

RESOLUTION NO. 2021-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AUTHORIZING THE SELECTION OF A LENDER; AUTHORIZING THE PREPARATION, NEGOTIATION, EXECUTION AND DELIVERY OF AN EQUIPMENT LEASE AGREEMENT TO FINANCE CERTAIN ENERGY EFFICIENCY EQUIPMENT AND IMPROVEMENTS AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

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

WHEREAS, the City has determined that it is necessary and desirable to finance the acquisition of certain energy efficiency equipment and improvements for the benefit of the City including, without limitation, certain lighting upgrades, photovoltaic generation facilities, electric vehicle charging facilities, HVAC upgrades, mechanical and controls upgrade and plumbing upgrades (collectively, Project).

WHEREAS, in order to accomplish the financing of the Project (Financing), the City proposes to enter into an equipment lease agreement with a direct lender selected through a request for proposals (RFP) distributed to multiple lenders on October 1, 2021. WHEREAS, upon receiving proposed financing terms from lenders in response to the RFP, the City Manager, Administrative Services Director, or their authorized designees (each, an Authorized Officer), will select the lender submitting the best overall financing proposal (as determined by the Authorized Officer) and negotiate the terms of an equipment lease financing agreement and related agreements and instruments (collectively, Financing Agreements) with the selected lender, subject to the parameters set forth in this Resolution.

THE CITY COUNCIL OF THE CITY OF FULLERTON HEREBY RESOLVES AS FOLLOWS:

Section 1. Authorization to Finance the Project. The City Council hereby expressly authorizes and directs each of the Authorized Officers, in consultation with Bond Counsel and the City's Municipal Advisor, to take the following actions in furtherance of the Financing:

- (a) Select the lender proposing the most advantageous terms in response to the City's RFP.
- (b) Negotiate the terms of the Financing Agreements, which may include (i) a lease-purchase agreement, equipment lease agreement or other similarly-titled document providing for the City to lease the Project to the selected lender and lease the Project back from the selected lender in consideration of annual lease payments made by the City for the use and possession of the Project, (ii) an escrow and deposit agreement, paying agent agreement or other similar instrument providing for the disbursement of proceeds to the City from time to time to pay costs of the Project and (iii) certificates and other instruments containing representations, warranties, and covenants as determined by the Authorized Officer executing the same to be necessary or appropriate to accomplish the Financing.

(c) Execute and deliver the final Financing Agreements.

(d) Implement and carry out the terms of the executed Financing Agreements.

City Council authorizes and directs each Authorized Officer, for and in the name of the City, to execute and deliver the Financing Agreements in a form acceptable to the Authorized Officers in consultation with Bond Counsel and the City Attorney, provided, however, that the aggregate principal amount of the lease payments made by the City shall not exceed \$10,000,000 and the interest rate component of the lease payments made by the City shall not exceed a true interest cost of 3 percent (except in the case of any increase due to a late payment or a default).

Section 2. Attestations. City Council authorizes and directs the City Clerk or other appropriate City officer to attest the signature of the Authorized Officers, or of such other person or persons designated by the Authorized Officers, and to affix and attest the seal of the City as required or appropriate in connection with the execution and delivery of the Financing Agreements.

Section 3. Other Actions. City Council authorizes and directs the officers, employees and agents of the City, jointly and severally, to do any and all things which they may deem necessary or advisable and to execute and deliver any and all documents which they may deem necessary and advisable in order to consummate the evaluation of lender proposals, selection of the lender, negotiation, execution and delivery of the Financing Agreements and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution. City Council approves, confirms and ratifies all actions heretofore taken by the officers, employees and agents of the City with respect to the transactions set forth above, including, but not limited to, the distribution of the RFP and execution of a term sheet with a selected lender.

Section 4. Good Faith Estimates. City Council acknowledges that the good faith estimates required by Section 5852.1 of the California Government Code are attached hereto as Exhibit A and are available to the public at the meeting at which City Council approves this Resolution. City Council hereby finds that the City has satisfied the requirements of Section 5852.1.

Section 5. Appointment of Authorized Lessee Representatives. City Council designates the Authorized Officers to act as authorized representatives of the City, as lessee, for purposes of the Financing Agreements until such time as the governing body of the City, as lessee, shall designate any other or different authorized representative for purposes of the Agreement.

Section 6. Appointment of Professionals. City Council appoints Stradling Yocca Carlson & Rauth, a Professional Corporation to serve as Bond Counsel and Urban Futures, Incorporated to serve as Municipal Advisor in connection with the proposed Financing. City Council authorizes the Authorized Officers (and each of them) to enter into such professional services agreements or amendments or addenda to the existing professional services agreements with such professionals, as necessary to provide for such services in connection with the Financing and the other matters approved herein, and City Council approves, confirms and ratifies all actions heretofore taken by the Authorized Officers in furtherance thereof.

Section 7. Effect. This Resolution shall take effect from and after its date of adoption.

Section 8. Certification. The City Clerk shall certify to the adoption of this Resolution.

ADOPTED BY THE CITY OF FULLERTON ON OCTOBER 19, 2021.

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Bruce Whitaker  
Mayor

ATTEST:

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Lucinda Williams, MMC  
City Clerk

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Date

## EXHIBIT A GOOD FAITH ESTIMATES

The good faith estimates set forth herein are provided with respect to the Financing in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the City by Urban Futures, Inc. as municipal advisor to the City (the "Municipal Advisor"), each with respect to the Financing.

**Principal Amount.** The Municipal Advisor has informed the City that, based on the City's financing plan and current market conditions, its good faith estimate of the aggregate principal amount of the Financing is \$9,130,000 (the "Estimated Principal Amount").

**True Interest Cost of the Financing.** The Municipal Advisor has informed the City that, assuming the Estimated Principal Amount, and based on the current market interest rates at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Financing, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Financing, is 2.60%.

**Finance Charge of the Financing.** The Municipal Advisor has informed the City that, assuming the Estimated Principal Amount, and based on the interest rate bid provided by First Foundation Public Finance at the time of preparation of such estimate, its good faith estimate of the finance charge for the Financing, which means the sum of all fees and charges paid to third parties (or costs associated with the Financing), is \$75,000.

**Amount of Proceeds to be Received.** The Municipal Advisor has informed the City that, assuming the Estimated Principal Amount, and based on the interest rate bid provided by First Foundation Public Finance at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by the City, less the finance charge of the Financing, as estimated above, and any reserve fund funded with proceeds of the Financing, is \$8,827,237.

**Total Payment Amount.** The Municipal Advisor has informed the City that, assuming the Estimated Principal Amount, and based on the interest rate bid provided by First Foundation Public Finance at the time of preparation of such estimate, its good faith estimate of the total payment amount, which means the sum total of all payments the City will make to pay debt service on the Financing, plus the finance charge for the Financing, as described above, not paid with the proceeds of the Financing, calculated to the final maturity of the Financing, is \$11,972,281.

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Financing, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual closing date being different than the date assumed for purposes of such estimates, (b) the actual original principal amount being different from the Estimated Principal Amount, (c) the actual debt service payments on the Financing being different than the debt service payments assumed for purposes of such estimates, (d) the actual interest rate being different than the interest rate

estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the City's financing plan, or a combination of such factors. The actual closing date of the Financing and the actual principal amount will be determined by the City based on the timing of the need for proceeds and other factors. Market interest rates are affected by economic and other factors beyond the control of the City.