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**AMENDED AND RESTATED
JOINT EXERCISE OF POWERS AGREEMENT
CREATING THE SUNNYVALE FINANCING AUTHORITY**

By and Between

CITY OF SUNNYVALE

and

SUNNYVALE INDUSTRIAL DEVELOPMENT AUTHORITY

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	
ARTICLE II CREATION OF AUTHORITY; PURPOSE AND POWERS	
Section 2.1.	Authority Created 3
Section 2.2.	Purpose 3
Section 2.3.	Powers..... 3
ARTICLE III ORGANIZATION	
Section 3.1.	Governing Board 4
Section 3.2.	Meetings of the Board 5
Section 3.3.	Officers; Staff; Other Personnel..... 6
ARTICLE IV ACCOUNTS AND REPORTS, BUDGETS AND PAYMENTS	
Section 4.1.	Accounts and Reports..... 7
Section 4.2.	Budgets and Administrative Expenses 7
ARTICLE V BOND AND OTHER FORMS OF FINANCING	
ARTICLE VI PROPERTY RIGHTS	
ARTICLE VII TERMINATION AND DISPOSITION OF ASSETS	
Section 7.1.	Term..... 8
Section 7.2.	Distribution of Assets and Termination of Authority 8
Section 7.3.	Liabilities 8
ARTICLE VIII MISCELLANEOUS	
Section 8.1.	Breach 9
Section 8.2.	Resolution of Disputes 9
Section 8.3.	Indemnification of Member Agencies..... 9
Section 8.4.	Amendment..... 9
Section 8.5.	Notice..... 10
Section 8.6.	Severance Clause..... 10
Section 8.7.	Section Headings..... 10

**AMENDED AND RESTATED
JOINT EXERCISE OF POWERS AGREEMENT
CREATING THE SUNNYVALE FINANCING AUTHORITY**

THIS AMENDED AND RESTATED JOINT EXERCISE OF POWERS CREATING THE SUNNYVALE FINANCING AUTHORITY (the "Agreement") is executed this ____ day of ____, 2025, is effective on the date specified in Section 7.1 below, and is by and between the City of Sunnyvale, a municipal corporation and charter city duly organized and existing pursuant to its charter and the laws of the State of California (herein called the "City"), and the Sunnyvale Industrial Development Authority, a public, corporate instrumentality of the State of California duly organized and existing pursuant to the laws of the State of California (herein called the "Development Authority").

WITNESSETH:

WHEREAS, pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Joint Exercise of Powers Act") two or more public agencies by agreement may, if authorized by their legislative or other governing bodies, jointly exercise any power common to such public agencies; and

WHEREAS, the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6584) of the California Government Code, as amended (the "Bond Pooling Act"), authorizes any agency formed under the Joint Exercise of Powers Act to provide financing for Public Capital Improvements and Working Capital (both as defined in the Bond Pooling Act) by (i) entering into Lease/Purchase Agreements ("Leases") with the Member Agencies or other Local Agencies (as defined in the Bond Pooling Act), (ii) purchasing at public or negotiated sale certain qualified obligations ("Local Obligations") issued by the Member Agencies of the Authority and other Local Agencies; and (iii) issuing revenue bonds; and

WHEREAS, the City and the Redevelopment Agency of the City of Sunnyvale (the "Former Redevelopment Agency") previously executed and delivered a Joint Exercise of Powers Agreement Creating the Sunnyvale Financing Authority, dated September 29, 1992 (the "Original Agreement"), pursuant to which the City and the Former Redevelopment Agency created the Sunnyvale Financing Authority (the "Authority"), as described in Article II herein; and

WHEREAS, pursuant to Assembly Bill No. ABX1-26, passed by the Legislature of the State of California and signed by the Governor of the State of California in June 2011 ("AB 26"), and the California Supreme Court's decision in *California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, the Former Redevelopment Agency was dissolved on February 1, 2012, and the Successor Agency to the Redevelopment Agency of the City of Sunnyvale (the "Successor Agency"), pursuant to Section 34178 of the California Health and Safety Code, succeeded the Former Redevelopment Agency as a party to the Original Agreement; and

WHEREAS, subsequently, Assembly Bill No. 1484 added Section 34187(b) to the California Health and Safety Code, which section provides that within one year after all of the debts of a redevelopment agency are retired or paid off, its successor agency shall terminate its existence; and

WHEREAS, under California law, it is uncertain whether the dissolution of the Successor Agency will impact the existence or status of the Authority; and

WHEREAS, the City wishes to revise the Original Agreement in order to ensure that the Authority survives the demise of the Successor Agency; and

WHEREAS, the City and the Development Authority wish to enter into this Agreement to ensure the continuation of the Authority;

NOW, THEREFORE, the Member Agencies, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

ARTICLE I

DEFINITIONS

Unless the context otherwise requires, the terms defined in this Section 1 shall for all purposes of this Agreement have the meanings herein specified:

"Agreement" shall mean this Amended and Restated Joint Exercise of Powers Agreement as the same now exists or as it may from time to time be amended pursuant to the provisions hereof.

"Authority" shall mean the Sunnyvale Financing Authority created by this Agreement.

"Board" or "Board of Directors" shall mean the governing body of the Authority.

"City" shall mean the City of Sunnyvale, a municipal corporation and charter city organized and existing pursuant to its Charter and the laws of the State of California.

"Development Authority" shall mean the Sunnyvale Industrial Development Authority, a public, corporate instrumentality of the State of California duly organized and existing pursuant to the laws of the State of California.

"Fiscal Year" shall mean July 1 to and including the following June 30.

"Joint Exercise of Powers Act" shall mean Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (being Section 6500 et seq thereof) as such Act now exists or as it may hereafter be amended.

"Lease" shall mean any lease or lease/purchase agreement entered into by and between the Authority and a lessee in connection with the financing of any Public Capital Improvement or Working Capital.

"Local Agency" shall mean a "local agency" as defined in Section 6585(f) of the Government Code of the State of California.

"Local Obligations" shall mean any bond, note, commercial paper, lease-purchase agreement, certificate of participation, floating rate and variable maturity securities or other evidences of indebtedness within the meaning of the term "bond" as defined in Section 6585(c) of the Government Code of the State of California, which is purchased by the Authority from a

Local Agency which is the issuer thereof at a public or negotiated sale or which is otherwise acquired by the Authority pursuant to an indenture providing for the issuance of bonds.

"Member Agency" shall mean either the Development Authority or the City.

"Member Agencies" shall mean the Development Authority and the City, collectively.

"Public Capital Improvement" shall have the meaning given to such term in Section 6585(g) of the California Government Code.

"Working Capital" shall have the meaning given to such term in Section 6585(i) of the California Government Code.

ARTICLE II

CREATION OF AUTHORITY; PURPOSE AND POWERS

Section 2.1. Authority Created. There is hereby created an agency and public entity to be known as the "Sunnyvale Financing Authority." The Authority is formed by this Agreement pursuant to the provisions of the Joint Exercise of Powers Act. As provided in the Joint Exercise of Powers Act, the Authority shall be a public entity separate from its Member Agencies. The debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Member Agencies; provided, that any Member Agency may separately contract for, or assume responsibility for, specific debts, liabilities or obligations of the Authority.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Authority will cause to be filed all notices and copies of this Agreement or amendments thereto as may be required by the Joint Exercise of Powers Act.

For the avoidance of doubt, on the effective date of this Agreement, as set forth in Section 7.1 below, the Successor Agency shall no longer be a Member Agency.

Section 2.2. Purpose. The purpose of this Agreement is to provide assistance to the Member Agencies from time to time in connection with their financing programs.

The Member Agencies hereby agree that the Authority is not being formed for the purpose of providing municipal services as that term is used in the Joint Exercise of Powers Act.

Section 2.3. Powers. The Authority shall exercise the powers granted to it under the Joint Exercise of Powers Act, as may be necessary to the accomplishment of the purposes of this Agreement, including but not limited to (a) the powers set forth in Article 4 of the Joint Exercise of Powers Act and (b) subject to the following sentence, the powers common to the Member Agencies. The Member Agencies agree that the Authority shall exercise the powers common to the Member Agencies subject only to such restrictions upon the manner of exercising such powers as are imposed upon the City in the exercise of its powers pursuant to its Charter.

The Authority is authorized in its own name to do all acts necessary or convenient to the exercise of said powers for said purposes, including but not limited to any or all of the following:

- (i) To make and enter contracts.

