



Authority Meeting: May 25, 2010

SUBJECT: Authorize the Refunding of the Sunnyvale Financing Authority Water and Wastewater Bonds, Series 2001, and Approve Related Documents and Actions

BACKGROUND

From time to time, the City has issued debt, directly or through the Sunnyvale Financing Authority (the "Authority"), to finance or refinance substantial capital and infrastructure projects for its water and wastewater utilities. On December 19, 2001, the Sunnyvale Financing Authority issued its Water and Wastewater Revenue Bonds, Series 2001 (the "2001 Bonds") in a total principal amount of \$32,115,000. The 2001 Bonds refunded prior utility revenue bonds, and financed certain additions and improvements to the wastewater utility. The 2001 Bonds are outstanding in the amount of \$21.7 million.

On April 6, 2010 the Sunnyvale City Council approved the second reading of an Ordinance (which enacts the Sunnyvale Municipal Utilities Revenue Bond Law, the "Revenue Bond Law") authorizing the City to issue utility revenue bonds as an alternative to the issuance of utility revenue bonds by the Authority.

At tonight's City Council meeting, the Council will be considering staff's recommendation to approve the issuance of new water revenue bonds and wastewater revenue bonds (the "2010 Bonds") under the Revenue Bond Law for the purpose of: (i) funding needed significant capital improvements to both its water and wastewater facilities; and (ii) refunding the Authority's 2001 Water and Wastewater Bonds.

EXISTING POLICY

Fiscal Sub-Element Policy I.1b.1 Capital improvements associated with the existing infrastructure of a utility should be primarily funded from two sources: rate revenue and debt financing.

DISCUSSION

Staff is recommending that the Financing Authority Board of Directors (the Board) adopt a resolution authorizing the refunding of the 2001 Bonds by the City's 2010 Bonds and the execution and delivery of the documents

necessary to refund the 2001 Bonds including the Escrow Agreement under which the 2001 Bonds will be refunded (described below).

The Escrow Deposit and Trust Agreement (the "Escrow Agreement") is a three party agreement among the City, Authority and U.S. Bank National Association as Escrow Agent. Under the Escrow Agreement, the Escrow Agent will hold proceeds of the 2010 Bonds in an irrevocable refunding escrow which will be sufficient to pay debt service on the 2001 Bonds when due through October 1, 2011, at which date the 2001 Bonds will be called and redeemed in full. The City agrees to apply a portion of the proceeds of the 2010 Bonds to the refunding of the 2001 Installment Sale Agreement and 2001 Bonds by depositing the amount necessary to accomplish such refunding with the Trustee, and the Trustee agrees to hold said funds and apply those funds to pay debt service on the 2001 Bonds until they are fully redeemed, on October 1, 2011.

FISCAL IMPACT

Adoption of the Resolution will relieve the Sunnyvale Financing Authority of its obligation under the Water and Wastewater Bonds. Based on current market conditions plus a cushion of 0.15% (15 basis points), the refunding of the 2001 Bonds are expected to generate aggregate cash flow savings of approximately \$2.48 million and present value savings of approximately \$764,000 for the City's utilities.

Staff has incorporated debt service assumptions for the 2010 Bonds, including the refunding portion, into the FY 2010/2011 proposed water and wastewater utility rates.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Approve a resolution of the Board of Directors of the Sunnyvale Financing Authority authorizing the refunding of its outstanding 2001 Water and Wastewater Revenue Bonds Series A and approving related documents and actions.
2. Do not authorize staff to proceed with the issuance of Water Revenue Bonds and Wastewater Revenue Bonds.

RECOMMENDATION

Staff recommends Alternative 1, to approve a resolution of the Board of Directors of the Sunnyvale Financing Authority authorizing the refunding of its outstanding 2001 Water and Wastewater Revenue Bonds, Series A, and approving related documents and actions.

Reviewed by:

Mary J. Bradley Director, Department of Finance
Prepared by: Timothy J. Kirby, Revenue Systems Supervisor

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. Escrow Deposit and Trust Agreement
- B. Resolution of the Financing Authority of the City of Sunnyvale Authorizing the Refunding of its Outstanding 2001 Series A Bonds, and Approving Related Documents and Actions

ESCROW DEPOSIT AND TRUST AGREEMENT

by and among the

SUNNYVALE FINANCING AUTHORITY,

CITY OF SUNNYVALE

and

U.S. BANK NATIONAL ASSOCIATION,
as Escrow Bank

Dated as of June 1, 2010

Relating to
the refunding and discharge of

\$32,115,000
(Original Principal Amount)
Sunnyvale Financing Authority
Water and Wastewater Revenue Bonds, Series 2001

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ESCROW DEPOSIT AND TRUST AGREEMENT

This ESCROW DEPOSIT AND TRUST AGREEMENT (this "Agreement") is made and entered into as of the 1st day of June, 2010, is by and among the SUNNYVALE FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the "Authority"), the CITY OF SUNNYVALE, a chartered city and municipal corporation duly organized and existing under the laws of the State of California (the "City"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, acting as trustee for the Series 2001 Bonds hereinafter referred to, and acting as escrow bank hereunder (the "Escrow Bank");

WITNESSETH:

WHEREAS, the Authority has previously issued its Sunnyvale Financing Authority Water and Wastewater Revenue Bonds, Series 2001 in the original principal amount of \$32,115,000 (the "Series 2001 Bonds") under and pursuant to an Indenture of Trust, dated as of December 1, 2001 (the "Series 2001 Indenture"), by and between the Authority and U.S. Bank National Association (formerly known as U.S. Bank Trust National Association, as trustee, which are secured by installment payments made by the City under that certain Installment Sale Agreement, dated as of December 1, 2001 (the "2001 Installment Sale Agreement") to finance the acquisition and construction of improvements to the water and wastewater systems of the City; and

WHEREAS, the Authority and the City have determined that it is in the economic interests of the Authority and the City at this time to provide for the refinancing in full of the Series 2001 Bonds and the obligations of the City under the 2001 Installment Sale Agreement; and

WHEREAS, to that end, and to finance improvements to the City's water system and wastewater system, the City has issued its: 1) Wastewater Revenue Bonds, Series 2010, in the aggregate principal amount of \$_____ (the "2010 Wastewater Revenue Bonds") pursuant to the Indenture of Trust dated as of June 1, 2010 (the "2010 Wastewater Revenue Bond Indenture"), by and between the City and U.S. Bank National Association, as trustee thereunder (the "2010 Bond Trustee"), and 2) Water Revenue Bonds, Series 2010, in the aggregate principal amount of \$_____ (the "2010 Water Revenue Bonds", and together with the 2010 Wastewater Revenue Bonds, the "2010 Bonds") pursuant to the Indenture of Trust dated as of April 1, 2010 (the "2010 Water Revenue Bond Indenture"), by and between the City and the 2010 Bond Trustee; and

WHEREAS, the Authority, the City and the Escrow Bank wish to enter into this Agreement for the purpose of providing the terms and conditions relating to the deposit and application of moneys and Federal Securities (as defined below) to provide for the payment and prepayment of the installment payments payable by the City under the 2001 Installment Sale Agreement (the "Series 2001 Installment Payments") and thereby the payment and redemption of the Series 2001 Bonds;

NOW, THEREFORE, in consideration of the above premises and of the mutual promises and covenants herein contained and for other valuable consideration, the parties hereto do hereby agree as follows:

SECTION 1. *Definition of Federal Securities.* As used herein, the term "Federal Securities" means (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are secured or guaranteed by the full faith and credit of the United States of America.

SECTION 2. *Establishment of Escrow Fund.* There is hereby created the Escrow Fund to be held by the Escrow Bank as an irrevocable escrow securing the payment of the Series 2001 Bonds as hereinafter set forth. All cash and Federal Securities in the Escrow Fund are hereby irrevocably pledged as a special fund for the payment of the principal of and interest on the Series 2001 Installment Payments and the Series 2001 Bonds in accordance with the provisions of the 2001 Installment Sale Agreement and the Series 2001 Indenture, respectively. If at any time the Escrow Bank shall receive actual knowledge that the cash and Federal Securities in the Escrow Fund will not be sufficient to make any payment required by Section 4 hereof, the Escrow Bank shall notify the City of such fact and the City shall immediately cure such deficiency from any source of legally available funds.

