

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 LEASE REVENUE BONDS, SERIES 2021A (FIRE DEPARTMENT TRAINING CENTER AND CENTRAL SERVICE YARD PROJECTS) IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$30,000,000, AND AMENDING RESOLUTION NO. 80125 RELATING TO THE CITY OF SAN JOSE FINANCING AUTHORITY LEASE REVENUE COMMERCIAL PAPER NOTES

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 1993 Lease Revenue Bonds, Series D (Central Service Yard Acquisition and Improvement Project) in the original aggregate principal amount of \$24,875,000 (the “1993 Bonds”) for the purpose of financing the acquisition, construction, improvement and equipping of the City’s central service yard and the City’s main yard (collectively, the “Central Service Yard”); and

WHEREAS, the Authority previously issued its Lease Revenue Bonds, Series 2003A (Central Service Yard Refunding Project) (the “2003A Bonds”) for the purpose of refinancing the 1993 Bonds then outstanding; and

WHEREAS, the outstanding 2003A Bonds are subject to optional redemption on any date at a redemption price equal to the principal amount of 2003A Bonds to be redeemed plus accrued but unpaid interest to the redemption date, without premium, and the City and the Authority wish to refund the outstanding 2003A Bonds; and

WHEREAS, the Authority previously issued its Tax-Exempt Lease Revenue Commercial Paper Notes for the purpose of financing capital improvements to the Central Service Yard

(collectively, the “Central Service Yard Commercial Paper Notes”), which notes are outstanding in the aggregate principal amount of \$2,474,000; and

WHEREAS, the City and the Authority wish to refund the Central Service Yard Commercial Paper Notes; and

WHEREAS, the City also wishes to finance the acquisition and construction of public improvements for the benefit of the City (collectively, the “Project”), including (i) the construction of additional improvements to the Central Service Yard, and (ii) the acquisition and construction of the City’s Fire Department Training Center; and

WHEREAS, to refund the outstanding 2003A Bonds, refund the Central Service Yard Commercial Paper Notes, and finance the Project, the City has proposed to lease to the Authority certain real property and improvements, initially consisting of Fire Station No. 29, Fire Station No. 34, and the site adjacent to the Central Service Yard on which a portion of the Fire Department Training Center will be constructed (collectively, 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 2003A Bonds, the refunding of the Central Service Yard Commercial Paper Notes, and the acquisition and construction of the Project; and

WHEREAS, in order to raise funds for such purposes, the Authority proposes to issue its City of San José Financing Authority Lease Revenue Bonds, Series 2021A (Fire Department Training Center and Central Service Yard Projects) (the “2021A 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 2021A 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 (the “Trustee”) for the 2021A Bonds; and

WHEREAS, the Authority and the City propose to sell the 2021A Bonds to RBC Capital Markets, LLC (the “Underwriter”), 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 2021A Bonds is attached hereto as Appendix 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 Project by the issuance of 2021A 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 the 2021A Bonds; 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; and

WHEREAS, on June 22, 2021, the City Council adopted Resolution No. 80215 ("Resolution No. 80215") to, among other things, approve the issuance by the Authority of its Tax-Exempt Lease Revenue Commercial Paper Notes and Taxable Lease Revenue Commercial Paper Notes (collectively, "Commercial Paper Notes") to finance the costs of purchasing power and other operating costs of San José Clean Energy in an amount not to exceed \$95,000,000 effective in the amounts and on the dates set forth therein, including, without limitation, Commercial Paper Notes in the amount of \$19,200,000 effective on the date the Authority issues lease revenue bonds the net proceeds of which are not less than \$19,200,000 to finance the Fire Department Training Center; and

WHEREAS, the City Council desires to amend Resolution No. 80215 to clarify the amounts and dates of such approval and to acknowledge that the 2021A Bonds are FDTC Lease Revenue Bonds as defined in Resolution No. 80125;