- (ii) To contract for the services of engineers, attorneys, planners, financial consultants or other agents, and separate and apart therefrom, to employ such other persons, as it deems necessary.
- (iii) To acquire, construct, manage, maintain and operate any buildings, works, or improvements.
- (iv) To acquire, hold and dispose of property.
- (v) To incur debts, liabilities, or obligations subject to limitations herein set forth.
- (vi) To sue and be sued in its own name.
- (vii) To apply for, accept, receive and disburse an appropriate grant or grants and/or loan or loans under any federal, state or local programs for assistance in the financing or refinancing of any Public Capital Improvement or the financing of Working Capital or insurance programs.
- (viii) To issue revenue bonds in accordance with the following laws:
 - (a) Article 2 of the Joint Exercise of Powers Act commencing with Section 6540.
 - (b) Articles 4 of the Joint Exercise of Powers Act commencing with Section 6584.
 - (c) Chapter 6, Title 5, Division 2 of the California Government Code, commencing with Section 54300.
 - (d) Chapter 5, Part 3, Division 5 of the California Health and Safety Code, commencing with Section 4950.
- (ix) To use other financing acts, including, but not limited to, the Mello-Roos Community Facilities District Act of 1982, the Municipal Improvement Act of 1913 and the Improvement Bond Act of 1915.

ARTICLE III

ORGANIZATION

Section 3.1. Governing Board. The Authority shall be administered by a Board of Directors, which shall consist of seven persons, each serving in his or her individual capacity as a Director of the Authority. The sitting members of the City Council of the City shall constitute the Directors of the Authority. The term of office as Director shall terminate if and when such Director ceases to be a member of the City Council.

The Directors may receive compensation for serving as such as established by the Board, and shall be entitled to reimbursement for expenses incurred in the conduct of the business of the Authority if the Board determines that such expenses shall be reimbursed.

Section 3.2. Meetings of the Board.

(a) Regular Meetings. The Board shall conduct a regular meeting on October 21, 2025, at the hour of 7:00 p.m. in the City Council chambers, 456 W. Olive Ave., Sunnyvale, California. Unless otherwise provided, regular meetings shall be held on the same date and time as regular meetings of the City Council of the City. If the Secretary of the Authority does not post an agenda for a regular meeting pursuant to Government Code Section 54954.2, then such failure to post shall be deemed to be a determination by the Chair that no items required discussion and, therefore, that the regular meeting should be cancelled, except as otherwise provided in Section 54954.2. If the Board shall determine to hold its regular meetings other than as described in the two previous sentences, the date, hour and place of the holding of regular meetings shall be fixed by resolution of the Board and a copy of such resolution shall be filed with each of the Member Agencies.

(b) Special Meetings. Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California.

(c) Legal Notice. All meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California [Sections 54950-54961]).

(d) Minutes. The Secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director and to each member Agency.

(e) Bylaws, Rules and Regulations. The Board may adopt bylaws, rules and regulations for the conduct of its affairs.

(f) Conflict of Interest Code. The Board by resolution shall adopt a Conflict of Interest Code as required by law.

(g) Quorum. A majority of the Directors shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time.

(h) Powers and Limitations Thereon. All power and authority of the Authority shall be exercised by the Board, subject, however, to the reserved rights of the Member Agencies as herein set forth. Each Director shall be entitled to one vote and, unless otherwise provided herein, a vote of the majority of those present and qualified to vote may adopt any motion, resolution or order and take any other action they deem appropriate to carry forward the objectives of the Authority.

(i) Consent or Approval of Member Agency. The consent or approval of a Member Agency in any matter requiring such consent or approval hereunder shall be evidenced by a certified copy of the resolution or other action of the governing board of such Member Agency filed with the Authority.

Section 3.3. Officers; Staff; Other Personnel.

(a) The Authority shall have five officers: Chair, Vice-Chair, Executive Director, Treasurer, and Secretary. The Mayor of the City shall serve as Chair of the Board. The Vice-Mayor of the City shall serve as the Vice Chair of the Board. The City Manager of the City shall serve as Executive Director of the Authority. The City Clerk or a designated deputy shall serve as Secretary of the Authority.

(b) The Executive Director shall perform such functions as are customary in the exercise of such a position, and as may be more specifically provided by the Board from time to time. The Executive Director shall have charge of the day-to-day administration of the Authority and shall execute the directives of the Board. The Executive Director shall sign all contracts on behalf of the Authority, except as may otherwise be provided by resolution of the Board.

