

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING AND AUTHORIZING THE EXECUTION OF DOCUMENTS AND APPROVING RELATED ACTIONS IN CONNECTION WITH THE ISSUANCE BY THE CITY OF SAN JOSE FINANCING AUTHORITY OF TAXABLE LEASE REVENUE BONDS, SERIES 2020A (CIVIC CENTER REFUNDING PROJECT) IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$365,000,000

WHEREAS, the City of San José (the “City”) and the Redevelopment Agency of the City of San José (the “Former Agency”) have heretofore entered into a Joint Exercise of Powers Agreement establishing the City of San José Financing Authority (the “Authority”) for the purpose, among others, of having the Authority issue its bonds to finance and refinance the acquisition, construction and improvement of certain public capital improvements; and

WHEREAS, the Former Agency, as of February 1, 2012, has been dissolved and the City has become the successor agency of the Former Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code and per California Health and Safety Code Section 34178(b)(3), the joint exercise of powers agreement establishing the Authority remains in effect; and

WHEREAS, the Authority has heretofore determined to adopt and implement a program under which the Authority will provide financing for certain public capital improvements for the City; and

WHEREAS, the Authority previously issued its Lease Revenue Refunding Bonds, Series 2006A (Civic Center Project) (the “2006A Bonds”) and its Lease Revenue Refunding Bonds, Series 2013A (Civic Center Project) (the “2013A Bonds”), for the purpose of refinancing the City’s acquisition and construction of its City Hall facility, including an office tower, rotunda, council wing and on-site parking; and

WHEREAS, the Authority previously issued its Lease Revenue Bonds, Series 2007A (Recreational Facilities Refunding Project) (the “2007A Bonds”) for the purpose of refinancing various recreational facilities of the City, including without limitation, (i) the acquisition, construction, improvement and equipping of golf courses in the City known as the Rancho del Pueblo Golf Course and the Los Lagos Golf Course, and (ii) certain obligations of the City relating to the improvements of Camden Park; and

WHEREAS, the City previously entered into a Master Equipment Lease/Purchase Agreement (the "Equipment Lease") dated as of May 29, 2014, by and between Banc of America Public Capital Corp, as lessor, and the City, as lessee, for the purpose of financing the acquisition of certain property consisting of an energy conservation improvements; and

WHEREAS, the 2006A Bonds maturing on or after June 1, 2017 are subject to optional redemption on any date on or after June 1, 2016 at a redemption price equal to the principal amount to be redeemed, plus accrued interest to the redemption date, without premium, and the Authority and the City wish to refund the outstanding 2006A Bonds; and

WHEREAS, the 2013A Bonds maturing on or after June 1, 2024 are subject to optional redemption on any date on or after June 1, 2023 at a redemption price equal to the principal amount to be redeemed, plus accrued interest to the redemption date, without premium, and the Authority and the City wish to advance refund the outstanding 2013A Bonds; and

WHEREAS, the 2007A Bonds maturing on or after August 15, 2018 are subject to optional redemption on any date or after August 15, 2017 at a redemption price equal to the principal amount to be redeemed, plus accrued interest to the redemption date, without premium, and the Authority and the City wish to refund the outstanding 2007A Bonds; and

WHEREAS, the City's rental obligations under the Equipment Lease are subject to prepayment on each Rental Payment Date (as defined therein), including December 1, 2020, at a prepayment price equal to rental payments then due and all other amounts then owing under the Equipment Lease plus a prepayment premium on the unpaid balance as set forth in the Equipment Lease, and the City wishes to prepay all of its rental obligations under the Equipment Lease; and

WHEREAS, the City also wishes to finance the acquisition and construction of public improvements (the "Community Energy Department Project") of benefit to the City, including capital improvements and full build-out of existing space within the 4th and San Fernando Garage for office space to be occupied by the San José Community Energy Department and other city operations; and

WHEREAS, to refund the outstanding 2006A Bonds, refund the outstanding 2007A Bonds, refund the outstanding 2013A Bonds, prepay the City's rental obligations under the Equipment Lease, and finance the Community Energy Department Project, the City has proposed to lease to the Authority certain real property and improvements, initially consisting of the City Hall facility, including an office tower, rotunda, council wing and on-site parking, including land and improvements, as more particularly described in Appendix A attached to the Lease (the "Leased Property"), under a Site Lease, by and

between the City and the Authority in consideration of the payment by the Authority of an upfront rental payment which is sufficient to provide funds for the refunding of the 2006A Bonds, the refunding of the 2007A Bonds, the refunding of the 2013A Bonds, the prepayment of the City's rental obligations under the Equipment Lease, and the acquisition and construction of the Community Energy Department Project; and