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 2021A Bonds to provide funding for the 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 2021A 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 2021A Bonds. The City Council hereby approves the sale of the 2021A Bonds under the Bond Law in the principal amount not to exceed \$30,000,000, by negotiation with the Underwriter. 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 2021A 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 Underwriter's discount for the 2021A Bonds shall not exceed 0.50% of the par amount thereof. 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 2021A 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 2003A Bonds, refund the Central Service Yard Commercial Paper Notes, and fund the acquisition and construction of the 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 2021A Bonds when due.
- Continuing Disclosure Certificate, to be executed by the City for the purpose of providing continuing disclosure to owners of the 2021A Bonds.

SECTION 4. Official Statement. The City Council hereby approves the proposed form of preliminary official statement with respect to the 2021A 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 2021A 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 2021A 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. 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 2021A Bonds if it is determined, upon consultation with the Underwriter 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 2021A Bonds or otherwise facilitate the issuance of the 2021A 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 2021A Bonds, the refunding of the 2003A Bonds, the refunding of the Central Service Yard Commercial Paper Notes, 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 2021A 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.

SECTION 7. Amendment to Resolution No. 80125. The City Council hereby amends Resolution No. 80125 by amending and restating Section 4 thereof to read in its entirety as follows:

"SECTION 4. To finance the costs of purchasing power and other operating costs of the Clean Energy Program pursuant to and in accordance with the terms governing the Commercial Paper Program set forth in the Trust Agreement, the Reimbursement Agreements and other related documents, the City Council hereby approves the issuance of Commercial Paper Notes by the Authority in an amount not to exceed \$95,000,000 as follows:

- (i) Commercial Paper Notes in an amount not to exceed \$32,651,000 (representing the sum of the previously unauthorized and unissued Commercial Paper Notes in the amount of \$24,845,000 and the reduction in Commercial Paper Notes authorized for the Parks Flood Recovery Projects pursuant to Section 2 of this Resolution in the amount of \$7,806,000) effective on the date hereof;
- (ii) additional Commercial Paper Notes in an amount that when combined with subsections (i) and (iii) of this Section 4 do not to exceed \$95,000,000, effective on the date the FDTC Lease Revenue Bonds are issued by the Authority with net proceeds to be used, in part, to finance the Fire Department Training Center; and
- (iii) additional Commercial Paper Notes in an amount not to exceed \$50,000,000 effective from time to time, in whole or in part, as (a)

outstanding Commercial Paper Notes are paid at maturity with available funds of the City, including proceeds of any lease revenue bonds, other than proceeds of additional Commercial Paper Notes, and (b) as the maximum principal amount of the Commercial Paper Notes that may be issued is increased above \$125,000,000.”

Except as amended pursuant to this Section 7, the Resolution No. 80125 remains in full force and effect, is in all respects ratified and confirmed and as so amended shall be read, taken and construed as one and the same resolution. The City Council acknowledges that the 2021A Bonds are FDTC Lease Revenue Bonds as defined in Resolution No. 80125.

ADOPTED this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

APPENDIX A

REQUIRED DISCLOSURES PURSUANT TO GOVERNMENT CODE SECTION 5852.1

1. Estimated True Interest Cost of the 2021A Bonds: 1.62%
2. Estimated finance charge of the 2021A Bonds, being the sum of all fees and charges paid to third parties, in the amount of approximately \$398,684. Such amount consists of costs of issuing the 2021A Bonds in the amount of approximately \$306,304 together with estimated underwriter's compensation in the amount of \$92,380.
3. Estimated proceeds of the 2021A Bonds expected to be received by the Authority for deposit to the Project Fund, 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 2021A Bonds: \$28,235,995.
4. Estimated Total Payment Amount for the 2021A Bonds, being the sum of all debt service to be paid on the 2021A Bonds to final maturity: \$29,959,410.

**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 interest rates available in the bond market at the time of pricing the 2021A Bonds.*