SECTION 3. *Deposit into Escrow Fund; Investment of Amounts.* Concurrently with the issuance of the 2010 Bonds, the City shall cause to be transferred to the Escrow Bank, for deposit into the Escrow Fund, the amount of \$_____ in immediately available funds, which shall be derived as follows:

(a) \$_____ shall be derived from the proceeds of sale of the 2010 Wastewater Revenue Bonds;

(b) \$_____ shall be derived from the proceeds of sale of the 2010 Water Revenue Bonds; and

(c) \$_____ shall be derived from the amounts on deposit in the Reserve Account established under the Series 2001 Indenture (the "Series 2001 Reserve Account").

The Escrow Bank shall invest \$_____ of the moneys deposited into the Escrow Fund pursuant to the preceding sentence in the Federal Securities set forth in Exhibit A attached hereto and by this reference incorporated herein. The Escrow Bank shall hold the remaining \$_____ in cash uninvested. The Federal Securities shall be deposited with and held by the Escrow Bank in the Escrow Fund solely for the uses and purposes set forth herein. The Escrow Bank shall have no lien upon or right of set off against the Federal Securities and cash at any time on deposit in the Escrow Fund.

SECTION 4. *Instructions as to Application of Deposit.* The total amount of Federal Securities and cash deposited in the Escrow Fund pursuant to Section 3 shall be applied by the

Escrow Bank for the sole purpose of paying the principal of and interest on the Series 2001 Installment Payments and thereby paying the principal of and interest on the Series 2001 Bonds at the times and in the amounts set forth in the schedule shown in Exhibit B attached hereto and by this reference incorporated herein. Following payment and redemption in full of the principal of and interest on the Series 2001 Bonds, all amounts on deposit in the Escrow Fund shall be transferred to and deposited in the Interest Account established for the 2010 Bonds, on a pro rata basis, calculated as follows: 1) ____% to the Interest account created under the 2010 Wastewater Revenue Bond indenture, and 2) ____% to the Interest account created under the 2010 Water Revenue Bond indenture (such percentage split being referred to herein as the "Pro Rata Share").

SECTION 5. *Application of Series 2001 Bond Funds.* The amounts remaining on deposit in any of the funds and accounts established under the Series 2001 Indenture shall be withdrawn therefrom by the Escrow Bank (acting in its capacity as trustee for the Series 2001 Bonds) on the date of delivery of the 2010 Bonds, and shall be applied as follows:

(a) the Escrow Bank shall withdraw the amount of \$_____ from the Series 2001 Reserve Account and transfer such amount into the Escrow Fund;

(b) the Escrow Bank shall withdraw all other amounts held on deposit in the funds and accounts established under the Series 2001 Indenture (in the case of amounts not yet posted or credited to any such fund or account, promptly upon the posting or crediting thereof) and shall transfer such amounts to the 2010 Bond Trustee for deposit into the Interest Account created under the 2010 Wastewater Revenue Bond Indenture and the Interest Account created under the 2010 Water Revenue Bond Indenture on a Pro Rata Share basis.

SECTION 6. *Application of Certain Terms of Series 2001 Indenture.* All of the terms of the Series 2001 Indenture relating to the making of payments of principal of and interest on the Series 2001 Bonds, and the provisions for resignation of the trustee thereunder which shall be applicable to it as the Escrow Bank, are incorporated in this Agreement as if set forth in full herein.