WHEREAS, in order to raise funds for such purposes, the Authority proposes to issue its City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2020A (Civic Center Refunding Project) in the aggregate principal amount not to exceed \$365,000,000 (the "2020A Bonds") under Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code (the "Bond Law"); and

WHEREAS, in order to provide revenues which are sufficient to enable the Authority to pay debt service on the 2020A Bonds, the Authority proposes to lease the Leased Property back to the City under a Lease Agreement (the "Lease Agreement"), under which the City has agreed to pay semiannual lease payments as the rental for the Leased Property, and the Authority will assign substantially all of its rights under the Lease Agreement to Wilmington Trust, National Association, as trustee for the 2020A Bonds; and

WHEREAS, the Authority and the City propose to sell the 2020A Bonds to J.P. Morgan Securities, LLC, BofA Securities, Inc., Jefferies LLC, and U.S. Bancorp Investments, Inc. (collectively, the "Underwriters"), pursuant to a Bond Purchase Agreement (the "Bond Purchase Agreement"); and

WHEREAS, pursuant to Government Code Section 5852.1 which became effective on January 1, 2018, by the enactment of Senate Bill 450, certain financial information relating to the 2020A Bonds has been prepared by the City's municipal advisor and is attached to this Resolution as Exhibit A, and such information has been disclosed and made public; and

WHEREAS, the City Council has held a duly noticed public hearing in accordance with Section 6586.5 of the California Government Code, and has considered whether the financing of the Community Energy Department Project by the issuance of the 2020A Bonds will result in significant public benefits accruing from such financing; and

WHEREAS, both the City's Debt Management Policy and Section 4.34.200 of the City's Municipal Code require the affirmative vote of two-thirds of the members of the City Council (8 votes) to approve the issuance of lease revenue bonds to finance the improvement of real property, as is the case with the 2020A Bonds which will fund the Community Energy Department Project; and

WHEREAS, the City Council has duly considered such transactions and wishes at this time to approve certain matters relating to said transactions in the public interest of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

Section 1. Findings and Determinations. The City Council has duly noticed and held a public hearing with respect to the approval by the City Council of the financing to be undertaken by the Authority for the City pursuant to the issuance and delivery of the 2020A Bonds to provide funding for the Community Energy Department Project, and with respect to the significant public benefit to the City of such financing in accordance with the criteria specified in Section 6586 of the California Government Code. Based on the information provided to the City Council, the City Council approves the financing to be provided by the issuance and delivery of the 2020A Bonds, and the City Council further determines that there will be significant public benefits accruing to its members from such financing within the contemplation of Section 6586 of the California Government Code.

Section 2. Issuance and Sale of 2020A Bonds. The City Council hereby approves the sale of the 2020A Bonds under the Bond Law in the principal amount not to exceed \$365,000,000, by negotiation with the Underwriters. The proposed form of Bond Purchase Agreement in substantially the form posted to the agenda webpage for this meeting is hereby approved, and any of the City Manager, the Director of Finance, the Assistant Director of Finance, or the Deputy Director of Finance responsible for managing the City's debt program (each an "Authorized Officer" and, collectively, the "Authorized Officers"), acting alone, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Bond Purchase Agreement in substantially said form, with any additions thereto (including the insertion of the maturity dates, principal amounts and interest rates of the 2020A Bonds) and changes therein as any of the Authorized Officers shall deem necessary, desirable or appropriate upon consultation with the City Attorney, the execution of which by an Authorized Officer shall be conclusive evidence of the approval of any such additions and changes, provided that the amount of Underwriters' discount for the 2020A Bonds shall not exceed 0.4% of the par amount thereof, and the final maturity of the 2020A Bonds shall be no later than June 1, 2039. The City Council hereby authorizes the performance by the City of its obligations under the Bond Purchase Agreement.

Section 3. Approval of Related Financing Agreements. The City Council hereby approves each of the following agreements required for the issuance and sale of the 2020A Bonds, in substantially the respective forms posted to the agenda webpage for this meeting, and each Authorized Officer, acting alone, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver, and the City Clerk is hereby authorized and directed to attest, as applicable, the following

agreements in substantially said forms, with any additions thereto and changes therein as any of the Authorized Officers shall deem necessary, desirable or appropriate upon consultation with the City Attorney, the execution of which by an Authorized Officer shall be conclusive evidence of the approval of any such additions and changes:

- Site Lease, between the City, as lessor, and the Authority, as lessee, under which the City leases the Leased Property to the Authority in consideration of the payment of an amount which will be applied to refund the 2006A Bonds, the 2007A Bonds, the 2013A Bonds, to prepay the City's rental obligations under the Equipment Lease, and fund the acquisition and construction of the Community Energy Department Project.
- Lease Agreement, between the Authority, as lessor, and the City, as lessee, under which the Authority leases the Leased Property back to the City and the City agrees to pay semiannual lease payments which are sufficient to provide revenues with which to pay principal of and interest on the 2020A Bonds when due.
- Continuing Disclosure Certificate, to be executed by the City for the purpose of providing continuing disclosure to owners of the 2020A Bonds.

Section 4. Official Statement. The City Council hereby approves the proposed form of preliminary official statement with respect to the 2020A Bonds (the "Preliminary Official Statement") in substantially the form posted to the agenda webpage for this meeting with such additions thereto or changes therein as any of the Authorized Officers, acting alone, shall deem necessary, desirable or appropriate upon consultation with the City Attorney. The Authorized Officers are hereby authorized and directed, for and on behalf of the City, to execute all certificates necessary to deem final the Preliminary Official Statement as of its date, with the exception of certain final pricing and related information. The Preliminary Official Statement with such changes therein relating to the sale of the 2020A Bonds as any of the Authorized Officers shall deem necessary, desirable or appropriate upon consultation with the City Attorney shall hereinafter be referred to as the "Official Statement." The Authorized Officers are hereby authorized and directed, each acting alone for and on behalf of the City, to execute and deliver the Official Statement with such additions thereto or changes therein. The use and distribution of said Preliminary Official Statement and use and distribution of the Official Statement in connection with the sale of the 2020A Bonds is hereby ratified and approved. The execution of the Official Statement by an Authorized Officer shall be conclusive evidence of the approval of any such additions and changes to such document.

Section 5. Municipal Bond Insurance/Debt Service Reserve Policy. The Authorized Officers, each acting alone, are hereby authorized to take such actions as are necessary or advisable to obtain a municipal bond insurance policy and debt service reserve policy for the 2020A Bonds if it is determined, upon consultation with the Underwriters and the municipal advisor to the City, that such municipal bond insurance policy and/or debt service reserve policy will reduce the true interest costs with respect to the 2020A Bonds or otherwise facilitate the issuance of the 2020A Bonds.

Section 6. Official Actions. The Authorized Officers are each hereby authorized, acting alone, for and in the name of and on behalf of the City, to do any and all things and take any and all actions, including execution and delivery of any and all documents, assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and sale of the 2020A Bonds, the refunding of the 2006A Bonds, the refunding of the 2007A Bonds, the refunding of the 2013A Bonds, and the prepayment of the City's rental obligations under the Equipment Lease and the consummation of the transactions as described herein, including without limitation, such documents, assignments, refunding instructions, certificates, termination agreements, escrow agreements, and other agreements as may be required by the Indenture, the Lease Agreement, the Bond Purchase Agreement, or any other document executed in connection with the issuance and delivery of the 2020A Bonds.

Any authority delegated under this Resolution to a specified official (including officials acting in these positions on an interim basis) may also be exercised by the specified official's authorized designee.

ADOPTED this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

EXHIBIT A

REQUIRED GOOD FAITH ESTIMATES PURSUANT TO GOVERNMENT CODE SECTION 5852.1

1. True Interest Cost of the 2020A Bonds: 2.48%.
2. Finance charge for the 2020A Bonds, being the sum of all fees and charges paid to third parties (Costs of Issuance of approximately \$504,985.00 plus estimated underwriter's compensation of \$1,427,560.00): \$1,932,545.00.
3. Amount of proceeds of the 2020A Bonds expected to be received by the Authority, net of proceeds for Costs of Issuance described in (2) above and net of capitalized interest (if any) and reserves (if any) paid or funded with the proceeds of the 2020A Bonds: \$354,957,455.00.
4. Total payment amount for the 2020A Bonds, being the sum of (a) debt service to be paid on the 2020A Bonds to final maturity, plus (b) any financing costs not paid from proceeds of the 2020A Bonds: \$446,365,272.74.

**All amounts and percentages are estimates, and are made in good faith by the City based on information available as of the date of adoption of this Resolution. Estimates include certain assumptions regarding taxable rates available in the bond market at the time of pricing the 2020A Bonds.*