

CITY OF SAN MATEO
RESOLUTION NO. ____ (2021)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MATEO AUTHORIZING THE ISSUANCE AND SALE OF OBLIGATIONS BY THE SAN MATEO-FOSTER CITY PUBLIC FINANCING AUTHORITY TO FINANCE AND REFINANCE THE CLEAN WATER PROGRAM AND COLLECTION/TRANSMISSION IMPROVEMENTS OWNED BY THE CITY, AND APPROVING RELATED FINANCING DOCUMENTS AND OFFICIAL ACTIONS

WHEREAS, the City of San Mateo (the “City”) and the Estero Municipal Improvement District (the “District,” and together with the City, the “Members”) previously entered into that certain Joint Powers Agreement Between the City of San Mateo and the Estero Municipal Improvement District for Operation of the City of San Mateo Wastewater Treatment Plant and Construction of Capital Improvements Under the Clean Water Program, dated April 17, 2017, as amended by an “Amendment to the Joint Powers Agreement Between the City of San Mateo and the Estero Municipal Improvement District for Operation of the City of San Mateo Wastewater Treatment Plant and Construction of Capital Improvements under the Clean Water Program” dated February 19, 2019 (as it may be further amended from time to time hereafter, the “Construction/Operation JPA Agreement”); and

WHEREAS, pursuant to the Construction/Operation JPA Agreement, the District and the City jointly own certain wastewater treatment, conveyance, and disposal facilities from the point of entry of the influent sewage lines into the City of San Mateo Wastewater Treatment Plant (the “Treatment Plant”) to the effluent outfall point in the San Francisco Bay, including associated buildings that are used for treatment of wastewater to comply with regulatory requirements (referred to as the “Jointly Owned Facilities” in the Construction/Operation JPA Agreement); and

WHEREAS, the sanitary sewer collection and conveyance systems independently owned by the City and the District that deliver sewage to the Treatment Plant are not Jointly Owned Facilities and are not subject to the Construction/Operation JPA Agreement; and

WHEREAS, the Construction/Operation JPA Agreement provides that the City and the District may enter into an agreement to provide sewer services to areas outside of their respective service boundaries as long as such agreement does not cause the City or the District to exceed its “Purchased Capacity” (as defined in the Construction/Operation JPA Agreement). The City has entered into that certain Sanitary Sewage Agreement Between the Town of Hillsborough, City of San Mateo, Crystal Springs County Sanitation District, and the County of San Mateo, dated July 18, 1989 (as it may be amended from time to time, the “Additional Capacity Use Agreement”; the Town of Hillsborough, the Crystal Springs County Sanitation District, and the County of San Mateo, are referred to as the “Additional Capacity Users”); and

WHEREAS, in order to provide a mechanism by which (i) the improvement of the Jointly Owned Facilities could be jointly financed and each of the City and the District would be solely responsible for its share of the costs, (ii) each of the City and the District could finance the costs of its own collection and transmission system and (iii) each of the Additional Capacity Users that are members of the Authority (if any) could finance a share of the capital costs attributable to its use of the Jointly Owned Facilities and its own collection and transmissions system, the Members entered into a Joint Exercise of Powers Agreement dated as of February 29, 2016 (the “Joint Powers Agreement”), under which the San Mateo-Foster City Public Financing Authority (the “Authority”)

has been organized as a joint powers authority which is a public entity separate and apart from the Members; and

WHEREAS, the Members are undertaking capital improvements to the Jointly Owned Facilities (the “Clean Water Program”) in compliance with (i) Cease and Desist Order No. R2-2009-0020, (ii) the National Pollution Discharge Elimination System (“NPDES”) permit for the Jointly Owned Facilities and (iii) the Integrated Wastewater Master Plan dated October 2014 prepared by Carollo Engineers and the 2015 validation studies conducted by CH2M; and

WHEREAS, for the purpose of financing and refinancing the Clean Water Program, the City previously entered into a Revolving Credit Agreement, dated as of June 1, 2016 (the “Revolving Credit Agreement”), with State Street Lending Corporation (“State Street”), and received advances of funds to finance the Clean Water Program (the “State Street Advances”); and

WHEREAS, in its Resolution No. 73 (2016) adopted on July 18, 2016, the City declared its intention to reimburse expenditures for capital costs of the Clean Water Program and improvements to the City’s collection and transmission system (the “San Mateo Collection/Transmission Project”) from the proceeds of tax-exempt bonds; and

WHEREAS, in its Resolution No. 3351 adopted on July 18, 2016, the Board of Directors of the District declared its intention to reimburse expenditures for capital costs of the Clean Water Program from the proceeds of tax-exempt bonds; and

WHEREAS, to provide financing for the Clean Water Program, (i) the Authority, the District, and the United States Environmental Protection Agency (“EPA”) executed a WIFIA Loan Agreement dated as of November 5, 2020, for up to \$66,860,640 (the “2020 District WIFIA Loan”) and (ii) the Authority and the City executed a related Financing Agreement, dated as of November 5, 2020 (the “2020 District WIFIA Financing Agreement”); and

WHEREAS, in order to evidence the 2020 District WIFIA Loan, the Authority executed the San Mateo-Foster City Public Financing Authority San Mateo Wastewater Treatment Plant Upgrade and Expansion Project (WIFIA – N18168CA) WIFIA Bond in the maximum principal amount of \$66,860,640; and

WHEREAS, the 2020 District WIFIA Financing Agreement describes the possibility that the Authority and the District might undertake interim financing and repay such interim financing with proceeds of the 2020 District WIFIA Loan; and

WHEREAS, in order to provide financing for the Clean Water Program, (i) the Authority, the City, and the EPA executed a WIFIA Loan Agreement dated as of November 5, 2020, for up to \$210,339,360 (the “2020 City WIFIA Clean Water Program Loan”) and (ii) the Authority and the City executed a related Financing Agreement, dated as of November 5, 2020 (the “2020 City WIFIA Clean Water Program Financing Agreement”); and

WHEREAS, in order to evidence the 2020 City WIFIA Clean Water Program Loan, the Authority executed the San Mateo-Foster City Public Financing Authority San Mateo Wastewater Treatment Plan Upgrade and Expansion Project (WIFIA – N18107CA) WIFIA Bond in the maximum principal amount of \$210,339,360; and

WHEREAS, the 2020 City WIFIA Clean Water Program Financing Agreement describes the possibility that the Authority and the City might undertake interim financing and repay such interim financing with proceeds of the 2020 City WIFIA Clean Water Program Loan; and

WHEREAS, in order to provide financing for the San Mateo Collection/Transmission Project, (i) the Authority, the City, and the EPA executed a WIFIA Loan Agreement dated as of December 17, 2020, for up to \$85,140,000 (the “2020 City WIFIA Collection/Transmission Loan”) and (ii) the Authority and the City executed a related Financing Agreement, dated as of December 17, 2020 (the “2020 City WIFIA Collection/Transmission Financing Agreement”); and

WHEREAS, in order to evidence the 2020 City WIFIA Collection/Transmission Loan, the Authority executed the San Mateo-Foster City Public Financing Authority San Mateo Wastewater Treatment Plant Upgrade and Expansion Project (WIFIA-N19101CA) WIFIA Bond in the maximum principal amount of \$85,140,000; and

WHEREAS, the 2020 City WIFIA Collection/Transmission Financing Agreement describes the possibility that the Authority and the City might undertake interim financing and repay such interim financing with proceeds of the 2020 City WIFIA Collection/Transmission Loan; and

WHEREAS, for the purpose of financing and refinancing improvements to the City’s wastewater enterprise, the City previously issued its City of San Mateo Sewer Revenue Bonds, 2011 Series A in the initial principal amount of \$31,990,000 (the “2011 City Bonds”); and

WHEREAS, the 2011 City Bonds maturing on or after August 1, 2022, are subject to redemption prior to their respective maturity dates, at the option of the City, as a whole or in part on any date on or after August 1, 2021, from any source of available funds, at a redemption price equal to the principal amount of the 2011 City Bonds to be redeemed, plus accrued interest to the redemption date, without premium; and

WHEREAS, because of prevailing market conditions, the City can refinance the 2011 City Bonds to achieve debt service savings, and the City has asked the Authority to assist with the refinancing; and

WHEREAS, in addition, (i) in anticipation of the 2020 District WIFIA Loan and 2020 City WIFIA Clean Water Program Loan, the Members have asked the Authority to provide interim financing for the Clean Water Program, and (ii) in anticipation of the 2020 City WIFIA Collection/Transmission Loan, the City has asked the Authority to provide interim financing for the San Mateo Collection/Transmission Project; and

WHEREAS, in order to provide the financing requested by the Members, the Authority wishes to issue the following obligations (collectively, the “Obligations”) 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 “Bond Law”):

(i) San Mateo-Foster City Public Financing Authority 2021 Wastewater Revenue Notes, Series A (Estero Municipal Improvement District) in an aggregate principal amount not to exceed \$66,865,000 (the “2021A District Notes”) for the purpose of providing interim financing for the Clean Water Program costs to be financed on a long-term basis by the 2020 District WIFIA Loan,

(ii) San Mateo-Foster City Public Financing Authority 2021 Wastewater Revenue Notes, Series B (City of San Mateo) in an aggregate principal amount not to exceed \$295,480,000 (the “2021B City Notes”) for the purpose of providing interim financing for the Clean Water Program costs to be financed on a long-term basis by the 2020 City WIFIA Clean Water Program Loan and the costs related to the San Mateo Collection/Transmission Project to be financed by the 2020 City WIFIA Collection/Transmission Loan, and

(iii) San Mateo-Foster City Public Financing Authority 2021 Wastewater Revenue Bonds, Refunding Series A (City of San Mateo) in an aggregate principal amount not to exceed \$25,000,000 (the “2021A City Refunding Bonds”) for the purpose of refinancing the outstanding 2011 City Bonds; and

WHEREAS, the Authority will issue the 2021A District Notes under an Indenture of Trust (the “2021 District Bond Indenture”), between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Bond Trustee”); and

WHEREAS, the Authority will issue the 2021B City Notes and the 2021A City Refunding Bonds under an Indenture of Trust (the “2021 City Bond Indenture”), between the Authority and the Bond Trustee; and

WHEREAS, the Joint Powers Agreement provides for agreements between the Authority and the Members pursuant to which the Members would be obligated to pay their share of the debt service on Obligations; and

WHEREAS, the District and the Authority will enter into a Financing Agreement (the “2021 District Financing Agreement”), under which the District will agree to pay the debt service on the 2021A District Notes; and

WHEREAS, the City and the Authority will enter into a Financing Agreement (the “2021 City Financing Agreement”), under which the City will agree to pay the debt service on the 2021B City Notes and the 2021A City Refunding Bonds; and

WHEREAS, there has also been submitted to this City Council a form of preliminary Official Statement (“Official Statement”) in connection with the marketing of the 2021B City Notes and the 2021A City Refunding Bonds and the City Council, with the aid of its staff, has reviewed the preliminary Official Statement; and

WHEREAS, pursuant to Government Code Section 5852.1, certain information relating to the 2021B City Notes and the 2021A City Refunding Bonds is set forth in Exhibit A attached to this Resolution, and such information is hereby disclosed and made public; and

WHEREAS, the City Council desires to approve documents and actions relating to the 2021B City Notes and the 2021A City Refunding Bonds, in furtherance of the public purposes of the City;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Mateo, California, as follows:

Section 1. Issuance of 2021B City Notes and 2021A City Refunding Bonds. The City Council hereby consents to the issuance by the Authority of the 2021B City Notes and the 2021A City Refunding Bonds for the purpose set forth in this Resolution.

Section 2. Approval of 2021 City Financing Agreement. The City Council hereby approves the 2021 City Financing Agreement, in substantially the form on file with the City Clerk, together with any modifications thereof as may be approved by the Mayor (the "Mayor"), the City Manager (the "City Manager"), the Finance Director ("Finance Director") or the City Attorney (the "City Attorney"), acting alone (each, a "Designated Officer"). A Designated Officer, acting alone, is hereby authorized and directed to execute and the City Clerk is hereby authorized to attest to the 2021 City Financing Agreement for and on behalf of the City. Execution of the 2021 City Financing Agreement by a Designated Officer, acting alone, shall be conclusive evidence of the approval of any such modifications. The City's payment obligation under the 2021 City Financing Agreement shall be equal to the debt service on the 2021B City Notes and the 2021A City Refunding Bonds.

A Designated Officer is authorized to revise the 2021 City Financing Agreement to incorporate a debt service reserve fund if the Designated Officer determines it is in the City's best interest after consulting with the City's municipal advisors.

Section 3. Bond Purchase Agreement. The City Council hereby approves the Bond Purchase Agreement among the Authority, the City, the District, and Merrill Lynch, Pierce, Fenner & Smith Incorporated (BofA Securities, Inc.) or an affiliate thereof (the "Underwriter"), in substantially the form on file with the City Clerk, together with any modifications thereof as may be approved by a Designated Officer. The Bond Purchase Agreement provides for the terms and conditions under which the Underwriter will purchase the Obligations. A Designated Officer, acting alone, is hereby authorized and directed to execute and the City Clerk is hereby authorized to attest to the Bond Purchase Agreement for and on behalf of the City. Execution of the Bond Purchase Agreement by a Designated Officer shall be conclusive evidence of the approval by this City Council of any such modifications.

