

RESOLUTION NO. 123-12

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE, A LEASE/PURCHASE AGREEMENT, AND AN ESCROW AGREEMENT AND AUTHORIZING CERTAIN ADDITIONAL ACTIONS

WHEREAS, the City of Richmond (the “City”), a municipal corporation of the State of California duly organized and existing under and pursuant to the Constitution and laws of the State of California, is authorized to lease real property for its use; and

WHEREAS, the City intends to finance a portion of the cost of improvements to its West Contra Costa Family Justice Center (the “Project”); and

WHEREAS, Holman Capital Corporation (the “Corporation”), pursuant to the request of the City, will assist the City in financing the Project; and

WHEREAS, the financing will be accomplished by (i) the Corporation’s entering into a site lease (the “Site Lease”) with the City, whereby the City will lease certain real property owned by the City to the Corporation in exchange for an advance rental, (ii) the Corporation’s leasing the property leased under the Site Lease back to the City pursuant to a leaseback agreement (the “Lease/Purchase Agreement”), under which the City will be obligated to make Rental Payments to the Corporation; (iii) the Corporation’s assignment without recourse of all rights to receive such Rental Payments to Capital One Public Funding, LLC (“COPF”), in exchange for an amount equal to the advance rental; and (iv) the deposit into escrow of the advance rental pursuant to an Escrow Agreement (“Escrow Agreement”) between the City, Deutsche Bank National Trust Company, and COPF, from which funds will be disbursed to pay project costs; and

WHEREAS, the Site Lease, the Lease/Purchase Agreement, and the Escrow Agreement, which are incorporated herein by reference, have been presented to the City Council of the City (the “City Council”) for its review and approval; and

WHEREAS, it appears to the City Council that the authorization, approval, execution, and delivery of the agreements described above or contemplated thereby or incidental thereto are desirable and in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED by City Council of the City of Richmond as follows:

Section 1. Recitals. This City Council finds and determines that all of the above recitals are true and correct.

Section 2. Authorization of Officers to Execute and Deliver Documents. The City Council hereby approves the Site Lease, the Lease/Purchase Agreement, and the Escrow Agreement in substantially the forms presented to this meeting and authorizes and directs the Mayor, the City Manager, and the Director of Finance (the “Designated Officers”), and each of them individually, for and in the name of and on behalf of the City, to execute and deliver the Site Lease, the Lease/Purchase Agreement, and the Escrow Agreement in such forms with such changes, insertions, revisions, corrections, or amendments as shall be approved by the officer executing them; provided that the total principal component of the City’s rental payments shall not exceed \$2,000,000 and interest with respect thereto shall accrue at an annual rate not exceeding 3.17%. The execution of the foregoing by a Designated Officer shall constitute conclusive evidence of such officer’s and the City Council’s approval of any such changes, insertions, revisions, corrections, or amendments to the respective forms of agreements presented to this meeting.

Section 3. General Authorization. The Designated Officers and other officers of the City Council and the City, and each of them individually, are hereby authorized and directed, for and in the name of and on behalf of the City, to execute and deliver any and all documents, to do any

and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to consummate the financing and to effect the purposes of this resolution. All actions heretofore taken by officers, employees, and agents of the City that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

Section 4. Effective Date. This resolution shall take effect immediately upon its adoption.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held on November 13, 2012, by the following vote:

AYES: Councilmembers Bates, Beckles, Boozé, Butt, Vice Mayor Rogers, and Mayor McLaughlin.
NOES: None.
ABSTENTIONS: None.
ABSENT: Councilmember Ritterman.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of Resolution No. 123-12, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on November 13, 2012.