RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DECLARING AND FINDING THAT URGENT NECESSITY FOR THE PRESERVATION OF LIFE, HEALTH, OR PROPERTY DEMAND THE IMMEDIATE PROCUREMENT AND AWARD OF CONSTRUCTION CONTRACTS TO PERFORM EMERGENCY REPAIRS OF POND A18'S SOUTH GATE STRUCTURE LOCATED AT THE SAN JOSÉ-SANTA CLARA REGIONAL WASTEWATER FACILITY WITHOUT FORMAL BIDDING FOR PUBLIC WORKS CONSTRUCTION AS OTHERWISE REQUIRED UNDER CITY CHARTER SECTION 1217

WHEREAS, Pond A18 is a salt water pond that is owned and managed by the San José/Santa Clara Regional Wastewater Facility ("RWF") and provides critical odor control and flood protection for the RWF; and

WHEREAS, the RWF operates Pond A18 under Waste Discharge Permit (#R2-2005-0003), which requires that the pond maintains adequate water levels to control odors, dissolved oxygen, and erosion of the southern levee; and

WHEREAS, the water level in Pond A18 is controlled by two hydraulic control structures, the northern and southern "gate structures", located along the levee bounding the western edge of the pond: the northern gate structure was fully reconstructed in 2015 and is currently in sound condition; and the southern gate structure, which is more than 21 years old; and

WHEREAS, the southern gate structure is at the end of its designated life and is at risk of failure which, if not addressed immediately with a complete removal and replacement, may result in a breach and subsequent damage to property and the environment, as described in the memorandum to the City Council from Jeff

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Provenzano, Director of Environmental Services, and Matt Loesch, Director of Public Works, as posted for the January 13, 2026 City Council meeting and

WHEREAS, a competitive procurement could take up to three months; and

WHEREAS, State Public Contract Code Section 22050(a)(1) authorizes public agencies to take emergency action to repair or replace a public facility without competitive bidding; and

WHEREAS, on October 21, 2025, and November 24, 2025, City staff were informed by the consultant that the north and center piles of the southern gate structure had ruptured, with their top halves completely separated from the bottom halves; and

WHEREAS, the City desires to immediately procure engineers and contractors to begin work;

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

1. The Council finds that, based on substantial evidence, the emergency will not permit a delay resulting from a competitive solicitation for bids, and that this action is necessary to respond to the emergency.

2. Based on substantial evidence as described in the memorandum to the City Council from Jeff Provenzano, Director of Environmental Services, and Matt Loesch, Director of Public Works, as posted for the January 13, 2026 City Council meeting, public interest and necessity demand the immediate procurement and award of engineering and construction contracts to perform

emergency replacement of the San José/Santa Clara Regional Wastewater Facility's Pond A18's northern gate structure without competitive bidding.

2. The Directors of Environmental Services and Public Works are hereby authorized to:

(a) Negotiate and award the engineering and construction contracts necessary to replace the northern gate structure in order to protect Pond A18 and levees in an amount not to exceed $2,150,000; and

(b) File the emergency exemption documentation pursuant to the California Environmental Quality Act and pursue required agency emergency permits concurrently.

ADOPTED this _____ day of _____, 2026, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk

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