COUNCIL OF THE CITY OF SAN JOSE

RESOLUTION NO. [Resolution Number]

AN EIGHTEENTH SUPPLEMENTAL RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE FORMS OF SUPPLEMENTAL TRUST AGREEMENT AND BOND PURCHASE AGREEMENT; PROVIDING FOR THE ISSUANCE OF CITY OF SAN JOSE AIRPORT REVENUE REFUNDING BONDS, SERIES 2012A IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $49,140,000; PRESCRIBING THE TERMS, CONDITIONS AND FORM OF SAID SERIES OF BONDS; AUTHORIZING THE REFUNDING OF CITY OF SAN JOSE AIRPORT REVENUE BONDS SERIES 2002A; AND AUTHORIZING AND APPROVING OTHER RELATED ACTIONS

Adopted: November 6, 2012
RESOLUTION NO. [Resolution Number]

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WHEREAS, the Council (the “Council”) of the City of San José (the “City”), a municipal corporation and political subdivision duly organized and validly existing under the Constitution of the State of California and the Charter of the City, duly adopted Resolution No. 70532 on June 26, 2001, approving the Master Trust Agreement dated as of July 1, 2001 (the “Master Agreement”) between the City and The Bank of New York Mellon Trust Company, N.A., as successor to BNY Western Trust Company, as trustee (the “Trustee”), providing for the issuance of City of San José Airport Revenue Bonds, and amending and restating Resolution No. 57794 and the supplemental resolutions thereto (collectively, the “Prior Resolution”); and


WHEREAS, capitalized terms not otherwise defined in this Resolution shall have the meanings specified in the Master Agreement; and

WHEREAS, the Master Agreement provides that the City may issue Additional Bonds from time to time as the issuance thereof is authorized by the City by a Supplemental Trust Agreement, subject to the conditions and limitations contained in the Law and in Article III of the Master Agreement; and

WHEREAS, the City is not in default under the Master Agreement or any Supplemental Trust Agreement; and
WHEREAS, it is now desirable, necessary and in the best interests of the City to authorize the issuance of one series of Additional Bonds in an aggregate principal amount of not to exceed $49,140,000, to be designated as the “City of San José Airport Revenue Refunding Bonds, Series 2012A” (the “2012A Bonds”), for the purpose of refinancing a portion of the costs of designing and constructing certain improvements to the Norman Y. Mineta San José International Airport (the “Airport”), and refunding all or a portion of the outstanding Series 2002A Bonds (the “Refunded Bonds”); and

WHEREAS, this Council has determined that the 2012A Bonds, to be designated Tax-Exempt (Non-AMT), in an aggregate principal amount of not to exceed $49,140,000 should be issued pursuant to the Master Agreement and a Supplemental Trust Agreement in the form posted to the agenda webpage for this meeting and made a part hereof (the “Supplemental Agreement”); and

WHEREAS, there has been prepared a form of Bond Purchase Agreement (the “Bond Purchase Agreement”), which is to be entered into by the City and Banc of America Public Capital Corp, as purchaser (the “Purchaser”) of the 2012A Bonds; and

WHEREAS, the conditions and limitations contained in the Law and in Article III of the Master Agreement have been satisfied or will be satisfied at the time of the issuance of the 2012A Bonds;

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

SECTION 1. Recitals True and Correct. The Council finds and determines that the foregoing recitals are true and correct.

SECTION 2. Approval of Forms of Documents. The proposed Supplemental Agreement and Bond Purchase Agreement, in substantially the forms posted to the agenda webpage for this meeting, are hereby approved and adopted.

SECTION 3. Execution and Delivery of Documents. Upon the advice of the City Attorney, the Director of Finance or Assistant Director of Finance of the City is hereby authorized to execute and deliver the Supplemental Agreement and the Bond Purchase Agreement, each in substantially the forms posted to the agenda webpage for this meeting, with such changes, corrections, revisions or additions thereto as are deemed necessary and desirable to accomplish the purposes hereof.

