

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT; A FEE AGREEMENT; AMENDMENTS TO CERTAIN FINANCING DOCUMENTS; AND AUTHORIZING OTHER RELATED ACTIONS TO PROVIDE FOR THE ISSUANCE OF A LETTER OF CREDIT TO SUPPORT THE CITY OF SAN JOSE FINANCING AUTHORITY'S LEASE REVENUE COMMERCIAL PAPER NOTES PROGRAM AND FOR THE RELEASE OF CERTAIN COMPONENTS OF THE PROPERTY UNDER THE SITE LEASE AND THE SUBLEASE, AND AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF ONE OR MORE EXTENSIONS OF THE EXPIRATION DATE OF SUCH LETTER OF CREDIT

WHEREAS, the City of San José (the "City") and the former 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 instruments of debt to finance 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 commercial paper program under which the Authority will provide financing for certain public capital improvements for the City and other items; and

WHEREAS, pursuant to an Amended and Restated Trust Agreement, dated as of June 1, 2005, by and between the Authority and Computershare Trust Company, National Association, as successor trustee (in such capacity, the "Trustee") (as amended and supplemented from time to time prior to the date hereof, the "Trust Agreement"), and the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the California Government Code (the "Act"), the Authority from time to time has issued its (i) Tax-Exempt Lease Revenue Commercial Paper Notes, Series 1 (the "Series 1 Notes"), (ii) Taxable Lease Revenue Commercial Paper Notes, Series 1-T (the

Series 1-T Notes”), (iii) Tax-Exempt Lease Revenue Commercial Paper Notes, Series 2 (the “Series 2 Notes”), and (iv) Taxable Lease Revenue Commercial Paper Notes, Series 2-T (the “Series 2-T Notes”), for the purpose, among others, of financing capital improvements of the City and making working capital advances to the City to allow the City to meet its cash flow needs; and

WHEREAS, the delivery of one or more irrevocable direct-pay letters of credit to support the payment of principal and interest on the Series 1 Notes, the Series 1-T Notes, the Series 2 Notes and the Series 2-T Notes (collectively, the “Notes” and each a “Series of Notes”) is a condition precedent to the issuance of each Series of Notes under the Trust Agreement; and

WHEREAS, to support the Series 2 Notes and the Series 2-T Notes, U.S. Bank National Association (“U.S. Bank”) previously issued an irrevocable direct-pay letter of credit (the “U.S. Bank Letter of Credit”) pursuant to a Letter of Credit and Reimbursement Agreement dated as of February 1, 2013, among the Authority, the City and U.S. Bank (as amended from time to time, the “U.S. Bank Reimbursement Agreement”), which letter of credit expires on June 20, 2025; and

WHEREAS, as of the date hereof, the Series 1 Notes and Series 1-T Notes were not supported by a letter of credit and none were authorized to be issued by the Authority; and

WHEREAS, pursuant to a Site Lease, dated as of January 1, 2004, between the City, as lessor, and the Authority, as lessee (as amended and supplemented from time to time prior to the date hereof, the “Site Lease”), the City leased certain real property, including buildings and improvements thereon, owned by the City (the “Property”) to the Authority; and

WHEREAS, pursuant to a Sublease, dated as of January 1, 2004, between the Authority, as sublessor, and the City, as sublessee (as amended and supplemented from time to time prior to the date hereof, the “Sublease”), the Authority subleased the Property back to the City; and

WHEREAS, pursuant to the Sublease, the City pays the Authority base rental lease payments (the “Base Rental”) for use and occupancy of the Property, which Base Rental is used to reimburse the providers of letters of credit for moneys drawn on such letters of credit to pay the principal and interest on the Notes from time to time; and

WHEREAS, in anticipation of the expiration of the U.S. Bank Letter of Credit, the Authority and the City desire to enter into a Letter of Credit and Reimbursement Agreement (the “Reimbursement Agreement”) and a related Fee Agreement (the “Fee Agreement”), each among the Authority, the City and TD Bank, N.A. (the “Bank”) to provide for the issuance by the Bank of an irrevocable direct-pay letter of credit (the “Letter of Credit”) to support one or both Series of Notes; and

WHEREAS, the Letter of Credit constitutes an Alternate Credit Facility under the Trust Agreement; and

WHEREAS, in connection with the issuance of the Letter of Credit, the Authority and the City will terminate the U.S. Bank Letter of Credit in accordance with the terms of the U.S. Bank Reimbursement Agreement and the Trust Agreement; and

WHEREAS, in connection with the issuance of the Letter of Credit, the Authority and the City desire to amend the Trust Agreement pursuant to an Eighth Supplement to the Amended and Restated Trust Agreement (the “Eighth Supplement to Trust Agreement”) to reflect the delivery of the Letter of Credit as an Alternate Credit Facility in accordance with Section 6.02 of the Trust Agreement; and

WHEREAS, pursuant to Section 7.02 of the Trust Agreement and 7.2 of the Sublease, in connection with the issuance of the Letter of Credit, the Authority and the City desire to amend the Sublease pursuant to an Eighth Amendment to Sublease (the “Eighth Amendment to Sublease”) and the Site Lease pursuant to a Sixth Amendment to Site Lease (the “Sixth Amendment to Site Lease”), to, among other items, release certain components of the Property from the leasehold interests thereunder; and

