

**CITY OF SAN JOSE FINANCING AUTHORITY
RESOLUTION NO. _____**

A RESOLUTION OF THE GOVERNING BOARD OF THE CITY OF SAN JOSE FINANCING AUTHORITY AUTHORIZING THE ISSUANCE OF CITY OF SAN JOSE FINANCING AUTHORITY SUBORDINATE WASTEWATER REVENUE NOTES FROM TIME TO TIME IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$300,000,000 OUTSTANDING AT ANY ONE TIME FOR THE PURPOSE OF FINANCING WASTEWATER SYSTEM AND TREATMENT PLANT PROJECTS FOR THE CITY OF SAN JOSE AND/OR REFUNDING PRIOR OBLIGATIONS ISSUED OR INCURRED FOR SUCH PURPOSE, APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A CREDIT AGREEMENT, A FEE LETTER AGREEMENT, AND A SUBORDINATE INSTALLMENT PURCHASE CONTRACT AND AUTHORIZING OTHER RELATED ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City of San José (the “City”) and the Redevelopment Agency of the City of San José (the “Agency”) have heretofore entered into a Joint Exercise of Powers Agreement (the “Joint Powers Agreement”) establishing the City of San José Financing Authority (the “Authority”) for the purpose, among others, of assisting the City in its financing needs; and

WHEREAS, the City is empowered by its charter to own, operate and maintain systems, plants, buildings, works and other facilities for the collection, treatment and disposal of sewage, waste and storm water, including sewage treatment and disposal plants and works and facilities in connection therewith; and

WHEREAS, pursuant to such authority, the City owns and operates its wastewater collection and conveyance system (the “Wastewater System”); and

WHEREAS, pursuant to such authority, on May 6, 1959, the City and the City of Santa Clara entered into that certain Agreement Between San José and Santa Clara Respecting Sewage Treatment Plant regarding the ownership, operation, maintenance and use of the existing wastewater treatment plant formerly known as the “San Jose-Santa Clara Water Pollution Control Plant” and currently known as the “San José-Santa Clara Regional Wastewater Facility” (the “Treatment Plant”); and

WHEREAS, pursuant to such authority, the City has determined to finance and refinance the acquisition, construction and installation from time to time of certain

improvements, additions, and betterments to, and extensions and replacements of, the Wastewater System and the Treatment Plant (collectively, the “Projects”); and

WHEREAS, pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “Act”), the Joint Powers Agreement, and Section 53580 et seq. of the Government Code of the State of California (the “Refunding Revenue Bond Law”), the Authority is authorized to issue revenue bonds, notes or other evidences of indebtedness for the purposes of, among other things, financing the acquisition, construction and installation of the Projects and refunding any bonds, notes or other evidences of indebtedness of the Authority or the City issued or incurred for such purpose (the “Refunded Obligations”); and

WHEREAS, the Authority has determined to assist the City in the financing and refinancing of the acquisition, construction and installation of the Projects by entering into a Credit Agreement (the “Credit Agreement”) with the City and Wells Fargo Bank, National Association (the “Bank”) under which the Authority will issue its Subordinate Wastewater Revenue Notes (the “Notes”) from time to time in one or more series in an aggregate principal amount not to exceed \$300,000,000 outstanding at any one time and request advances under the Notes for the purpose of financing the acquisition, construction and installation of the Projects and/or the refunding of any Refunded Obligations; and

WHEREAS, in connection with entering into the Credit Agreement, the Authority will enter into a Fee Letter Agreement (the “Fee Letter Agreement”) with the Bank; and

WHEREAS, the Authority and the City will enter into a Subordinate Installment Purchase Contract (the “Installment Purchase Contract”) under which the Authority will sell the Projects to the City and agree to refinance the purchase price of Projects previously financed and/or refinanced with any Refunded Obligations and the City will agree to purchase the Projects and pay the refinanced purchase price of Projects previously financed and/or refinanced with any Refunded Obligations; and

WHEREAS, in order to purchase the Projects and pay the refinanced purchase price of Projects previously financed and/or refinanced with any Refunded Obligations, the City will agree in the Installment Purchase Contract to make installment payments (the “Installment Payments”) to the Authority in an amount sufficient to pay the purchase price or refinanced purchase price of the Projects, together with interest thereon, and all other amounts payable by the Authority under the Credit Agreement and the Fee Letter Agreement; and

WHEREAS, the City Council has, on this date, duly adopted a resolution titled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE PROVIDING FOR THE ALLOCATION OF WASTEWATER SYSTEM REVENUES, THE PLEDGE OF WASTEWATER NET SYSTEM REVENUES AND ESTABLISHING COVENANTS TO SECURE THE PAYMENT OF OBLIGATIONS PAYABLE FROM WASTEWATER NET SYSTEM REVENUES (the “Master Resolution”); and

WHEREAS, in the Installment Purchase Contract the City will designate the Installment Payments as Subordinate Obligations under the Master Resolution; and