SECTION 7. *Investment of Any Remaining Moneys.* At the written direction of the Authority, the Escrow Bank shall invest and reinvest any proceeds received from any of the Federal Securities acquired pursuant to Section 3 (the "Original Federal Securities"), and the cash originally deposited into the Escrow Fund, for a period ending not later than the date on which such proceeds or cash are required for the purposes specified in Section 4, in Federal Securities; *provided, however,* that any such written directions of the Authority shall be accompanied by an opinion of nationally recognized bond counsel ("Bond Counsel") that investment in accordance with such directions will not affect, for Federal income tax purposes, the exemption from Federal income taxes of the interest on any of the Series 2001 Bonds or on the 2001 Bonds. In the event that the Authority shall fail to file any such written directions with the Escrow Bank concerning the reinvestment of any such proceeds, such proceeds shall be held uninvested by the Escrow Bank. Any interest income resulting from investment or reinvestment of moneys pursuant to this Section 7 shall be paid to the Authority promptly upon the receipt of such interest income by the Escrow Bank.

SECTION 8. *Substitution or Withdrawal of Federal Securities.* The Authority may at any time direct the Escrow Bank to substitute other Federal Securities for any or all of the Original Federal Securities then deposited in the Escrow Fund, or to withdraw and transfer to the Authority any portion of the Federal Securities then deposited in the Escrow Fund, provided that any such direction and substitution or withdrawal shall be accompanied by: (a) a certification of an independent certified public accountant or firm of certified public accountants of favorable national reputation experienced in the refunding of obligations of political subdivisions that the Federal Securities then to be so deposited in the Escrow Fund, together with interest to be derived therefrom, or in the case of withdrawal, the Federal Securities to be remaining in the Escrow Fund following such withdrawal, together with the interest to be derived therefrom, shall be in an amount at all times at least sufficient to make the payments specified in Section 4; and (b) an opinion of Bond Counsel that the substitution or withdrawal will not affect, for Federal income tax purposes the exclusion from gross income for federal income tax purposes of the interest on the Series 2001 Bonds or on the 2001 Bonds. In the event that, following any such substitution of Federal Securities pursuant to this Section 8, there is an amount of moneys or Federal Securities in excess of an amount sufficient to make the payments required by Section 4, such excess shall be paid to the Authority.

SECTION 9. *Proceedings for Redemption of Series 2001 Bonds.* The City and the Authority hereby irrevocably elect to prepay the Series 2001 Installment Payments in full and thereby redeem all of the outstanding Series 2001 Bonds on October 1, 2011, pursuant to the provisions of Section 4.01(a)(1) of the Series 2001 Indenture. Notice of such redemption shall be given by the Escrow Bank pursuant to and in accordance with the provisions of Section 4.03 of the Series 2001 Indenture, at the expense of the Authority.

SECTION 10. *Compensation to Escrow Bank.* The Authority shall pay the Escrow Bank full compensation for its duties under this Agreement, including out-of-pocket costs such as publication costs, redemption expenses, legal fees and other costs and expenses relating hereto and, in addition, all fees, costs and expenses relating to the purchase of any Federal Securities after the date hereof. Under no circumstances shall amounts deposited in or credited to the Escrow Fund be deemed to be available for said purposes.

SECTION 11. *Liabilities and Obligations of Escrow Bank.* The Escrow Bank shall have no obligation to make any payment or disbursement of any type or incur any financial liability in the performance of its duties under this Agreement unless the Authority shall have deposited sufficient funds therefor with the Escrow Bank. The Escrow Bank may rely and shall be protected in acting upon the written instructions of the Authority or its agents relating to any matter or action as Escrow Bank under this Agreement.

The Escrow Bank and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise in connection with the execution and delivery of this Agreement, the establishment of the Escrow Fund, the acceptance of the moneys or any securities deposited therein, the purchase of the securities to be purchased pursuant hereto, the retention of such securities or the proceeds thereof, the sufficiency of the securities or any uninvested moneys held hereunder to accomplish the defeasance of the Series 2001 Bonds, or any payment, transfer or other application of moneys or securities by the Escrow Bank in accordance with the provisions of this Agreement or by reason of any non-negligent act, non-negligent omission or non-negligent error of the Escrow Bank made in good faith in the