WHEREAS, pursuant to Section 7.2 of the Sublease, the Authority and the City desire to also amend the Sublease pursuant to the Eighth Amendment to Sublease, to, among other items, revise the schedule of maximum Base Rental attached thereto to reflect the release of certain components of the Property from the leasehold interests thereunder and extend the term thereof; and

WHEREAS, in connection with the execution and delivery of the Eighth Supplement to Trust Agreement, the Authority and Computershare Trust Company, National Association, as successor issuing and paying agent, will enter into a Third Amended and Restated Issuing and Paying Agreement (the “Issuing and Paying Agent Agreement”); and

WHEREAS, one or both Series of Notes will be placed by Barclays Capital Inc., TD Securities (USA) LLC, and Morgan Stanley & Co. LLC (collectively, the “Dealers”) pursuant to separate commercial paper dealer agreements between the Authority and the Dealers; and

WHEREAS, the Dealers will utilize an offering memorandum (the “Offering Memorandum”) for one or both Series of Notes in connection with the marketing of the Notes; and

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

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

SECTION 1. Re-Authorization of Commercial Paper Program. The Council hereby re-authorizes the issuance of each Series of Notes by the Authority in the aggregate principal amount not to exceed \$175,000,000 outstanding at any such time pursuant to, and in accordance with the requirements set forth in, the Trust Agreement, as amended by the Eighth Supplement to Trust Agreement, and the Issuing and Paying Agent Agreement, provided that a Series of Notes shall be so authorized only to the extent such Series of Notes is supported by the Letter Credit as provided in Section 2 of this Resolution.

SECTION 2. Approval of Reimbursement Agreement, Fee Agreement and Related Documents. The Council hereby finds and determines that is necessary and advisable for the Authority and the City to enter into the Reimbursement Agreement and the Fee Agreement to obtain an Alternate Credit Facility in the form of the Letter of Credit on or prior to the expiration date of the U.S. Bank Letter of Credit. The Council hereby approves the execution and delivery by the City of the Reimbursement Agreement and the Free Agreement, in the forms posted to the agenda webpage for this joint meeting of the Authority and the City, together with such additions thereto and changes therein as the City Manager or the Director of Finance or their authorized designees (collectively, the “Designated Officers”), each acting alone, shall deem necessary, desirable or appropriate upon consultation with the City Attorney, the execution of which by a Designated Officer shall be conclusive evidence of the approval thereof. Each Designated Officer, acting alone, is hereby authorized to execute and deliver the final forms of the Reimbursement and the Fee Agreement for and in the name of and on behalf of the City. The Letter of Credit shall support the payment of principal and interest on one or both Series of Notes to the extent set forth in the final form of the Reimbursement Agreement and the Letter of Credit. Pursuant to Section 5922 of the California Government Code, the Council hereby finds and determines that the Reimbursement Agreement is expected to result in a lower cost of borrowing to the City.

The Council hereby further authorizes the Designated Officers, each acting alone, to negotiate, execute and deliver one or more extensions to the Letter of Credit based on substantially the same terms and conditions for a duration of time that they deem necessary, advisable or prudent, provided that no such extension shall require an annual fee in excess of 1.00% of the stated amount of the Letter of Credit without the approval of this Council. Each Designated Officer, acting alone, is hereby authorized to execute and deliver any and all amendments to the Reimbursement Agreement, the Letter of Credit and the Fee Agreement for and in the name of and on behalf of the City in connection with such extensions.

SECTION 3. Approval of Amendments to Site Lease and Sublease. The Council hereby approves the execution and delivery by the City of the Eighth Amendment to Sublease and the Sixth Amendment to Site Lease, in the forms posted to the agenda webpage for this joint meeting of the Authority and the City, together with such additions thereto and changes therein as the Designated Officers, each acting alone, shall deem necessary, desirable or appropriate upon consultation with the City Attorney (including,

without limitation, to provide for the release of any real property from the leasehold, or to provide for the addition of real property to the leasehold thereunder), the execution of which by a Designated Officer shall be conclusive evidence of the approval thereof. Each Designated Officer, acting alone, is hereby authorized to execute and deliver the final forms of the Eighth Amendment to Sublease and the Sixth Amendment to Site Lease for and in the name of and on behalf of the City.

SECTION 4. Approval of Offering Memorandum. The Council hereby approves the form of Offering Memorandum, in the form posted to the agenda webpage for this joint meeting of the Authority and the City, together with such additions thereto and changes therein as the Designated Officers, each acting alone, shall deem necessary, desirable or appropriate upon consultation with the City Attorney. The Council hereby further approves the distribution of the Offering Memorandum by the Dealers.

SECTION 5. Official Actions. The Designated 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 to consummate the lawful issuance and sale of the Notes and the consummation of the transactions as described herein, including without limitation, such documents, amendments, assignments, certificates and agreements as may be required by the Trust Agreement, the Reimbursement Agreement, the Fee Agreement the Dealer Agreement, the Issuing and Paying Agent Agreement, the Sublease or the Site Lease (as such terms are defined in the Trust Agreement, as amended). Further, the Designated Officers, each acting alone, are each hereby authorized to execute tax certificates and any and all other necessary certificates or forms to ensure the continued tax-exempt status of the Series 1 Notes and Series 2 Notes, as applicable.

SECTION 6. Severability. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any remaining provisions hereof.

SECTION 7. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

ADOPTED this ____ day of May 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk