

**RESOLUTION NO. 11-17 (STADIUM AUTHORITY)**

**A RESOLUTION OF THE SANTA CLARA STADIUM AUTHORITY APPROVING A JOINDER AGREEMENT, AN INDEMNIFICATION CONTRIBUTION AGREEMENT AND THE SUMMARY OF STADCO FINANCING AND MAKING CERTAIN FINDINGS RELATED THERETO**

**BE IT RESOLVED BY THE SANTA CLARA STADIUM AUTHORITY AS FOLLOWS:**

**WHEREAS**, the Santa Clara Stadium Authority ("Authority"), a joint exercise of power entity created pursuant to Government Code Section 6500 *et seq.* composed of the City of Santa Clara, the Santa Clara Redevelopment Agency and the Bayshore North Project Enhancement Authority, is engaged in various activities designed to lead to the development of a 68,500 seat stadium suitable for professional football ("Stadium Project") on a property located in the Bayshore North Redevelopment Project Area at Tasman and Centennial Drive ("Stadium Site");

**WHEREAS**, the Authority has approved entering into a Disposition and Development Agreement ("DDA") with Forty Niners Stadium, LLC ("StadCo") providing for the Authority to lease the Stadium to StadCo pursuant to the terms of a Stadium Lease and providing for the development and financing of the Stadium Project;

**WHEREAS**, the DDA includes a preliminary financing plan ("Preliminary Financing Plan") for the Stadium Project, which financing plan contemplates the Authority obtaining certain loans to finance the Stadium Project;

**WHEREAS**, Goldman Sachs Bank, USA, Merrill Lynch, Pierce, Fenner & Smith Inc. and U.S. Bank (collectively "Construction Lenders") have issued commitments to provide the financing contemplated in the Preliminary Financing Plan attached to and incorporated into the DDA;

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**WHEREAS**, the Authority, in furtherance of the DDA and the Stadium Project, desires to enter into that certain Joinder Agreement whereby the Stadium Authority is bound by the terms of the commitments issued by the Construction Lenders;

**WHEREAS**, the Authority also desires to enter into that certain Indemnification Contribution Agreement allocating liability under the commitment letter;

**WHEREAS**, in connection with the commitments from the Construction Lenders and consistent with the preliminary financing plan, StadCo had issued to the Authority a summary of StadCo commitments with respect to the financing of the Stadium Authority; and

**WHEREAS**, the construction of the Stadium Project will further the goals of the City of creating an entertainment destination in the Bayshore North Area and will provide significant economic benefits to the City and its residents and businesses;

**WHEREAS**, as further described in the attached Staff Report, the Stadium Project has previously undergone environmental review pursuant to the California Environmental Quality Act ("CEQA") and was considered as part of the project Environmental Impact Report certified for the proposed 49ers Santa Clara Stadium Project at 4900 Centennial Boulevard (the "Stadium EIR"); and,

**WHEREAS**, the Staff Report and the Stadium EIR provide additional information upon which the findings and actions set forth in this Resolution are based.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE SANTA CLARA STADIUM AUTHORITY AS FOLLOWS:**

1. That the Board of the Stadium Authority hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.

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2. The Stadium Authority hereby finds, for the following reasons, and based on the provision of CEQA (with particular reference to 14 California Code of Regulations, Section 15162), that the Stadium EIR has served as the environmental documentation pursuant to CEQA for approval of this Resolution and the Joinder Agreement with respect to the Stadium Project considered in the Stadium EIR. The Stadium Authority further specifically finds that there have not been any of the following occurrences since the approval of the Stadium EIR that would require a subsequent or supplemental environmental documents in connection with approval of this Resolution and the Joinder Agreement:

A. There have not been substantial changes in the project analyzed in the Stadium EIR which would require major revisions in the Stadium EIR and the Mitigation Monitoring Program;

B. There have not been substantial changes with respect to the circumstances under which the project analyzed in the Stadium EIR will be undertaken which would require major revisions in the Stadium EIR and the Mitigation Monitoring Program; and

C. There has not been the appearance of new information which was not known and could not have been known as of the date of approval of the Stadium EIR and the Mitigation Monitoring Program which is relevant to the approval of the Stadium EIR and the Mitigation Monitoring Program as it relates to the Predevelopment Agreement.

3. The Stadium Authority hereby approves the Joinder Agreement and the Indemnification Contribution Agreement, and authorizes the Executive Director to enter into and execute the Joinder Agreement and the Contribution Agreement on behalf of the Authority, substantially in the form on file with the Authority Secretary, with such revisions as are reasonably determined necessary by the Authority signatory, such determination to be conclusively deemed to have

been made by the execution of the Joinder Agreement and Indemnification Contribution Agreement by the Authority signatory. The Executive Director is authorized to implement the Joinder Agreement and Indemnification Contribution Agreement and take all further actions and execute all other documents which are necessary or appropriate to carry out the Joinder Agreement and Indemnification Contribution Agreement.

4. The Stadium Authority hereby approves the Summary of StadCo Subordinated Loan, StadCo Obligations and SBL Disbursement Conditions ("Summary") and finds that the Summary is consistent with the Preliminary Financing Plan.

5. The Executive Director is hereby authorized and directed to file a Notice of Determination with respect to the Joinder Agreement and Indemnification Contribution Agreement in accordance with the applicable provisions of CEQA.

6. The Executive Director is hereby authorized to take such further actions as may be necessary or appropriate to carry out the Authority's obligations pursuant to this Resolution, the Joinder Agreement, the Indemnification Contribution Agreement and the Summary.

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7. The Authority Secretary shall certify to the adoption of this Resolution.
8. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The Board of the Santa Clara Stadium Authority hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.
9. Effective date. This Resolution shall take effect immediately upon adoption.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE SANTA CLARA STADIUM AUTHORITY, AT A REGULAR MEETING THEREOF HELD ON THE 13<sup>th</sup> DAY OF DECEMBER, 2011, BY THE FOLLOWING VOTE:

AYES:	BOARD MEMBERS: Gillmor, Kennedy, Kolstad, Mahan, McLeod and Moore and Chairperson Matthews
NOES:	BOARD MEMBERS: None
ABSENT:	BOARD MEMBERS: None
ABSTAINED:	BOARD MEMBERS: None

ATTEST:

  
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 ROD DIRIDON, JR. 12/20/11  
 SECRETARY OF THE STADIUM AUTHORITY  
 SANTA CLARA STADIUM AUTHORITY

Attachments incorporated by reference:

1. Joinder Agreement
2. Commitment Letter dated November 4, 2011
3. Engagement Letter dated November 4, 2011
4. Indemnification Contribution Agreement
5. Summary of StadCo Obligations