

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF CERTAIN FINANCING DOCUMENTS AND DIRECTING CERTAIN RELATED ACTIONS IN CONNECTION WITH FINANCING CAPITAL IMPROVEMENTS, AND APPROVING RELATED DOCUMENTS AND OFFICIAL ACTIONS**

**WHEREAS**, the City of Milpitas (the “City”) and the City of Milpitas Housing Authority have entered into a Joint Exercise of Powers Agreement, dated as of March 1, 2016, establishing the Milpitas Municipal Financing Authority (the “Authority”) for the purpose, among others, of having the Authority issue its bonds to finance the acquisition, construction and improvement of certain public capital improvements; and

**WHEREAS**, the City is proceeding to (1) replace Fire Station #2 with a new fire station located on the same site, which includes acquisition of furnishings and equipment related to such facility, and (2) acquire and install energy efficiency improvements to various City facilities (collectively, the “Project”); and

**WHEREAS**, in order to provide financing for a portion of the cost of the Project, the City has proposed to lease (1) the Fire Station #2 site located at 1263 Yosemite Drive in the City and the new fire station to be built thereon, and (2) the real property and facilities known as the Barbara Lee Senior Center located at 40 North Milpitas Boulevard (together, the “Leased Property”) to the Authority under a Site Lease anticipated to be dated as of November 1, 2020, in consideration of the payment by the Authority of an initial rental payment (the “Site Lease Payment”) which is sufficient to provide funds for such purposes, and to lease back the Leased Property from the Authority in consideration of semi-annual lease payments pursuant to a Lease Agreement between the Authority, as lessor, and the City, as lessee; and

**WHEREAS**, upon the completion of Fire Station #2, Fire Station #2 and its site are expected to become the sole Leased Property, and the remainder of the initial Leased Property is expected to be released; and

**WHEREAS**, the amounts required to finance the Project will be provided from the proceeds of Lease Revenue Bonds which the Authority proposes to issue and sell as its 2020 Lease Revenue Bonds (Capital Projects), in the principal amount of not to exceed \$25,000,000 (the “Bonds”) under the provisions of 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”) secured by the lease payments; and

**WHEREAS**, to provide for development of the most favorable debt structure for the City and to ensure the most favorable reception in the market place for the Bonds, the City has requested the Authority to sell the Bonds through a negotiated sale pursuant to the terms of a Bond Purchase Agreement (the “Bond Purchase Agreement”) between the Authority, the City and Stifel, Nicolaus & Company, Incorporated, as underwriter (the “Underwriter”); and

**WHEREAS**, for purposes of the sale of the Bonds, the City has caused to be prepared an Official Statement describing the Bonds, the preliminary form of which is on file with the City Clerk and the City Council, with the aid of their staff, and have undertaken such review of the Official Statement as hereinafter described as is necessary to assure proper disclosure of all material facts relating to the Bonds that are within the personal knowledge of City Council members and the staff; and

**WHEREAS**, the City Council has duly held a public hearing regarding the Project in accordance with the requirements of Section 6586.5 of the Bond Law, the notice of which has been given in accordance with the requirements of said Section; and

**WHEREAS**, the City Council has duly considered such transactions and wishes at this time to approve all proceedings and documents to which the City is a party relating to the issuance and sale of the Bonds.

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

**Section 1. Approval of Financing Plan.** The City Council hereby approves the financing plan described in the recitals of this Resolution. To that end, the City Council hereby approves of the issuance of the Bonds by the Authority under the Bond Law, in the aggregate principal amount of not to exceed \$25,000,000, for the purpose of providing financing for the Project.

**Section 2. Approval of Financing Agreements.** The City Council hereby approves each of the following agreements required to implement the financing plan to be accomplished by the Bonds, in substantially the respective forms on file with the City Clerk together with any changes therein or additions thereto deemed advisable by the City Manager, the Assistant City Manager or the Deputy City Manager (each, an “Authorized Officer”), and the execution thereof by an Authorized Officer shall be conclusive evidence of the approval of any such changes or additions:

- 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 the Site Lease Payment which will be applied by the City to finance 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 for payment of principal of and interest on the Bonds when due;
- Bond Purchase Agreement among the Authority, the City and the Underwriter, under which the Underwriter agrees to purchase the Bonds from the Authority; and
- Continuing Disclosure Certificate (attached as an appendix to the Preliminary Official Statement described below) executed by the City relating to the undertaking to make continuing disclosure filings with respect to the Bonds as required by Rule 15c2-12 of the Securities and Exchange Commission.

An Authorized Officer is hereby authorized and directed for and in the name and on behalf of the City to execute, and the City Clerk is hereby authorized and directed, if necessary, to attest the final form of each of the foregoing agreements.

**Section 3. Sale of Bonds.** The City Council hereby approves the sale of the Bonds by the Authority in a principal amount not to exceed \$25,000,000 pursuant to the Bond Purchase Agreement; provided, that the true interest cost on the Bonds shall not exceed 4.0% and the underwriter’s discount shall not exceed 0.70% of the principal amount of the Bonds. The Bond Purchase Agreement shall be executed in substantially the form on file with the City Clerk, together with any changes therein or additions thereto deemed advisable by any Authorized Officer, each of whom acting alone is hereby authorized and directed to execute and deliver said form of Bond Purchase Agreement on behalf of the City, and the execution thereof by an Authorized Officer shall be conclusive evidence of the approval of any such changes or additions.

**Section 4. Findings and Determinations.** In accordance with Sections 6586 and 6586.5 of the Bond Law, the City Council hereby finds and determines that there will be “significant public benefits” to the citizens of the City by financing a portion of the costs of the Project through the issuance of the Bonds. Such benefits include the following: (a) demonstrable savings in effective interest rates, bond preparation, bond underwriting or bond issuance costs, (b) employment benefits from undertaking the Project in a timely fashion, and (c) more efficient delivery of local agency services to residential and commercial development.

**Section 5. Official Statement.** The City Council hereby approves and deems nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, the Preliminary Official Statement describing the Bonds in the form on file with the City Clerk, together with such modifications thereof as may be approved by an Authorized Officer. An Authorized Officer is hereby authorized and directed to (a) execute and deliver to the purchaser of the Bonds a certificate deeming the Preliminary Official Statement to be final, as of its date, within the meaning of such Rule, (b) approve any changes in or additions to cause the Official Statement to be put in final form, and (c) execute the Final Official Statement for and in the name and on behalf of the City. The City Council hereby authorizes the distribution of the Preliminary Official Statement and the Final Official Statement by the Underwriter.

**Section 6. Official Actions.** The Mayor, the City Manager, the Assistant City Manager, the Deputy City Manager, the City Clerk and all other officers of the City are each authorized and directed in the name and on behalf of the City to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Whenever in this Resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of any person serving in such role in an interim capacity or by any officer or person designated by such officer to act on his or her behalf.

**Section 7. Effective Date.** This Resolution shall take effect immediately upon its passage and adoption.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Rich Tran, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney