

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA APPROVING INSTALLMENT SALE FINANCING AND AUTHORIZING THE EXECUTION, DELIVERY AND SALE OF WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION IN A PRINCIPAL AMOUNT NOT TO EXCEED \$38,000,000 TO FINANCE AND REFINANCE CAPITAL COSTS OF THE SAN JOSÉ-SANTA CLARA REGIONAL WASTEWATER FACILITY, AND APPROVING RELATED DOCUMENTS AND ACTIONS**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, 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”); and

**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 “2023 Project”); and

**WHEREAS**, the City and the City of Santa Clara Public Facilities Financing Corporation (the “Corporation”) have previously entered into an installment sale agreement dated as of June 1, 2020 (the “2020 Installment Sale Agreement”), for the purpose of providing financing for the City’s share of certain capital costs of improvements to the Wastewater Treatment Facility then owed by the City (the “2020 Project”); and

**WHEREAS**, the City has determined that it is in its best interests to provide funds to finance the 2023 Project, and to refinance the 2020 Project through the prepayment in full of the City's obligations under the 2020 Installment Sale Agreement, and in order to implement such financing and refinancing the City has proposed to enter into an installment sale agreement (the "Installment Sale Agreement") with the Corporation pursuant to which the Corporation agrees to provide financing for the 2023 Project and refinancing of the 2020 Project, and to sell the completed 2023 Project and 2020 Project to the City in consideration of the agreement by the City to pay the purchase price thereof in semiannual installments (the "Installment Payments"), which are payable from and secured by a pledge of and lien on the net revenues of the Wastewater System; and

**WHEREAS**, for the purpose of obtaining the moneys required for the foregoing purposes, the Corporation has agreed to assign and transfer certain of its rights under the Installment Sale Agreement to The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), under a Trust Agreement (the "Trust Agreement") by and among the City, the Corporation and the Trustee, under which the Trustee will at the written direction of the Corporation execute and deliver Wastewater Revenue Certificates of Participation, Series 2023 (the "Certificates"), in an original principal amount not to exceed \$38,000,000, evidencing direct, undivided fractional interests in the Installment Payments; and

**WHEREAS**, the City Council wishes at this time to authorize all proceedings relating to the execution, delivery and sale of the Certificates for the purpose of financing the 2023 Project and refinancing the 2020 Project; and

**WHEREAS**, pursuant to Government Code Section 5852.1 which became effective on January 1, 2018 by the enactment of Senate Bill 450, certain information relating to the proposed financing

is set forth in Appendix A attached to this Resolution, and such information is hereby disclosed and made public; and

**WHEREAS**, the City Council has previously approved a Debt Management Policy which complies with Government Code Section 8855, and the proposed financing will be in compliance with said policy; and

**WHEREAS**, the City Council approves all of said transactions in furtherance of the public purposes of the City, and the City Council wishes at this time to authorize all proceedings and documents relating to the financing and refinancing as described herein;

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

1. Approval of Financing and Refinancing Plans. The City Council hereby approves the financing and refinancing plans described above.
2. Approval of Documents. The City Council hereby authorizes and approves each of the following financing documents, in substantially the respective forms on file with the City Clerk:
  - (a) the Installment Sale Agreement by and between the Corporation as seller and the City, as purchaser; and
  - (b) the Trust Agreement by and among the Corporation, the City and the Trustee, providing the terms and conditions for the execution and delivery of the Certificates.

Each of the Mayor, the City Manager, any Assistant City Manager, the Director of Finance, the Assistant Director of Finance, and any such other officer of the City as any such officer may designate (each an “Authorized Officer”), is hereby authorized and directed, for and in the name of the City, to execute and deliver the Installment Sale Agreement and Trust Agreement in the forms on file with the City Clerk and submitted to this meeting, with such changes, insertions and

omissions as any Authorized Officer may require or approve, such requirement or approval to be conclusively evidenced by the execution thereof by an Authorized Officer. The City Council hereby authorizes the delivery and performance by the City of each of the foregoing documents.

3. Assignment by Corporation. The City Council hereby approves the assignment to the Trustee of certain rights of the Corporation under the Installment Sale Agreement, including the right to receive the Installment Payments, pursuant to the Trust Agreement.

4. Execution and Delivery of Certificates. The City Council hereby approves the execution and delivery of Certificates, payable in the years and in the amounts, and evidencing interest as specified in the Trust Agreement as finally executed; provided, however, that the original principal amount represented by the Certificates shall not exceed \$38,000,000; and the true interest cost represented by the Certificates shall not exceed 5.50%.