SECTION 4. Issuance of 2012A Bonds. The 2012A Bonds to be issued under Article III of the Master Agreement and pursuant to the Supplemental Agreement are hereby authorized in a total aggregate principal amount of not to exceed $49,140,000, and such 2012A Bonds shall be designated as the “City of San José Airport Revenue Refunding Bonds, Series 2012A.” The terms and form of the 2012A
Bonds shall be substantially as set forth in the appendix to the Supplemental Agreement, which is hereby incorporated by reference as if fully set forth herein. As provided in Section 3.03 of the Master Agreement, upon the execution of the Supplemental Agreement and the issuance and delivery of the 2012A Bonds, the appendix of such Supplemental Agreement shall be attached to the Master Agreement and shall thereafter become a part of such document. The 2012A Bonds shall mature no later than March 1, 2018.

SECTION 5. Parameters of Issuance for the 2012A Bonds. The 2012A Bonds shall bear interest at fixed interest rates at a true interest cost not to exceed 2.50% per annum. The 2012A Bonds shall be purchased at a purchase price not less than the par value thereof. The total compensation to the Purchaser of the 2012A Bonds for origination fees and expenses shall not exceed $60,000.

SECTION 6. Trustee. The Bank of New York Mellon Trust Company, N.A. is hereby approved as the trustee under the Supplemental Agreement, effective with the delivery of the 2012A Bonds.

SECTION 7. Ratification and Approval of Actions. The City Manager, the Director of Finance, the Assistant Director of Finance, the Director of Aviation, the City Clerk, the City Attorney, and the designees of any of them, are hereby authorized to execute and deliver any and all certificates, agreements, representations and opinions, as may be acceptable to the City Attorney, including any escrow agreements, signature certificates, no-litigation certificates, tax certificates, and other certificates proposed to be delivered in connection with the execution and delivery of the Supplemental Agreement, and the sale of the 2012A Bonds, including, without limitation, all certifications required to be provided pursuant to Article III of the Master Agreement, as are deemed to be necessary and desirable to accomplish the transactions contemplated herein.

Authorization granted to the Director of Finance or Assistant Director of Finance, the Director of Aviation or the City Manager in this Resolution includes their authorized designees. All action previously taken by the City’s officers, employees and agents in furtherance of the transactions contemplated herein, are hereby ratified and approved.

SECTION 8. Section Headings and References. The headings or titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Eighteenth Supplemental Resolution.

SECTION 9. Repeal of Inconsistent Resolutions. Any resolution of the City, and any part of any resolution, inconsistent with this Resolution, the Master Agreement and the Supplemental Agreement, is hereby repealed to the extent of such inconsistency.
SECTION 10. Effective Date of Eighteenth Supplemental Resolution. This Eighteenth Supplemental Resolution shall take effect from and after its adoption.

ADOPTED this 6th day of November, 2012, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk
CITY CLERK’S CERTIFICATE

I, DENNIS D. HAWKINS, City Clerk of the City of San José, hereby certify as follows:

The attached is a full, true and correct copy of a resolution duly adopted at a regular meeting of the City Council of said City duly and regularly held at the San José City Hall, 200 East Santa Clara Street, San José, California, the regular meeting place thereof, on November 6, 2012, and entered in the minutes thereof, of which meeting all of the members of said City Council had due notice and at which a quorum thereof was present; and at said meeting said resolution was adopted by the vote specified on the final page of the resolution.

An agenda of said meeting was posted at least 72 hours before said meeting at 200 East Santa Clara Street, San José, California, a location freely accessible to members of the public, and a brief general description of said resolution appeared on said agenda.

I have carefully compared the same with the original minutes of said meeting on file and of record in my office. Said resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

Dated: __________________, 2012.

____________________________
City Clerk of the
City of San José,
California