(c) The Director of Finance of the City is hereby initially designated as Treasurer of the Authority as required by Section 6505.6 of the Joint Exercise of Powers Act. Subject to the applicable provisions of any indenture or resolution providing for a trustee or other fiscal agent, the Treasurer is designated as the depository of the Authority to have custody of all the money of the Authority, from whatever source, and serving as auditor or controller of the Authority shall draw all warrants and pay demands against the Authority approved by the Board, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.6 of the Joint Exercise of Powers Act. The Board, by resolution, may authorize the Treasurer to sign contracts on behalf of the Joint Powers Authority

(d) The City Attorney shall serve as General Counsel to the Authority.

(e) The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to, any property of the Authority, and such officer need not file an official bond with the Authority if such officer already is bonded by a Member Agency in a sufficient amount as determined by the Board.

(f) The Treasurer is hereby authorized and directed to prepare or cause to be prepared:

- (i) a special audit as required pursuant to Section 6505 of the Government Code of the State of California every year during the term of this Agreement as hereinafter provided; and
- (ii) a report as required pursuant to Section 6505.5 in writing on the first day of July, October, January, and April of each year to the Board and to each Member Agency, which report shall describe the amount of money held by the Treasurer for the Authority, the amount of receipts since the last such report, and the amount paid out since the last such report.

(g) The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

(h) All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of officers (including governing board members), agents,

or employees of either Member Agency when performing their respective functions shall apply to them to the same degree and extent while engaged in the performance of any of the functions and duties under this Agreement.

None of the officers, agents, or employees appointed by the Board shall be deemed by the Member Agencies or by reason of their appointment and/or employment by the Authority to be subject to any of the requirements of the Member Agencies.

ARTICLE IV

ACCOUNTS AND REPORTS, BUDGETS AND PAYMENTS

Section 4.1. Accounts and Reports.

(a) There shall be a strict accountability of all Authority funds and report of all receipts and disbursements in compliance with the Joint Exercise of Powers Act. The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the Authority shall be open to inspection at all reasonable times by the Member Agencies and their representatives. The Authority shall give an unaudited written report of all financial activities for each Fiscal Year to each Member Agency within 150 days after the close of each Fiscal Year.

(b) So long as required by Section 6505 of the Joint Exercise of Powers Act, the Controller of the Authority shall either make, or contract with a certified public accountant or public accountant to make, an annual audit of the accounts and records of the Authority. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of an account and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each of the Member Agencies, and, if required by Section 6505 of the Joint Exercise of Powers Act, with the County Auditor/Controller of the County of Santa Clara. Each such report shall be filed within 12 months of the end of the Fiscal Year or Fiscal Years under examination.

Section 4.2. Budgets and Administrative Expenses. The Board may adopt a budget for administrative expenses, which shall include all expenses not included in any financing issue of the Authority, annually prior to July 1 of each year. The estimated annual administrative expenses of the Authority shall be allocated by the Authority to the Member Agencies equally.

Section 4.3. Contributions. The Member Agencies may, but are not required to (except as otherwise provided herein): (a) make contributions from their treasuries for any of the purposes set forth herein, (b) make payments of public funds to defray the cost of such purposes, (c) make advances of public funds for such purposes, such advances to be repaid as provided herein, or (d) use their personnel, equipment or property in lieu of other contributions or advances.

ARTICLE V

BOND AND OTHER FORMS OF FINANCING

The Authority shall have the power to issue bonds for the purpose of raising funds necessary to accomplish its purposes under this Agreement and to enter into appropriate agreements or leases to secure the bonds, including an agreement or agreements with any Member Agency wherein said Member Agency agrees to pay to the Authority all or portions of revenues received by the Member Agency from a Public Capital Improvement or an enterprise of the Member Agency, except as such revenues may be required to pay maintenance and operation expenses of such Public Capital Improvement or enterprise, or are otherwise encumbered, pledged or legally unavailable.

The Authority shall also have the power to issue any other forms of indebtedness in accordance with the provisions of the Joint Exercise of Powers Act or other State law for such purposes, but in order to do so, the Authority shall first obtain the consent of the Member Agencies.

ARTICLE VI

PROPERTY RIGHTS

All facilities constructed or acquired by the Authority shall be held in the name of the Authority for the benefit of the Member Agencies in accordance with the terms of the Agreement.

ARTICLE VII

TERMINATION AND DISPOSITION OF ASSETS

Section 7.1. Term. This Agreement shall become effective, and the Original Agreement shall terminate, when (a) the Agreement has been fully executed by the Member Agencies and acknowledged and accepted by the Successor Agency, (b) the Oversight Board for the Successor Agency has approved this Agreement, and (c) the California Department of Finance has either approved or failed to request review of this Agreement.

