

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED RESOLUTION
ADOPTED BY THE CITY COUNCIL.**

RESOLUTION NO. _____

**APPROVING AND AUTHORIZING THE EXECUTION OF AN
AMENDMENT TO THE LOAN AGREEMENT BY AND AMONG THE CITY
OF SAN ANTONIO, TEXAS EDUCATION FACILITIES CORPORATION, ST.
MARY'S UNIVERSITY OF SAN ANTONIO, TEXAS, AND BANC OF
AMERICA PUBLIC CAPITAL CORP, RELATING TO THE MODIFICATION
OF THE INTEREST RATE CALCULATION METHODOLOGY THEREIN;
AND APPROVING AND AUTHORIZING THE EXECUTION OF ALL OTHER
INSTRUMENTS AND PROCEDURES RELATED THERETO**

* * * * *

WHEREAS, the CITY OF SAN ANTONIO, TEXAS (the *City*), pursuant to Section 53.35(b), Texas Education Code (now amended and recodified as Section 53A.35(b), Texas Education Code, as amended), approved and created the CITY OF SAN ANTONIO, TEXAS EDUCATION FACILITIES CORPORATION (the *Issuer*) as a nonprofit corporation to exercise the powers enumerated and provided in Chapter 53, Texas Education Code (now amended and recodified as Chapter 53A, Texas Education Code, as amended, the *Act*), for and on behalf of the City; and

WHEREAS, ST. MARY'S UNIVERSITY OF SAN ANTONIO, TEXAS (the *University*) is a Texas non-profit corporation and operates as an "institution of higher education" (within the meaning of the Act) within the corporate limits of the City; and

WHEREAS, Section 53A.34 of the Act authorizes the Issuer to issue and execute revenue bonds or other obligations to loan or otherwise provide funds to an institution of higher education, such as the University, to enable the University to acquire, construct, enlarge, extend, repair, renovate, or otherwise improve an "educational facility" or "housing facility" (as such terms are defined in the Act) or any facility incidental, subordinate, or related to or appropriate in connection with an educational facility or housing facility, or for acquiring land to be used for those purposes, or to create operating and debt service reserves for and to pay issuance costs related to the bonds or other obligations; and

WHEREAS, Section 53A.35 further provides that the Issuer has all powers granted under the Texas Non-Profit Corporation Act for the purpose of aiding institutions of higher education in providing educational facilities and housing facilities and facilities incidental, subordinate, or related thereto or appropriate in connection therewith; and

WHEREAS, the University previously determined that it is necessary and appropriate to acquire, construct, and equip various housing projects on its campus located in the City (the *Projects*); and

WHEREAS, the University received a loan from the Issuer for \$25,000,000.00 to finance a portion of the costs of the Projects; and

WHEREAS, the University received from BANC OF AMERICA PUBLIC CAPIATIAL CORP, a Kansas corporation (the *Lender*) a loan of \$25,000,000.00 to the Issuer for the purpose of providing funds to enable the Issuer to make a loan to the University to finance a portion of the costs of the Projects; and

WHEREAS, the Lender made such loan to the Issuer for the benefit of the University on the terms and conditions as set forth in a Loan Agreement, dated as of September 1, 2016 (the *Loan Agreement*), by and among the Issuer, the University, and the Lender; and

WHEREAS, the Lender requested amendments to the Loan Agreement (the *Amended Loan Agreement*) to modify the interest rate calculation methodology from a LIBOR-based index to a Bloomberg Short Term Bank Yield Index to account for the prospective phase-out of LIBOR in 2023; and

WHEREAS, in order to effectuate such modification, the Issuer and the University are required to evidence their respective consent to the Loan Agreement, as set forth in the Amended Loan Agreement; and

WHEREAS, the limited obligations of the Issuer under the Loan Agreement and the Amended Loan Agreement, including its obligation to assign to the Lender its right to receive the Borrower Loan Payments from the University, which assignment is provided for in the Loan Agreement and the Amended Loan Agreement, are not the obligations of the City or its officers or employees, shall never constitute a pledge of the City's faith and credit, and shall never impose any liability on the City in respect thereof; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code, as amended; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS THAT:

SECTION 1. Definitions. Terms not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement and the Amended Loan Agreement.

SECTION 2. Approval of Amended Loan Agreement and Loans. The Amended Loan Agreement, in substantially the form and substance attached hereto as Exhibit A, is hereby approved and the Mayor, Mayor Pro-Tem, City Clerk, and City Manager of the City are hereby authorized to execute the Amended Loan Agreement and approve any changes made to the Amended Loan Agreement from the form approved by this Resolution, such approval to be evidenced by the execution of the Amended Loan Agreement, provided that such changes are not inconsistent with this Resolution

SECTION 3. Authorization to Enter into and Execute the Amended Loan Agreement and Other Documents Related Thereto. The Mayor, Mayor Pro-Tem, City Clerk, and City Manager of the City are each severally authorized to execute, enter into, attest and deliver all documents necessary

to (a) bind the City pursuant to and in connection with the Amended Loan Agreement, and (b) execute and attest to any other document, instrument, certificate, or other item deemed necessary to carry out the purposes of this Resolution and the Amended Loan Agreement. In addition, the Mayor, Mayor Pro-Tem, City Clerk, and City Manager of the City, and Bond Counsel are hereby authorized and directed to approve any technical changes or correction to the Amended Loan Agreement and the Promissory Note or to any other instruments authorized and approved by this Resolution necessary in order to correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Resolution.

SECTION 4. Incorporation of Recitals. The City hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the City hereby incorporates such recitals as a part of this Resolution.

SECTION 5. Severability. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 6. Effective Date. This Resolution shall become effective immediately upon passage by eight (8) affirmative votes. If passed by less than eight (8) affirmative votes, then this Resolution shall become effective on the tenth (10th) day following passage thereof.

* * *

PASSED AND APPROVED, this the 29th day of September, 2022.

CITY OF SAN ANTONIO, TEXAS

M A Y O R
Ron Nirenberg

ATTEST:

Debbie Racca-Sittre, City Clerk

(SEAL)

I, the undersigned, City Attorney of the City of San Antonio, Texas, hereby certify that I read, passed upon, and approved as to form the foregoing Resolution prior to its adoption and passage as aforesaid.

Andrew Segovia, City Attorney
City of San Antonio, Texas

EXHIBIT A

FORM OF AMENDED LOAN AGREEMENT

DRAFT