

RESOLUTION NO. 73776

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A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF CERTAIN FINANCING DOCUMENTS AND DIRECTING CERTAIN RELATED ACTIONS IN CONNECTION WITH REFINANCING FOR CERTAIN PUBLIC CAPITAL IMPROVEMENTS

WHEREAS, the City of San José (the "City") and the Redevelopment Agency of the City of San José (the "Agency") have 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 be used to finance and refinance the acquisition, construction and improvement of certain public capital improvements; and

WHEREAS, for the purpose of raising funds necessary to refinance public capital improvements of the City, the Authority proposes to authorize the issuance of its revenue bonds under the provisions of Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), to be designated as the City of San José Financing Authority Lease Revenue Bonds, Series 2007A (Recreational Facilities Refunding Project) (the "Bonds"); and

WHEREAS, a portion of the proceeds received from the sale of the Bonds will be used by the Authority to lease certain real property (the "Project") from the City pursuant to a Site and Facility Lease (the "Site and Facility Lease") and to cause the refinancing of certain prior lease obligations of the City as set forth in the Trust Agreement between the Authority and U.S. Bank National Association related to the Bonds (the "Trust Agreement"); and

WHEREAS, pursuant to a Project Lease between the City and the Authority (the "Project Lease"), the City will lease the Project back from the Authority, and the Authority will use the lease payments received from the City to pay debt service on the Bonds; and

WHEREAS, in order to assist the underwriters of the Bonds in complying with Rule 15c2-12 of the Securities and Exchange Commission, the City will undertake certain continuing disclosure obligations pursuant to a continuing disclosure certificate to be executed by the City (the "Continuing Disclosure Certificate"); and

WHEREAS, an Official Statement containing information to be used in connection with the competitive sale of the Bonds and the marketing of the Bonds by the prevailing bidder is desirable; and

WHEREAS, the City 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. Pursuant to the Act, the City Council hereby finds and determines that the issuance of the Bonds and the transactions related thereto will result in significant public benefits within the contemplation of Section 6586 of the Act.

Section 2. The City Council hereby approves the preparation of, and hereby authorizes the City Manager, or any Deputy Director of Finance, or the Debt Administrator of the City (each, a "Designated Officer" and collectively, the "Designated Officers"), each acting alone, to deem final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934 (except for permitted omissions), the preliminary forms of the Official Statement describing the Bonds on file with the City Clerk and presented to this City Council, together with such changes or additions to such preliminary forms of Official Statement as the Designated Officers deem necessary, desirable or appropriate upon consultation with the City Attorney. The Designated Officers, each acting alone, are hereby authorized to execute the final form of the Official Statement with such changes or additions as the Designated Officers shall deem necessary, desirable or appropriate upon consultation with the City Attorney, and the execution of the final Official Statement by the City shall be conclusive evidence of the approval of any such additions and changes. The use and distribution of the Preliminary Official Statement and use and distribution of the final Official Statement in connection with the sale of the Bonds is hereby ratified and approved.

Section 3. The City Council hereby approves the form of the Project Lease and the Site and Facility Lease on file with the City Clerk, with such additions thereto and changes therein as the Designated Officers deem necessary, desirable or appropriate upon consultation with the City Attorney, the execution or acceptance of which by the City shall be conclusive evidence of the approval of any such additions and changes. The Designated Officers and all other appropriate officials of the City are hereby authorized and directed to execute, and the City Clerk is hereby authorized to attest, as appropriate, the Project Lease and the Site and Facility Lease and such other agreements, documents and certificates as may be necessary or desirable to effectuate the purposes of this resolution and the financing herein authorized, including, without limitation, such other agreements, documents and certificates as may be required by the Project Lease and the Site and Facility Lease. The City Council hereby authorizes the performance by the City of its obligations under the Project Lease and the Site and Facility Lease.

Section 4. The City Council hereby approves the Continuing Disclosure Certificate in the form on file with the City Clerk, together with such changes thereto as the Designated Officers deem necessary, desirable or appropriate upon consultation with the City Attorney, the execution of which by the City shall be conclusive proof of the approval thereof. The Designated Officers, each acting alone, are hereby authorized and directed to execute the Continuing Disclosure Certificate, with such changes, insertions and omissions as may be approved by such official executing said document.

Section 5. The City Council hereby approves the form of the Escrow Agreement relating to the refunding of the 2000 Bonds (as defined in the Trust Agreement) by and among the Authority, the City and Wells Fargo Bank, National Association, as escrow agent, in the form on file with the City Clerk together with such additions thereto and changes therein as the Designated Officers shall deem necessary, desirable or appropriate upon consultation with the City Attorney, the execution of which by the City shall be conclusive evidence of the approval of any such additions and changes. The Designated Officers, each acting alone, are hereby authorized and directed to execute, and the City Clerk is hereby authorized to attest, as appropriate, the final form of the Escrow Agreement for and in the name of and on behalf of the City. The City hereby authorizes the performance by the City of its obligations under the Escrow Agreement.

Section 6. The City Council hereby accepts the transfer of the Authority's fee simple title in the Rancho del Pueblo Golf Course, which was financed through the issuance of the 1997 Bonds (as defined in the Trust Agreement), to the City in connection with the refunding and defeasance in full of the 1997 Bonds.

Section 7. The City Council hereby authorizes the Amendment to the Sites and Facilities Lease and the Amendment to Project Lease, both by and between the Authority and the City, with the appropriate numerical designation of such leases, in order to release a project relating to the 1993 Bonds (as defined in the Trust Agreement). The Designated Officers, each acting alone, are hereby authorized and directed to execute, and the City Clerk is hereby authorized to attest, as appropriate, the final form of the Amendment to Sites and Facilities Lease and the Amendment to Project Lease for and in the name of and on behalf of the City. This Council hereby approves the release of the project relating to the 1993 Bonds contemplated by the Amendment to Sites and Facilities Lease and Amendment to Project Lease.

Section 8. The Designated Officers (including the authorized designees of the Designated Officers), the City Clerk and any and all other officers of the of the City are hereby authorized and directed, 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, including refunding instructions, termination agreements and property releases, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and sale of the Bonds and the consummation of the transactions as described herein, and such documents, assignments, certificates and agreements as may be required by the Trust Agreement, the Project Lease, the Site and Facility Lease, the Official Statement, the Continuing Disclosure Certificate and the other documents and agreements approved hereby.

Section 9. 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.

ADOPTED this 22nd day of May, 2007, by the following vote:

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AYES: CAMPOS, CHIRCO, CONSTANT, CORTESE, LICCARDO, NGUYEN, PYLE, WILLIAMS; REED

NOES: NONE

ABSENT: OLIVERIO

DISQUALIFIED: NONE

VACANT: DISTRICT 4

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

AYES:

NOES:

ABSENT:

DISQUALIFIED:

VACANT:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk