

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AUTHORIZING THE SALE AND DELIVERY OF 2020A CERTIFICATES
OF PARTICIPATION IN A PRINCIPAL AMOUNT NOT TO EXCEED
\$27,000,000, AUTHORIZING EXECUTION AND DELIVERY OF CERTAIN
DOCUMENTS RELATING THERETO, AND DIRECTING CERTAIN
ACTIONS IN CONNECTION THEREWITH**

WHEREAS, the City of Cupertino (the “City”) is a municipal corporation and a general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California (the “State”); and

WHEREAS, the City previously executed and delivered its \$43,940,000 Certificates of Participation (2012 Refinancing Project) (the “Refunded Certificates”) in order to refinance certain public capital improvements; and

WHEREAS, the City desires to refinance the Refunded Certificates in order to achieve debt service savings through the execution and delivery of the City of Cupertino 2020A Certificates of Participation (the “Certificates”) pursuant to a Trust Agreement (as defined below) by and among the City, the Cupertino Public Facilities Corporation (the “Corporation”) and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”); and

WHEREAS, in order to facilitate the execution and delivery of the Certificates, the City intends to lease to the Corporation the City’s City Hall, Administrative Offices, Cupertino Community Hall/Council Chambers, Senior Center, and Quinlan Community Center properties, and the existing improvements thereon (collectively, the “Leased Premises”) pursuant to a Site Lease (as defined below) and to lease the Leased Premises back from the Corporation pursuant to the Lease (as defined below); and

WHEREAS, the Certificates will evidence undivided and fractional interests in certain lease payments by the City to the Corporation pursuant to the Site Lease and the Lease;

WHEREAS, the forms of the documents necessary to refinance the Refunded Certificates and provide for the execution and delivery of the Certificates are on file with the City Clerk as described herein; and

WHEREAS, good faith estimates of certain information relating to the Certificates are set forth in the staff report submitted to the City Council herewith as required by California Government Code Section 5852.1; such estimates were provided by the City’s Municipal Advisor (as defined below); and

WHEREAS, the refinancing of the Refunded Certificates for debt service savings will provide a public benefit to the City and its residents by reducing the cost of the public capital improvements refinanced using the proceeds of the Refunded Certificates; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State to exist, to have happened and to have been performed precedent to and in connection with the consummation of the financing authorized hereby do exist, have happened and have been performed

in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City Cupertino as follows:

Section 1. Authorization of Certificates. The City Council hereby authorizes the preparation, sale and delivery of the Certificates, in one or more tax-exempt or taxable series, in a combined aggregate principal amount not to exceed \$27,000,000. Subject to the limitation above, the principal amount of the Certificates shall be determined by the City Manager of the City (the "City Manager") upon consultation with Special Counsel (as defined below). The purposes for which the proceeds of the sale of the Certificates shall be expended are: (i) to prepay the Refunded Certificates; and (ii) to pay the costs of the sale and delivery of the Certificates.

Section 2. Lease Agreement. The form of the Lease Agreement (the "Lease"), between the City and the Corporation, presented at this meeting and on file with the City Clerk (the "Clerk"), is hereby approved. Each of the Mayor of the City (the "Mayor"), the City Manager, the Assistant City Manager of the City (the "Assistant City Manager"), the Administrative Services Director of the City (the "Administrative Services Director"), and other City officers designated in writing by the City Manager (collectively, the "Authorized Officers"), is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Corporation the Lease in substantially said form, with such additions thereto and changes therein as the Authorized Officer or Officers executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Officers.

Section 3. Site Lease. The form of the Site Lease (the "Site Lease"), between the Corporation and the City, presented at this meeting and on file with the Clerk, is hereby approved. Each of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Corporation the Site Lease in substantially said form, with such additions thereto and changes therein as the Authorized Officer or Officers executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of such Authorized Officers.

Section 4. Trust Agreement. The form of the Trust Agreement (the "Trust Agreement"), among the City, the Corporation and the Trustee, presented at this meeting and on file with the Clerk, is hereby approved. Each of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Corporation and the Trustee the Trust Agreement in substantially said form, with such additions thereto and changes therein as the Authorized Officer or Officers executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Officers, including, but not limited to, changes to accommodate one or more additional series of Certificates.

Section 5. Escrow Agreement. The form of the 2012 Certificates Escrow Agreement (the "Escrow Agreement"), between The Bank of New York Mellon Trust Company, N.A., as escrow bank (the "Escrow Bank"), and the City, presented at this meeting and on file with the Clerk, is hereby approved. Each of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Escrow Bank the Escrow Agreement in

substantially said form, with such additions thereto and changes therein as the Authorized Officer or Officers executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of such Authorized Officers.