The Authority shall continue in full force and effect until terminated by a written agreement of the Member Agencies; provided, however, in no event shall this Agreement be terminated while any bonds or other obligation of the Authority remains outstanding or any facilities constructed hereunder are owned, maintained or operated by the Authority.

Section 7.2. Distribution of Assets and Termination of Authority. To the extent that any funds (or property in lieu of funds) received from any Member Agency are used for the acquisition or construction of any Public Capital Improvement, the same shall be allocated annually on the books of the Authority to the credit of said contributing Member Agency. Upon termination of the Authority herein created, any facilities owned by the Authority, and any funds in possession of the Authority at such time shall be distributed in kind or sold, and the proceeds thereof distributed to the Member Agencies as their interests appear on the books of the Authority.

Section 7.3. Liabilities. The debts, liabilities and obligations of the Authority shall be the debts, liabilities or obligations of the Authority alone and not of the Member Agencies;

provided, however, that a Member Agency may separately contract for, or assume responsibility for, specific debts, liabilities, or obligations of the Development Authority.

ARTICLE VIII

MISCELLANEOUS

Section 8.1. Breach. If default shall be made by a Member Agency in any covenant contained in this Agreement, such default shall not excuse either Member Agency from fulfilling its obligations under this Agreement and both Member Agencies shall continue to be liable for the performance of all conditions herein contained. The Member Agencies hereby declare that this Agreement is entered into for the benefit of the Authority created hereby and the Member Agencies hereby grant to the Authority the right to enforce by whatever lawful means the Authority deems appropriate all of the obligations of each of the Member Agencies hereunder. Each of the remedies given to the Authority hereunder or by any law now or hereafter enacted is cumulative and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies.

Section 8.2. Resolution of Disputes. Subject to the following provisions, any controversy or claim arising out of or relating to this Agreement, its interpretation or breach, shall be settled through a dispute resolution process ("process"):

The process shall be initiated whenever all Directors from either Member Agency give written notice to the Directors of the other Member Agency of the intention to arbitrate. The notice shall set forth the nature of the dispute to be resolved, the amount involved, if any, and the remedy sought.

Arbitration shall be commenced upon the filing of said notice by either Member Agency with the American Arbitration Association. Thereafter, the process shall be conducted in compliance with the rules of the American Arbitration Association in effect at the time of the filing of the notice, except that the dispute shall be heard and determined by one arbitrator.

Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Costs of the process shall be borne by the Member Agency against which the ruling is made.

Section 8.3. Indemnification of Member Agencies. The Authority shall, at Authority's sole cost and expense, indemnify, defend and save harmless the Member Agencies, their Councilmembers or Board members, officers, employees and agents, from all costs, expenses (including, without limitation, attorneys' fees and costs of suit), claims, actions, proceedings, obligations, liabilities, or damages to persons or property or otherwise arising out of or in any way connected with the intentional or negligent act or omission or breach of duty or obligation of the Authority, its officers, employees, agents, Directors, contractors, subcontractors, or any officer, agent or employee thereof.

Section 8.4. Amendment. This Agreement may be amended only by agreement signed by the Member Agencies.

Section 8.5. Notice. Any notice or instrument required to be given or delivered may be given or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

City of Sunnyvale
456 West Olive Avenue
P.O. Box 3707 (94088)
Sunnyvale, California 94086
Attention: City Manager

Sunnyvale Industrial Development Authority
456 West Olive Avenue
P.O. Box 3707 (94088)
Sunnyvale, California 94086
Attention: Executive Director

Section 8.6. Severance Clause. If any section, subsection, sentence, clause or phrase of this Agreement, or the application thereof to either of the Member Agencies or any other person or circumstances, is for any reason held invalid, the validity of the remainder of the Agreement, or the application of such provision to the other Member Agency, or to any other persons or circumstances, shall not be affected thereby. Each of the Member Agencies hereby declares that it would have entered into this Agreement, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases, or the application thereof, to any Member Agency of any other person or circumstances be held invalid.

Section 8.7. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals by their respective officers thereunto, duly authorized the day and year first above written.

CITY OF SUNNYVALE

City Manager

SUNNYVALE INDUSTRIAL
DEVELOPMENT AUTHORITY

Executive Director

ATTEST:

Secretary

ACKNOWLEDGED AND ACCEPTED:

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF SUNNYVALE

City Manager of the City of Sunnyvale