5. Sale of Certificates.

(a) The Certificates shall be sold by competitive sale, subject to the limitations set forth in Section 4 of this Resolution, pursuant to the Official Notice of Sale relating to the Certificates (the “Official Notice of Sale”), in substantially the form on file with the City Clerk, which is hereby approved.

Jones Hall, A Professional Law Corporation, as bond counsel to the City, is hereby authorized and directed to cause a Notice of Intention to Sell Certificates, in form and substance acceptable to said firm, to be published once in *The Bond Buyer* in accordance with Section 53692 of the Government Code.

(b) Notwithstanding the provisions of paragraph (a), the Certificates may be sold on a negotiated sale basis, upon the determination by the Director of Finance, upon consultation with KNN Public Finance, LLC, the City’s municipal advisor (the “Municipal Advisor”), that the

municipal credit markets are not, at the time scheduled for the sale of the Certificates, conducive to a successful competitive sale of the Certificates. In such event, the Certificates may be sold on a negotiated basis, to one or more firms selected by the Director of Finance through a competitive selection process, pursuant to a contract of purchase, between the City and the underwriting firm or firms so selected to purchase the Certificates, in substantially the form on file with the City Clerk (the "Purchase Contract"), and any Authorized Officer is hereby authorized and directed to execute the Purchase Contract on behalf of the City. If the Certificates are sold on a negotiated sale basis, the underwriter's discount shall not exceed 0.5% of the original principal amount represented by the Certificates.

6. Preliminary and Final Official Statements. The form of Preliminary Official Statement, on file with the City Clerk, with such changes therein as may be approved by an Authorized Officer, is hereby approved, and the use of the Preliminary Official Statement in connection with the offering and sale of the Certificates is hereby authorized and approved. The Authorized Officers are each hereby authorized to certify in writing on behalf of the City that the Preliminary Official Statement is deemed final as of its date, within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934 (except for the omission of certain final pricing, rating and related information as permitted by Rule 15c2-12). The preparation and delivery of an Official Statement, and its use by the underwriter of the Certificates in connection with the offering and sale of the Certificates, is hereby authorized and approved. The Official Statement shall be in substantially the form of the Preliminary Official Statement with such changes, insertions and omissions as may be approved by an Authorized Officer, such approval to be conclusively evidenced by the execution and delivery thereof. The Authorized Officers are each hereby authorized and directed,

for and in the name of and on behalf of the City, to execute the final Official Statement and any amendment or supplement thereto.

7. Continuing Disclosure Certificate. The form of Continuing Disclosure Certificate, attached as an appendix to the Preliminary Official Statement on file with the City Clerk, with such changes therein as may be approved by an Authorized Officer, is hereby approved. Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the City, to execute and deliver the Continuing Disclosure Certificate.

8. Official Actions. Each Authorized Officer and any other officer of the City are each authorized and directed in the name and on behalf of the City to make and execute any and all certificates, requisitions, agreements, notices, consents and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by this Resolution and the agreements and documents approved under this Resolution, including without limitation any disclosures to and agreements or engagement letters with one or more rating agencies, bond insurance providers, entities involved in evaluating and qualifying the 2023 Project with regard to “Green Bond” standards, or any other third parties involved in the sale, execution and delivery of the Certificates. Whenever in this Resolution any officer of the City 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 City in furtherance of this Resolution are hereby ratified and approved.

9. 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.

10. Effective Date. This Resolution shall become effective immediately upon its adoption.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 29TH DAY OF AUGUST, 2023, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

\_\_\_\_\_  
NORA PIMENTEL, MMC  
ASSISTANT CITY CLERK  
CITY OF SANTA CLARA

## **EXHIBIT A**

### **REQUIRED GOOD FAITH ESTIMATES PURSUANT TO GOVERNMENT CODE SECTION 5852.1**

The following information consists of estimates that have been provided in good faith by the municipal advisor to the City:

1. True Interest Cost of the financing: approximately 4.06%.
2. Issuance costs and other finance charges payable to third parties: \$501,875.
3. Amount of proceeds of the financing expected to be received by the City, net of proceeds for issuance costs in (2) above and net of capitalized interest (if any) and reserves (if any) paid or funded with the proceeds of the financing: \$35,400,000.
4. Total payment amount for the financing, being the sum of (a) debt service to be paid on the financing to final maturity, plus (b) any financing costs not paid from proceeds: \$57,925,365.