

RESOLUTION NO. 74116

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING RESOLUTION NO. 69200, AS AMENDED, TO AUTHORIZE THE DIRECTOR OF FINANCE OR THE DIRECTOR'S AUTHORIZED DESIGNEE TO NEGOTIATE AND EXECUTE SUBSTITUTIONS AND ADDITIONS OF THE BANKS UNDER THE SECOND AMENDED AND RESTATED LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT AND TO NEGOTIATE AND EXECUTE EXTENSIONS OF SUCH AGREEMENT WITH RESPECT TO THE COMMITMENT AND LETTER OF CREDIT EXPIRATION DATES AND FEES PAID TO THE BANKS

WHEREAS, the City of San José (the "City") is authorized by its charter to issue notes from time to time for the purpose of financing capital project costs in connection with the Norman Y. Mineta San José International Airport ("Airport") and to refund such notes; and

WHEREAS, on October 2, 1984, the City Council of the City (the "City Council") adopted Resolution No. 57794 providing for the issuance of obligations secured by and payable from the revenues of the Airport Enterprise, as defined in said resolution (said resolution, as supplemented and amended from time to time, the "Master Bond Resolution"); and

WHEREAS, the City Council adopted Resolution No. 69199 (the "Tenth Supplemental Resolution"), amending and supplementing the Master Bond Resolution to provide for the issuance of obligations secured by and payable from the revenues of the Enterprise on a subordinate lien basis to the Airport revenue bonds issued and outstanding under the Master Bond Resolution; and

WHEREAS, the City Council adopted Resolution No. 69200 authorizing the issuance of not to exceed \$100,000,000 of the City's San José International Airport Subordinated Commercial Paper Notes (the "Notes"), consisting of Series A Notes (the "Series A Notes"), Series B Notes (the "Series B Notes") and Series C Notes (the "Series C Notes"); and

WHEREAS, the City Council adopted Resolution No. 70532 amending and restating the Master Bond Resolution in the form of a Master Trust Agreement dated as of July 1, 2001, between the City and The Bank of New York Trust Company, N.A. (successor to BNY Western Trust Company), as trustee (the "Trustee"), and the City and the Trustee have subsequently entered into amendments and supplements to the Master Trust Agreement (collectively, the "Master Trust Agreement"); and

WHEREAS, in order to provide for the payment of the Notes, the City entered into an initial Letter of Credit and Reimbursement Agreement dated as of November 1, 1999, with JPMorgan Chase Bank, National Association (successor to

Morgan Guaranty Trust Company of New York) (the "Bank"), pursuant to which the Bank has extended irrevocable, direct-pay letters of credit to the Issuing and Paying Agent for the account of the City; and

WHEREAS, on October 12, 2004, the City Council adopted Resolution No. 72355 in order to delegate authority to the Director of Finance with respect to the extensions of expiration dates under the Letter of Credit and Reimbursement Agreement within certain parameters; and

WHEREAS, on June 20, 2006, the City Council adopted Resolution No. 73252 amending Resolution No. 69200 in order to increase the maximum authorized amount of Notes that may be issued pursuant to said Resolution from \$100,000,000 to \$200,000,000 and in connection with such increase, the City entered into a First Amendment to Letter of Credit and Reimbursement Agreement dated June 30, 2006 with the Bank; and

WHEREAS, on January 9, 2007, the City Council adopted Resolution No. 73589 further amending Resolution No. 69200 in order to further increase the maximum authorized amount of Notes from \$200,000,000 to \$450,000,000 and a removal of the \$35,000,000 cap on the stated amount of the letter of credit applicable to the Series C Notes; and

WHEREAS, the City subsequently entered into an Amended and Restated Letter of Credit and Reimbursement Agreement dated as of January 1, 2007 with the Bank and with Citibank, N.A., Bank of America, N.A., and Dexia Credit Local, acting through its New York Branch; and

WHEREAS, in connection with certain pricing and other amendments, the City has determined to enter into a Second Amended and Restated Letter of Credit and Reimbursement Agreement with the Bank and with Bank of America, N.A., and Dexia Credit Local, acting through its New York Branch; and

WHEREAS, the City Council desires now to further amend Resolution No. 69200, as amended, in order to authorize the Director of Finance or the Director's authorized designee to negotiate and execute future substitutions and additions of the Banks under the Second Amended and Restated Letter of Credit and Reimbursement Agreement and future extensions of the Second Amended and Restated Letter of Credit and Reimbursement Agreement as described more particularly below;

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

Section 1. All of the above recitals are true and correct and this Council hereby so finds and determines.

Section 2. Resolution No. 69200, as amended by Resolutions No. 73252 and 73589, is hereby further amended by replacing Section 3 (b) with the following text:

The Director of Finance and the authorized designee of the Director of Finance is each hereby authorized to negotiate, execute and deliver future amendments to the Second Amended and Restated Reimbursement Agreement (the "Reimbursement Agreement") among JPMorgan Chase Bank, National Association and the other banks that are parties thereto (each a "Bank" and collectively, the "Banks"), without further authorization of this Council; provided, however, that such amendments shall be limited to the following: (i) substitutions of one or more Banks, or additions to, the Banks provided that any substitution or addition does not adversely affect the Notes or otherwise result in unrelated, material modifications to the terms of the Reimbursement Agreement or the Letters of Credit (as such term is defined in the Reimbursement Agreement) and (ii) extensions of the Commitment Expiration Date and the Letter of Credit Expiration Date (as such terms are defined in the Reimbursement Agreement) provided that the total compensation paid to the Banks does not exceed 0.75% per annum of the Maximum Stated Amount (as defined in the Reimbursement Agreement).

Section 3. Resolution No. 69200 is hereby ratified and confirmed and shall continue in full force and effect in accordance with the terms and provisions thereof, as amended and supplemented, including as amended and supplemented by this Resolution.

Section 4. All actions heretofore taken by the officers and agents of the City with respect to the sale, issuance and delivery of the Notes and the other transactions authorized and contemplated herein are hereby approved, confirmed and ratified, and the officers and employees of the City are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable in order to consummate the transactions herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution. The Director of Finance of the City and the other officers and employees of the City are hereby authorized and directed to execute and deliver any and all certificates and representations, including signature certificates, no-litigation certificates, arbitrage bond certificates and tax certificates necessary and desirable to accomplish the transactions set forth above.

Section 5. 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 6. Resolution No. 72355 is hereby repealed.

Section 7. This Resolution shall take effect from and after its adoption.

ADOPTED this 20th day of November, 2007, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

CITY CLERK'S CERTIFICATE

I, Lee Price, City Clerk of the City of San José, hereby certify as follows:

The foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of the City Council of said City duly, regularly and legally held at the San José City Hall, 200 E. Santa Clara Street, San José, California, on November 20, 2007 and entered into the minutes thereof, of which meeting all of said members of the Council had due notice and at which a quorum thereof were present.

At said meeting said resolution was adopted by the following vote:

Ayes: Campos, Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Pyle,
Williams; Reed

Noes: None

Absent: None

Disqualified: None

An agenda of said meeting was posted at least 72 hours before said meeting at 200 E. 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 foregoing with the original synopsis of said meeting on file and of record in my office. Said original 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: November 20, 2007.

City Clerk of the City of San José, California