

RESOLUTION NO. ____ (PFCC)

**A RESOLUTION OF THE CITY OF SANTA CLARA PUBLIC
FACILITIES FINANCING CORPORATION AMENDING
INSTALLMENT SALE AGREEMENT**

**BE IT RESOLVED BY THE CITY OF SANTA CLARA PUBLIC FACILITIES FINANCING
CORPORATION AS FOLLOWS:**

WHEREAS, the City of Santa Clara (the “City”) owns and operates facilities and property for the collection and transmission of wastewater within the service area of the City (the “Wastewater System”), and wastewater which is collected by the City is transmitted for treatment to the San José-Santa Clara Regional Wastewater Facility (the “Wastewater Treatment Facility”) which is co-owned by the City and the City of San José pursuant to that certain Sewage Plant Agreement dated March 30, 1959, as amended (the “Wastewater Treatment Agreement”);

WHEREAS, under the Wastewater Treatment Agreement, the City is obligated to contribute its share of the capital costs of improvements to the Wastewater Treatment Facility, and the City is currently obligated to contribute funds towards the cost of constructing certain improvements to the Wastewater Treatment Facility (the “Project”);

WHEREAS, in order to finance the construction of the Project, the City of Santa Clara Public Facilities Financing Corporation (the “Financing Corporation”) and the City entered into an Installment Sale Agreement dated as of June 1, 2020 (the “Original Installment Sale Agreement”) pursuant to which the Financing Corporation agreed to provide financing for the Project and to sell the completed Project to the City in consideration of the payment by the City of periodic installment payments (the “Installment Payments”), which are payable from and secured by a pledge of and lien on the net revenues of the Wastewater System;

WHEREAS, in order to provide the funds needed to finance the Project, the Financing Corporation assigned the Installment Payments to JPMorgan Chase Bank, N.A., as lender (the “Lender”);

WHEREAS, under the Original Installment Sale Agreement, the calculation of interest with respect to the Installment Payments is based on the London interbank offered rate (“LIBOR”), which will be discontinued as of June 30, 2023;

WHEREAS, in accordance with Exhibit A of the Original Installment Sale Agreement, the Lender has provided notice to the City that the Lender has selected an alternate rate of interest to govern the calculation of interest with respect to the Installment Payments; and,

WHEREAS, pursuant to and in accordance with Section 5.9 of the Original Installment Sale Agreement, the Financing Corporation and the City have determined to amend Appendix A and Appendix C to the Original Installment Sale Agreement, with the consent of the Lender, for the purpose of revising the provisions governing the calculation of interest components of the Installment Payments to reflect the alternate interest rate index selected by the Lender, in the form of the First Amendment to Installment Sale Agreement (the “First Amendment”) that has been presented to the Board of Directors.

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

1. Approval of First Amendment to Installment Sale Agreement. The Board of Directors hereby approves the First Amendment, between the City and the Financing Corporation, in the form thereof on file with the Secretary together with any changes therein or additions thereto deemed advisable by the Director of Finance, whose execution thereof shall be conclusive evidence of such approval. The Director of Finance is hereby authorized and directed for and in the name and on behalf of the Financing Corporation to execute, and the Secretary is hereby authorized and directed to attest to, the final form of the First Amendment on behalf of the Financing Corporation.

2. Official Actions. The President, the Executive Director, the Director of Finance, the Secretary and all other officers of the Financing Corporation are each authorized and directed in the name and on behalf of the Financing Corporation to make any and all assignments,

certificates, requisitions, agreements, notices, consents and other instruments of conveyance and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Whenever in this Resolution any officer of the Financing Corporation is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable. Any actions previously taken by any officers of the Financing Corporation in furtherance of this Resolution are hereby ratified and approved.

3. 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 this Resolution. The Board of Directors 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.

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4. 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 PUBLIC FACILITIES FINANCING CORPORATION, AT A REGULAR MEETING THEREOF HELD ON THE ____ DAY OF _____, 2023, BY THE FOLLOWING VOTE:

AYES: DIRECTORS:

NOES: DIRECTORS:

ABSENT: DIRECTORS:

ABSTAINED: DIRECTORS:

ATTEST:

NORA PIMENTEL, MMC
SECRETARY OF THE CITY OF SANTA CLARA
PUBLIC FACILITIES FINANCING CORPORATION

Attachments incorporated by reference:

1. First Amendment to Installment Sale Agreement