Section 6. Sale of Certificates. The form of the Certificate Purchase Agreement (the “Purchase Agreement”), between the City and Stifel, Nicolaus & Company, Incorporated (the “Underwriter”), presented at this meeting and on file with the Clerk, is hereby approved; provided that (a) the total aggregate principal amount of the Certificates does not exceed the parameters set forth in Section 1 above; (b) the aggregate true interest cost of the Certificates does not exceed the maximum rate that will achieve the debt service savings threshold set forth in the City’s Debt Management Policy; and (c) the Underwriter’s discount for the purchase of the Certificates in aggregate shall not exceed 0.5% of the principal amount of the Certificates. Each of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Purchase Agreement to the Underwriter in substantially said form, with such additions thereto and changes therein as the Authorized Officer or Officers executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Officers.

Section 7. Preliminary Official Statement. The form of the Preliminary Official Statement, presented at this meeting and on file with the Clerk, is hereby approved. Each of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to make such changes to the Preliminary Official Statement as are necessary to make it final as of its date and are authorized and directed, for and in the name and on behalf of the City, to execute and deliver a certificate deeming the Preliminary Official Statement final as of its date in accordance with Rule 15c2-12 promulgated under the Securities Exchange Act of 1934. Each of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to execute, approve and deliver the final Official Statement in the form of the Preliminary Official Statement with such changes, insertions and omissions therein as the Authorized Officer or Officers executing the same may require or approve such approval to be conclusively evidenced by the execution and delivery thereof by one or more of such Authorized Officers.

Section 8. Continuing Disclosure Certificate. The form of the Continuing Disclosure Certificate (the “Continuing Disclosure Certificate”), executed by the City, presented at this meeting as Appendix E to the Preliminary Official Statement and on file with the Clerk, is hereby approved. Each of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Trustee the Continuing Disclosure Certificate in substantially said form, with such additions thereto and changes therein as the Authorized Officer or Officers executing same may require or approve such approval to be conclusively evidenced by the execution and delivery thereof by one or more of such Authorized Officers.

Section 9. Amended Policy. The amended Debt Management Policy presented at this meeting and on file with the Clerk, is hereby approved.

Section 10. Professionals Services. Stradling Yocca Carlson & Rauth, A Professional Corporation, is hereby approved and appointed as Special Counsel and Disclosure Counsel, Urban Futures, Inc. is hereby approved and appointed as Municipal Advisor, and The Bank of New York Mellon Trust Company, N.A. is hereby approved and appointed as Trustee and Escrow Bank, each to provide such services and any other related services as may be required to facilitate the execution and delivery of the Certificates and the prepayment and defeasance of the Refunded Certificates. Each of

the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver agreements with the foregoing to provide for the delivery such services in connection with the execution and delivery of the Certificates and the transactions contemplated by this Resolution.

Section 11. Attestations. The Clerk and such person or persons as may have been designated by the Clerk to act on her behalf, are hereby authorized and directed to attest the signature of the Authorized Officers designated herein to execute any documents described herein, and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Purchase Agreement, the Continuing Disclosure Certificate, and such other agreements authorized by this resolution as the Clerk shall deem appropriate.

Section 12. Other Actions. Each of the Authorized Officers is hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which each may deem necessary or advisable (including the payment of costs of issuance approved by the Authorized Officers), as recommended or required and approved by Special Counsel, in order to consummate the sale, execution and delivery of the Certificates, the refinancing of the Refunded Certificates, and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Certificates, the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Purchase Agreement, the Preliminary Official Statement, the Official Statement, and the Continuing Disclosure Certificate, including, but not limited to, the entering into of any agreements terminating the leasehold interests in the Leased Premises relating to the Refunded Certificates and or any subordination, non-disturbance and attornment agreements with sub-lessees of the Leased Premises, removing, adding or substituting any City properties from or to the properties to be leased pursuant to the Site Lease and the Lease, terminating the site lease and lease agreement executed in connection with the Refunded Certificates, determining whether to obtain bond insurance and/or a debt service reserve insurance policy in connection with the Certificates and, if so determined, negotiating the terms of such policies, and taking such actions as may be needed to remove encumbrances to title to the properties to be leased pursuant to the Site Lease and the Lease and to obtain title insurance with respect to such properties. Such actions heretofore taken by such officers or designees are hereby ratified, confirmed and approved.

Section 13. Effect. This Resolution shall take effect immediately upon its passage.

Section 14. Certification by Clerk. The Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED at a regular meeting of the City Council of the City of Cupertino this 15th day of September 2020, by the following vote:

Members of City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	 _____ Date