

FIRST AMENDMENT TO INSTALLMENT SALE AGREEMENT

This FIRST AMENDMENT TO INSTALLMENT SALE AGREEMENT (together with any amendments hereof and supplements hereto, this “First Amendment”), dated as of October 1, 2023, is between the CITY OF SANTA CLARA PUBLIC FACILITIES FINANCING CORPORATION, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California (the “Corporation”), as seller, and the CITY OF SANTA CLARA, a charter city and municipal corporation duly organized and existing under the Constitution and laws of the State of California (the “City”), as purchaser.

RECITALS

A. The Corporation and the City entered into an Installment Sale Agreement dated as of March 8, 2016 (the “Original Agreement”), in order to finance the construction of the Project (as defined in the Original Agreement).

B. For the purpose of obtaining the moneys required to finance the construction of the Project, the Corporation assigned and transferred certain of its rights under the Original Agreement to DNT Asset Trust, a wholly owned subsidiary of JPMorgan Chase Bank National Association (the “Assignee”), under an Assignment Agreement dated as of March 8, 2016, among the City, the Corporation and the Assignee.

C. The City and the Corporation have determined that it is advisable to make certain changes to the covenants regarding the establishment of rates and charges contained in Section 5.6 of the Original Agreement.

D. Under Section 8.5 of the Original Agreement, the Original Agreement may be amended with the written consent of the Corporation, the City and the Assignee.

E. Capitalized terms used but not defined herein have the meanings set forth in the Original Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained and for other valuable consideration, the Corporation and the City do hereby agree as follows:

Section 1. Amendment of Original Agreement. Section 5.6 of the Original Agreement is hereby amended and restated in full as follows:

Section 5.6. *Rates and Charges.* The City shall fix, prescribe and revise rates, fees and charges for the services and facilities furnished by the Wastewater System during each Fiscal Year, which are at least sufficient, together with amounts transferred from a Rate Stabilization Fund as provided in Section 4.6, and taking into account allowances for contingencies, to yield Gross Revenues sufficient to pay the following amounts in the following order of priority:

- (a) All Operation and Maintenance Costs estimated by the City to become due and payable in the Fiscal Year.

- (b) All Installment Payments and all payments of principal of and interest on any Parity Debt as they become due and payable during the Fiscal Year, without preference or priority.
- (c) All payments required to meet any other obligations of the City which are charges, liens, encumbrances upon, or which are otherwise payable from, the Gross Revenues or the Net Revenues during such Fiscal Year.

In addition, the City shall fix, prescribe and revise rates, fees and charges for the services and facilities furnished by the Wastewater System during each Fiscal Year which (together with amounts transferred from a Rate Stabilization Fund as provided in Section 4.6, and taking into account allowances for contingencies), are sufficient to yield Net Revenues which are at least equal to 125% of the aggregate amount of the Installment Payments and payments on Parity Debt coming due in the Fiscal Year.

So long as the City has complied with its obligations as described in the above paragraph at the commencement of the succeeding Fiscal Year or as soon thereafter as is reasonably possible, but no later than June 30 of such applicable succeeding Fiscal Year, the failure of Net Revenues to meet the threshold described in the above paragraph at the end of a Fiscal Year will not constitute a default or an Event of Default.

Section 2. Authority. This First Amendment is being executed with the consent of the Assignee pursuant to and in accordance with Section 8.5 of the Original Agreement.

Section 3. Original Agreement Continues in Effect. Except as amended and supplemented by this First Amendment, the Original Agreement shall remain in full force and effect.

Section 4. Effective Date. This First Amendment shall become effective upon the date hereof.

IN WITNESS WHEREOF, the Corporation and the City have caused this First Amendment to be executed as of the date first above written.

**CITY OF SANTA CLARA PUBLIC FACILITIES
FINANCING CORPORATION**

By: _____
Executive Director

APPROVED AS TO FORM:

By _____
General Counsel

ATTEST:

By _____
Assistant Secretary

CITY OF SANTA CLARA

By: _____
City Manager

APPROVED AS TO FORM:

By _____
City Attorney

ATTEST:

By _____
Assistant City Clerk

CONSENTED TO BY:
**DNT ASSET TRUST, A WHOLLY OWNED
SUBSIDIARY OF JPMORGAN CHASE BANK
NATIONAL ASSOCIATION,**
as Assignee

By _____
Name _____
Title _____