

## RESOLUTION NO. \_\_\_\_\_-14

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SUNNYVALE AUTHORIZING THE EXECUTION AND  
DELIVERY OF A LOAN AGREEMENT TO REFINANCE  
OUTSTANDING SOLID WASTE REVENUE  
OBLIGATIONS OF THE CITY, AND APPROVING  
RELATED AGREEMENTS AND ACTIONS**

WHEREAS, the City of Sunnyvale (the "City") has heretofore authorized, issued and sold \$20,575,000 principal amount of its City of Sunnyvale Solid Waste Revenue Refunding Bonds, Series 2003 (the "2003 Bonds") pursuant to the provisions of Revenue Refunding Bond Law (contained in Sections 53570 et seq. and 53580 et seq. of the California Government Code, the "Refunding Bond Law") and an Indenture of Trust dated as of January 1, 2003 (the "2003 Indenture"), by and between the City and U.S. Bank National Association (the "2003 Trustee"), which are presently outstanding in the principal amount of \$5,375,000; and

WHEREAS, the City has heretofore authorized, executed and delivered an Installment Sale Agreement, dated as of November 1, 2007, between the Sunnyvale Financing Authority (the "Authority") and the City, in the original principal amount of \$8,130,000 (the "2007 Installment Sale Agreement"), under which the City purchased certain capital improvements to the City's solid waste refuse collection and disposal system (the "Solid Waste System"); and

WHEREAS, the installment payments to be paid by the City to the Authority under the 2007 Installment Sale Agreement (the "2007 Installment Payments") secured the Authority's \$8,130,000 Solid Waste Revenue Bonds, Series 2007 (the "2007 Bonds"), which were issued by the Authority under an Indenture of Trust, dated as of November 1, 2007, between U.S. Bank National Association (the "2007 Trustee") and the Authority (the "2007 Indenture") which are presently outstanding in the principal amount of \$4,635,000; and

WHEREAS, the obligation of the City to pay debt service on the 2003 Bonds and to pay the 2007 Installment Payments is limited to "Pledged Revenues", which is defined in the 2003 Indenture and 2007 Installment Sale Agreement to mean net revenues of the Solid Waste System, plus payments to be made by the Cities of Mountain View and Palo Alto (the "Participants") to the City for the Solid Waste System, pursuant to a Second Memorandum of Understanding Relating to Construction and Operation of a Materials Recovery and Transfer Station and the Disposal of Municipal Solid Waste at Kirby Canyon, among the City and the Participants, dated June 9, 1992; and

WHEREAS, under the 2003 Indenture, the City has the right to redeem the 2003 Bonds on any date on or after October 1, 2013; and

WHEREAS, under the 2007 Installment Sale Agreement, the City has the right to prepay the 2007 Installment Payments on any date on and after October 1, 2013, and the Authority has the corresponding right under the 2007 Indenture to redeem the 2007 Bonds on any date on or after October 1, 2013; and

WHEREAS, under the 2007 Installment Sale Agreement, the prepayment of the 2007 Installment Payments will cause a redemption of the 2007 Bonds under the 2007 Indenture; and

WHEREAS, the 2003 Bonds, the 2007 Installment Sale Agreement and the 2007 Bonds are referred to herein together as the "Prior Solid Waste System Revenue Obligations"; and

WHEREAS, the City wishes at this time to prepay and redeem the Prior Solid Waste System Revenue Obligations in accordance with the 2003 Indenture, the 2007 Installment Sale Agreement and the 2007 Indenture; and

WHEREAS, under the Refunding Bond Law, the term "bonds" includes bonds, notes, and other forms of obligations, such as loan agreements; and

WHEREAS, the City Council wishes at this time to authorize the execution and delivery of a Loan Agreement, between DNT Asset Trust (the "Lender") and the City (the "Loan Agreement") under the Refunding Bond Law, to refund the Prior Solid Waste System Revenue Obligations; and

WHEREAS, the Loan Repayments due under the Loan Agreement will be secured by a pledge of the Pledged Revenues; and

WHEREAS, the City Council of the City has duly considered such transactions and wishes at this time to approve said transactions in the public interests of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE AS FOLLOWS:

1. The City Council hereby authorizes the incurrence of the Loan under the provisions of the Refunding Bond Law, so long as the net present value savings to be achieved by the refunding of the Prior Solid Waste Revenue Obligations are at least equal to 3%, on a net present value basis, of the principal amount of the Prior Solid Waste Revenue Obligations being refunded. The proceeds of the Loan shall be applied to refund the Prior Solid Waste System Revenue Obligations, pursuant to the Loan Agreement, which is hereby approved in substantially the form on file with the City Clerk, together with any changes therein or additions thereto deemed advisable by the City Manager or Director of Finance (each, an "Authorized Officer"). The execution of the Loan Agreement and the Promissory Note attached thereto (the "Note") by the Authorized Officer shall be conclusive evidence of the approval of such changes and additions. The City Council hereby authorizes and directs the Authorized Officer to execute, and the City Clerk to attest, said form of the Loan Agreement and Note for and in the name of the City. The City Council hereby authorizes the delivery and performance of the Loan Agreement.

2. The City Council hereby authorizes and approves the refunding of the Prior Solid Waste System Revenue Obligations from the proceeds of the Loan. The refunding of the Prior Solid Waste System Revenue Obligations shall be accomplished as provided in the Loan Agreement and an Escrow Deposit and Trust Agreement, between the City and U.S. Bank National Association, as 2003 Trustee and 2007 Trustee, which Escrow Agreement is hereby approved, in the form on file with the City Clerk.

3. The Mayor, the City Manager, the Director of Finance, the City Clerk and any and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the transactions described herein. 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 such officer by any person designated by such officer to act on his or her behalf if such officer is absent or unavailable.

4. This Resolution shall take effect immediately upon its adoption.

Adopted by the City Council at a regular meeting held on \_\_\_\_\_, 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

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City Clerk  
(SEAL)

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Mayor

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City Attorney