conduct of its duties. The recitals of fact contained in the “whereas” clauses herein shall be taken as the statement of the Authority, and the Escrow Bank assumes no responsibility for the correctness thereof. The Escrow Bank make no representations as to the sufficiency of the securities to be purchased pursuant hereto and any uninvested moneys to accomplish the redemption of the Series 2001 Bonds pursuant to the Series 2001 Indenture or to the validity of this Agreement as to the Authority and, except as otherwise provided herein, the Escrow Bank shall incur no liability in respect thereof. The Escrow Bank shall not be liable in connection with the performance of its duties under this Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Escrow Bank shall be determined by the express provisions of this Agreement. The Escrow Bank may consult with counsel, who may or may not be counsel to the Authority, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Bank shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Agreement, such matter (except the matters set forth herein as specifically requiring a certificate of a nationally recognized firm of independent certified public accountants or an opinion of counsel) may be deemed to be conclusively established by a written certification of the Authority.

The Authority hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated), to the extent permitted by law, to indemnify, protect, save and hold harmless the Escrow Bank and its respective successors, assigns, agents and servants from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including legal fees and disbursements) of whatsoever in and nature which may be imposed on, incurred by, or asserted against, at any time the Escrow Bank (whether or not also indemnified against by any other person under any other agreement or instrument) and in any way relating to or arising out of the execution and delivery of this Agreement, the establishment of the Escrow Fund, the retention of the moneys therein and any payment, transfer or other application of moneys or securities by the Escrow Bank in accordance with the provisions of this Agreement, or as may arise by reason of any act, omission or error of the Escrow Bank made in good faith in the conduct of its duties; *provided, however,* that the Authority shall not be required to indemnify the Escrow Bank against its own negligence or willful misconduct. The indemnities contained in this Section 11 and the compensation and reimbursement contained in Section 10 shall survive the termination of this Agreement or the resignation or removal of the Trustee.

The Escrow Bank shall incur no liability for losses arising from any investment made pursuant to this Agreement.

Any company into which the Escrow Bank may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Escrow Bank may sell or transfer all or substantially all of its corporate trust business shall be the successor to the Escrow Bank without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

SECTION 12. *Amendment.* This Agreement may be amended by the parties hereto, but only if there shall have been filed with the Authority and the Escrow Bank a written opinion of

Bond Counsel stating that such amendment will not materially adversely affect the interests of the owners of the Series 2001 Bonds or the 2001 Bonds, and that such amendment will not cause interest on the Series 2001 Bonds or the 2001 Bonds to become includable in the gross income of the owners thereof for federal income tax purposes.

SECTION 13. *Execution in Counterparts.* This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 14. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the City, the Authority and the Escrow Bank have each caused this Agreement to be executed by their duly authorized officers all as of the date first above written.

CITY OF SUNNYVALE

By _____
Director of Finance

(S E A L)

Attest:

City Clerk

SUNNYVALE FINANCING AUTHORITY

By _____
Treasurer

Attest:

Secretary

**U.S. BANK TRUST NATIONAL
ASSOCIATION, as Escrow Bank**

By _____
Authorized Officer

EXHIBIT A

SCHEDULE OF ORIGINAL FEDERAL SECURITIES

<u>Type*</u>	<u>Maturity Date</u>	<u>Par Amount</u>	<u>Coupon Rate</u>	<u>Total Cost</u>
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*The Original Federal Security consists of a U.S. Treasury Securities – State and Local Government Series.

EXHIBIT B

PAYMENT AND REDEMPTION SCHEDULE OF SERIES 2001 INSTALLMENT PAYMENTS AND SERIES 2001 BONDS

<u>Date</u>	<u>Maturing Principal</u>	<u>Redeemed Principal</u>	<u>Interest</u>	<u>Total Payment</u>
October 1, 2010	\$1,555,000	--	\$_____	\$_____
April 1, 2011	--	--	_____	_____
October 1, 2011	660,000	\$19,440,000	\$_____	\$_____

RESOLUTION NO. _____ FA

A RESOLUTION OF THE FINANCING AUTHORITY OF THE CITY OF SUNNYVALE AUTHORIZING THE REFUNDING OF ITS OUTSTANDING 2001 SERIES A BONDS, AND APPROVING RELATED DOCUMENTS AND ACTIONS

