccaneers	Raymond James Stadium	Yes	<p><u>Term Sheet.</u> Buccaneers shall not relocate their NFL franchise while any bonds remain outstanding</p>

TEN Titans	New Stadium (expected 2027)	Yes	30-year NRA that coincides with the term of the new lease, including extension – documents currently unavailable

Non-Relocation Agreement Summary:

The Buffalo Bills, Erie County, and the Erie County Stadium Corporation are parties to a non-relocation agreement as part of a 30-year lease to play Bills home games in a new stadium. The new non-relocation agreement commences in 2026, once the new stadium is substantially completed. The stronger terms of the non-relocation agreement, such as specific performance or liquidated damages, prevent or through a very large financial penalty discourage the team from leaving Buffalo, laying out strict consequences. This agreement ensures that the team will not prematurely leave Western New York before the end of the 30-year lease agreement in 2056. The non-relocation agreement binds the current owners, and any subsequent owners, ensuring the team remains in Western New York for the next 30 years.