RESOLUTION NO. 12-3 (STADIUM AUTHORITY)

A RESOLUTION OF THE SANTA CLARA STADIUM AUTHORITY APPROVING A DESIGN BUILD CONSTRUCTION AGREEMENT WITH TURNER-DEVCON JOINT VENTURE AND MAKING CERTAIN FINDINGS REGARDING THE DESIGN BUILD CONTRACT

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

WHEREAS, on February 22, 2011, by City of Santa Clara Resolution No. 11-7825, the City of Santa Clara authorized the execution of a Joint Powers Agreement ("Agreement") with the City of Santa Clara Redevelopment Agency to form the Santa Clara Stadium Authority ("Stadium Authority");

WHEREAS, the Stadium Authority was formed to facilitate the development and operation of a stadium in the City suitable for NFL games ("Stadium Project") and to fulfill the mandates of Measure J, "The Santa Clara Stadium Taxpayer Protection and Economic Progress Act";

WHEREAS, pursuant to Government Code Section 6532 the Stadium Authority is authorized to award a contract for the development of the Stadium Project to a qualified design builder if the following conditions are met:

1. A ballot measure endorsing the development of the Stadium Project is approved by voters of the City of Santa Clara in a citywide election;
2. the design build contract does not require expenditure of money form the general fund or enterprise funds of the City of Santa Clara;
3. The obligation of the Redevelopment Agency of the City of Santa Clara to contribute funding to the Stadium Project is limited to a specified maximum amount exclusive of debt service and financing costs and the fund contributed by the Redevelopment Agency are only used to pay or reimburse subcontracts awarded to the lowest responsible bidder;

4. A private party will be responsible for any construction costs overruns;

WHEREAS, pursuant to Government Code Section 6532, the Stadium Authority is authorized to award a contract for the development of the Stadium Project to a qualified design builder if the Stadium Authority Board determines that the contract costs are reasonable and that the contract is in the best interest of the Stadium Authority;

WHEREAS, the Stadium Authority desires to enter into a Design Build Construction Contract with Turner Devcon Joint Venture and the Forty Niners Stadium, LLC ("Design Build Contract") substantially in the form on file with the Stadium Authority Secretary providing for the design and construction of the Stadium Project;

WHEREAS, the voters of the City of Santa Clara approved Measure J which endorsed the development of the Stadium Project in June, 2010 by a margin of 58% to 42%;

WHEREAS, the Design Build Contract does not require expenditure of moneys from the general fund or enterprise funds of the City of Santa Clara;

WHEREAS, the obligation of the Redevelopment Agency of the City of Santa Clara to contribute funds toward the Stadium Project is limited to $40 million (exclusive of debt service, financing costs and development fees) and pursuant to the previously adopted Stadium Authority Subcontract Selection and Procurement Plan, the Redevelopment Agency funds may only be used for subcontracts awarded to the lowest responsible bidder;

WHEREAS, the Disposition and Development Agreement between the Stadium Authority and the Forty Niners Stadium, LLC requires the Forty Niners Stadium, LLC to pay for any construction costs overruns;

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WHEREAS, the Stadium Authority Board has been presented with substantial evidence in the Staff Report and attachments that demonstrate that the design build contract cost are reasonable and that the contract is in the best interest of the Stadium Authority;

WHEREAS, the Stadium Authority has determined that the Design Build Contract meets the requirements of Government Code Section 6532; and,

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

NOW, THEREFORE BE IT 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.
2. The Stadium Authority Board hereby finds that the conditions set forth in Government Code Section 6532 with respect to the award of the Design Build Contract have been satisfied.
3. The Stadium Authority Board hereby finds, based on the evidence provided to it, including the information provided in the Staff Report that:

    a) The cost of the Design Build Contract is reasonable.

    b) The award of the Design Build Contract is in the best interest of the Stadium Authority.

4. The Stadium Authority hereby approves the Design Build Contract substantially in the form on file with the Secretary of the Stadium Authority subject only to such changes as are approved by the Executive Director. The Executive Director is authorized to implement Design Build Contract and take all further actions and execute all other documents which are

necessary or appropriate to carry out the Stadium Authority's obligations under the Design Build Contract.

5. The Authority Secretary shall certify to the adoption of this Resolution.
6. Effective Date. This Resolution shall take effect immediately upon adoption.
7. 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.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE BOARD OF THE SANTA CLARA STADIUM AUTHORITY, AT A REGULAR MEETING THEREOF HELD ON THE 14th DAY OF FEBRUARY, 2012, BY THE FOLLOWING VOTE:

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

ATTEST: ______________________
ROD DIRIDON, JR.
AUTHORITY SECRETARY

Attachments Incorporated by Reference:
None