WHEREAS, the Sunnyvale Financing Authority (the “Authority”) has been formed pursuant to a Joint Exercise of Powers Agreement, dated September 29, 1992, by and among the City of Sunnyvale (the “City”) and the Redevelopment Agency of the City of Sunnyvale (the “Agency”); and

WHEREAS, under Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the “Bond Law”), the Authority is authorized to provide financing for public capital improvements of public entities, including the City; and

WHEREAS, the Authority and the City have heretofore executed and delivered an Installment Sale Agreement, dated as of December 1, 2001, in the principal amount of \$32,115,000 (the “2001 Installment Sale Agreement”); and

WHEREAS, installment payments payable by the City under the 2001 Installment Sale Agreement secure the Authority’s \$32,115,000 Water and Wastewater Revenue Bonds, Series 2001 (the “2001 Authority Bonds”); and

WHEREAS, the City has authorized the issuance of its Wastewater Revenue Bonds, Series 2010 (the “2010 Wastewater Revenue Bonds”) for the purpose of providing funds to: (i) refund the portion of the principal payments due under the 2001 Installment Sale Agreement which relate to the City’s wastewater system (the “Wastewater System”), which will simultaneously cause the refunding and defeasance of the portion of the 2001 Authority Bonds which relate to the Wastewater System; (ii) finance certain capital improvements to the Wastewater System; (iii) fund a reserve fund for the 2010 Wastewater Revenue Bonds; and (iv) pay costs of issuance incurred in connection with the issuance of the 2010 Wastewater Revenue Bonds; and

WHEREAS, the City has also authorized the issuance of its Water Revenue Bonds, Series 2010 (the “2010 Water Revenue Bonds”) for the purpose of providing funds to: (i) refund the portion of the principal payments due under the 2001 Installment Sale Agreement which relate to the City’s water system (the “Water System”), which will simultaneously cause the refunding and defeasance of the portion of the 2001 Authority Bonds which relate to the Water System; (ii) finance certain capital improvements to the Water System; (iii) fund a reserve fund for the 2010 Water Revenue Bonds; and (iv) pay costs of issuance incurred in connection with the issuance of the 2010 Water Revenue Bonds; and

WHEREAS, the Board of Directors (the “Board”) of the Authority has duly considered such transactions and wishes at this time to approve said transactions in the public interests of the Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SUNNYVALE FINANCING AUTHORITY AS FOLLOWS:

Attachment B

1. Approval of Refunding of 2001 Authority Bonds and Escrow Agreement. The Board hereby approves the refunding of the 2001 Authority Bonds, as herein described, and the Escrow Deposit and Trust Agreement, dated as of June 1, 2010, by and among the Authority, the City and U.S. Bank National Association, as escrow bank, providing the terms and conditions for the refunding of the 2001 Authority Bonds, in substantially the form on file with the Secretary, together with such additions thereto and changes therein as the Executive Director or the Treasurer shall deem necessary, desirable or appropriate; provided that the execution thereof by the Executive Director or the Treasurer shall be conclusive evidence of the approval of any such additions and changes by the Executive Director and the Treasurer. Each of the Executive Director and the Treasurer is hereby authorized and directed to execute, and the Secretary is hereby authorized and directed to attest and affix the seal of the Authority to, the final form of the Escrow Agreement for and in the name and on behalf of the Authority. The Board hereby authorizes the delivery and performance of the Escrow Agreement.

2. Official Actions. The Chairperson, the Executive Director, the Treasurer, the Secretary and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all certificates, requisitions, agreements, notices, consent, and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the consummation of the transactions as described. Whenever in this resolution any officer of the Authority is authorized to execute or attest any document or take any action, such execution, attestation or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

3. Effective Date. This Resolution shall take effect upon its passage and adoption.

Adopted by the Sunnyvale Financing Authority at a regular meeting held on _____, 2010, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

Clerk, Financing Authority
(SEAL)

Chair, Financing Authority

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, Financing Authority Counsel