Section 4. Official Statement. The City Council hereby deems final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, as amended, the portions of the preliminary Official Statement that contain financial and operating information relating to the City, including, but not limited to, Appendix A1. The form of the preliminary Official Statement is on file with the City Clerk. A Designated Officer, acting alone, is hereby authorized, at the request of the Underwriter, to execute an appropriate certificate affirming a determination that the

portions of the preliminary Official Statement that contain financial and operating information relating to the City has been deemed final. A Designated Officer, acting alone, is hereby authorized and directed to approve any changes in or additions to the portions of the preliminary Official Statement and the final Official Statement that contain financial and operating information relating to the City.

Section 5. Approval of Continuing Disclosure Certificate. The City Council hereby approves the Continuing Disclosure Certificate to be delivered by the City with respect to the 2021B City Notes and the 2021A City Refunding Bonds, in substantially the form on file with the City Clerk together with any modifications thereof as may be approved by a Designated Officer, whose execution thereof shall be conclusive evidence of the approval of any such modifications. A Designated Officer, acting alone, is hereby authorized and directed to execute the final form of the Continuing Disclosure Certificate for and on behalf of the City.

Section 6. Approval of Irrevocable Refunding Instructions or Escrow Deposit and Trust Agreement. The City Council hereby approves the Irrevocable Refunding Instructions to be delivered by the City to the trustee for the 2011 City Bonds, in substantially the form on file with the City Clerk together with any modifications thereof as may be approved by a Designated Officer, whose execution thereof shall be conclusive evidence of the approval of any such modifications. A Designated Officer, acting alone, is hereby authorized and directed to execute the final form of the Irrevocable Refunding Instructions for and on behalf of the City.

A Designated Officer is hereby authorized to direct the City's Bond Counsel to prepare an Escrow Deposit and Trust Agreement between the City and the trustee for the 2011 City Bonds in place of the Irrevocable Refunding Instructions, and a Designated Officer is hereby authorized and directed to execute the final form of such Escrow Deposit and Trust Agreement for and on behalf of the City.

Section 7. Official Actions. To accomplish the purposes of the 2021 City Financing Agreement, the Designated Officers and the City Clerk and their duly authorized deputies, designees or agents, acting alone, are each hereby authorized and directed, in their respective official capacities, to execute or attest thereto, any and all closing certificates or other documents and to take any actions which are necessary or appropriate to effectuate the issuance and sale of the 2021B City Notes and the 2021A City Refunding Bonds by the Authority.

Section 8. Approval of Bond Counsel and Disclosure Counsel. The City hereby appoints the firm of Jones Hall, A Professional Law Corporation, as bond counsel and disclosure counsel to the City in connection with the Obligations, and a Designated Officer is authorized to execute an agreement with said firm in substantially the form of the agreement on file with the City Clerk.

Section 9. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

EXHIBIT A

**REQUIRED GOOD FAITH ESTIMATES PURSUANT TO
GOVERNMENT CODE SECTION 5852.1**

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2021B City Notes

1. True Interest Cost of the 2021B City Notes: 0.59%
2. Finance charge of the 2021B City Notes, being the sum of all fees and charges paid to third parties (Costs of Issuance of approximately \$427,965 plus estimated underwriter's compensation of \$437,583): \$865,548.
3. Amount of proceeds of the 2021B City Notes expected to be received by the Authority, net of proceeds for Costs of Issuance in (2) above and net of capitalized interest (if any) and reserves (if any) paid or funded with the proceeds of the 2021B City Notes: \$295,479.
4. Total payment amount for the 2021B City Notes to final maturity, plus (b) any financing costs not paid from proceeds of the 2021B City Notes: \$346,203,938.

**All amounts and percentages are estimates, and are made in good faith by the Authority based on information available as of the date of adoption of this Resolution. Estimates include certain assumptions regarding tax-exempt rates available in the bond market at the time of pricing the 2021B City Notes.*

2021A City Refunding Bonds

1. True Interest Cost of the 2021A City Refunding Bonds: 2.16%
2. Finance charge of the 2021A City Refunding Bonds, being the sum of all fees and charges paid to third parties (Costs of Issuance of approximately \$57,545 plus estimated underwriter's compensation of \$56,041): \$113,586.
3. Amount of proceeds of the 2021A City Refunding Bonds expected to be received by the Authority, net of proceeds for Costs of Issuance in (2) above and net of capitalized interest (if any) and reserves (if any) paid or funded with the proceeds of the 2021A City Refunding Bonds: \$19,483,828.
4. Total payment amount for the 2021A City Refunding Bonds to final maturity, plus (b) any financing costs not paid from proceeds of the 2021A City Refunding Bonds: \$23,914,875.

**All amounts and percentages are estimates, and are made in good faith by the Authority based on information available as of the date of adoption of this Resolution. Estimates include certain assumptions regarding tax-exempt rates available in the bond market at the time of pricing the 2021A City Refunding Bonds.*