RESOLUTION NO. 12-7916

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA MAKING CERTAIN FINDINGS REGARDING THE STADIUM LEASE BETWEEN THE SANTA CLARA STADIUM AUTHORITY AND FORTY NINERS SC STADIUM COMPANY LLC PURSUANT TO SECTION 17.20.020 OF THE SANTA CLARA MUNICIPAL CODE

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the City of Santa Clara holds fee title to the specified real property generally located at the southwest corner of Tasman Boulevard and Centennial Drive in Santa Clara, California (the "Stadium Site");

WHEREAS, on June 8, 2010, the voters of the City of Santa Clara approved Measure J, which authorized the City to move forward with the development of a stadium suitable for professional football and other events (the "Stadium Project");

WHEREAS, on December 13, 2011, the Santa Clara Stadium Authority (the "Stadium Authority") approved the Disposition and Development Agreement ("DDA") between the 49ers Stadium, LLC, and the Stadium Authority. One of the actions contemplated in the DDA is that the City and Stadium Authority will enter into a ground lease (the "Ground Lease") for the Stadium Site;

WHEREAS, the City and the Stadium Authority, on February 28, 2012, approved a Ground Lease, whereby the City is agreeing to lease the Stadium Site for an initial term of forty (40) years to the Stadium Authority to facilitate the construction and operation of the Stadium Project;

WHEREAS, the construction and operation of the Stadium Project will further the City's goal of creating an enhanced entertainment destination in the City that will provide a long-term revenue stream to the City;

WHEREAS, Measure J, codified as Section 17.20.020 et. seq. of the Municipal Code, authorizes

the City to ground lease the Stadium Site to the Stadium Authority so long as the Ground Lease meets certain binding requirements, which include that:

1. The Ground Lease for the Stadium Site must be to the Stadium Authority so that the City maintains fee interest ownership in the Stadium Site;

2. The City's interest in the Stadium Site and rent from the Ground Lease cannot be subordinated to any Stadium Project financing;

3. The City must receive fixed base rent and performance based rent from the Ground Lease that the City Council has determined is projected to provide fair market rent to the City;

4. The City's general and enterprise funds shall be safeguarded by imposing a prohibition on the pledge of the City's general and enterprise funds as collateral for any Stadium Authority financing or refinancing associated with the construction and operation of the Stadium Project, other than for relocation or reconfiguration of the adjacent electrical substation;

5. The amount of tax increment invested in the construction of the Stadium Project by the former redevelopment agency shall be limited to an amount not to exceed Forty Million Dollars ($40,000,000), exclusive of debt service and other financing costs and payments to the City for development fees;

6. A private tenant is required in the private tenant's lease to pay for all Stadium Project construction cost overruns incurred in construction of the Stadium Project;

7. A private tenant in the private tenant's lease is required to pay rent to the Stadium Authority that the City Council has determined will provide the Stadium Authority with funds required to pay the Ground Rent due to the City under the Ground Lease and operating and maintenance expenses of the Stadium;

8. Provide that the City receive a fee equal to thirty-five cents ($.035) per ticket on each ticket

for professional football games in the Stadium Project up to a maximum of Two Hundred Fifty Thousand Dollars ($250,000) per year, following the opening of the Stadium Project, to fund City programs for parks and recreations and libraries;

WHEREAS, the City Council, in approving the Ground Lease on February 28, 2012, determined that the Ground Lease complied with the City of Santa Clara Municipal Code, met the requirements of Measure J as it applies to the proposed Ground Lease and is in the best interest of the City of Santa Clara;

WHEREAS, the Stadium Authority has approved a lease (the "Stadium Lease") with Forty Niners SC Stadium Company, LLC (the "Tenant"), which lease provides for the Tenant to lease the Stadium Project from the Stadium Authority for an initial term of 40 years and provides for the Tenant to pay rent to the Stadium Authority that provides funds sufficient to pay the City's Ground Rent under the Ground Lease and to pay the operating and maintenance expenses of the Stadium Project as more fully discussed in the Staff Report presented to the Stadium Authority and the City Council regarding the Stadium Lease;

WHEREAS, 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 provides additional information upon which the findings and actions set forth in this Resolution are based.

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NOW, THEREFORE BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That the City Council of the City of Santa Clara hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.

2. The City Council 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 with respect to the Stadium Project considered in the Stadium EIR. The City Council further specifically finds that there have <u>not</u> 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:

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 approval of the Stadium Lease.

3. The City Council hereby finds and determines that the Stadium Lease meets the requirements of Measure J and Section 17.20.020 of the City Municipal Code in that the Stadium

Lease requires the Tenant to pay rent to the Stadium Authority that will provide the Stadium Authority with funds required to pay the Ground Rent owed to the City under the Ground Lease and to pay the operating and maintenance expenses of the Stadium Project. The finding is based on the evidence presented to the City Council and the Stadium Authority in the Staff Report and presentations.

4. The City Manager is hereby authorized and directed to file a Notice of Determination with respect to the Stadium Lease in accordance with the applicable provisions of CEQA.

5. The City Clerk shall certify to the adoption of this Resolution.

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6. 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 City of Santa Clara, California, 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.

7. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A SPECIAL MEETING THEREOF HELD ON THE 13th DAY OF MARCH, 2012, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Gillmor, Kennedy, Kolstad, Mahan and Moore and Mayor Matthews
NOES:	COUNCILORS:	McLeod
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST: Jennifer Amaguno
for ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:
None