WHEREAS, as Subordinate Obligations under the Master Resolution, the Installment Payments will be payable solely from, and secured by a pledge of and lien on, the Net System Revenues (as defined in the Master Resolution) subject to the terms of, and as provided in, the Master Resolution; and

WHEREAS, the Notes and the other payment obligations of the Authority under the Credit Agreement and the Fee Letter Agreement will be payable solely from, and secured by a pledge and lien on, the Installment Payments made by the City under the Installment Purchase Contract;

NOW, THEREFORE, BE IT RESOLVED, by the Governing Board of the City of San José Financing Authority (the "Authority Board") as follows:

Section 1. Pursuant to the Act, the Refunding Revenue Bond Law and the Credit Agreement, the Authority is hereby authorized to issue the Notes from time to time in one or more series in an aggregate principal amount not to exceed \$300,000,000 outstanding at any one time and to request advances under the Notes as provided in the Credit Agreement, in each case for the purpose of financing the acquisition, construction and installation of the Projects and/or the refunding of any Refunded Obligations. The Notes shall be issued and secured in accordance with the terms of, and shall be in the forms set forth in, the Credit Agreement. As provided in the Credit Agreement, Notes may be issued as either taxable Notes or tax-exempt Notes. The Executive Director, the Treasurer, their authorized designees, or any officer or employee of the Authority (each, an "Authorized Officer"), each acting alone, are authorized to execute the Notes by manual or facsimile signature on behalf of the Authority and deliver such executed Notes to the Bank. The Notes shall be sold by the Authority at private sale to the Bank at the times, in the manner and at the prices provided in the Credit Agreement. Notes, when executed as provided in this Section 1, shall be delivered to the Bank as provided in the Credit Agreement.

Section 2. The proposed form of Credit Agreement, as posted to the agenda webpage for this joint meeting of the Authority and the City, is hereby approved. Any Authorized Officer, each acting alone, is hereby authorized and directed, for and on behalf of the Authority, to execute and deliver the Credit Agreement in substantially said form with such additions thereto and changes therein as the Authorized Officer, with the advice of the City Attorney, may approve, such approval to be conclusively evidenced by the execution and delivery thereof. The dated date, maturity date or dates, methods of determining interest rates, method of requesting and making advances under the Notes, interest payment dates, denominations, forms, registration privileges, manner of execution, place or places of payment, terms of prepayment and other terms of the Notes shall be as provided in the Credit Agreement, as finally executed. Within the limits specified in this Resolution and on the terms and conditions specified in the Credit

Agreement, as finally executed, any Authorized Officer, each acting alone, is hereby authorized to prepare, or cause to be prepared, execute and deliver, or cause to be delivered, to the Bank from time to time any Note Issuance Notice (as defined in the Credit Agreement) and/or any Request for Advance (as defined in the Credit Agreement).

Section 3. The proposed form of Fee Letter Agreement, as posted to the agenda webpage for this joint meeting of the Authority and the City, and the payment of the fees described therein, are hereby approved. Any Authorized Officer, each acting alone, is hereby authorized and directed, for and on behalf of the Authority, to execute and deliver the Fee Letter Agreement in substantially said form with such additions thereto and changes therein as the Authorized Officer, with the advice of the City Attorney, may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. The proposed form of Installment Purchase Contract, as posted to the agenda webpage for this joint meeting of the Authority and the City, is hereby approved. Any Authorized Officer, each acting alone, is hereby authorized and directed, for and on behalf of the Authority, to execute and deliver the Installment Purchase Contract in substantially said form with such additions thereto and changes therein as the Authorized Officer, with the advice of the City Attorney, may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. The Executive Director, the Treasurer, the Secretary, their authorized designees, and any and all other officers and agents of the Authority, and any officer of the City designated by the Executive Director or the Treasurer, are hereby authorized, for and in the name of and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all documents, certificates, agreements, notices and reports, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance of the Notes from time to time, the making of advances under the Notes, and the consummation of the transactions as described herein, including without limitation, such documents, certificates, agreements, notices and reports as may be required by the Credit Agreement, the Fee Letter Agreement or the Installment Purchase Contract. Further, any Authorized Officer is hereby authorized and directed, for and on behalf of the Authority, to execute and deliver any tax certificates or tax agreements and any and all other necessary certificates or forms to ensure the tax exempt status of the interest on any tax-exempt Notes.

Any authority delegated under this Resolution to a specified official may also be exercised by either the Executive Director or by the specified official's authorized designee.

Section 6. All actions heretofore taken by the Executive Director, the Treasurer, the Secretary, their authorized designees, and any and all other officers and agents of the Authority, and any officer of the City designated by the Executive Director or the

Treasurer, with respect to the issuance of the Notes and the execution and delivery of the Credit Agreement, the Fee Letter Agreement and the Installment Purchase Contract are hereby ratified, confirmed and approved.

Section 7. This Resolution shall take effect from and after its adoption.

ADOPTED this 3rd day of October, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Chair, City of San José Financing Authority

ATTEST:

TONI J. TABER, CMC
Secretary, City of San José Financing Authority