

RESOLUTION NO. 44-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND AS SUCCESSOR AGENCY TO THE DISSOLVED RICHMOND COMMUNITY REDEVELOPMENT AGENCY AUTHORIZING THE REFUNDING OF CERTAIN BONDS OF THE RICHMOND JOINT POWERS FINANCING AUTHORITY AND THE RICHMOND REDEVELOPMENT AGENCY AND THE ISSUANCE OF NOT TO EXCEED \$45,000,000 IN REFUNDING BONDS, APPROVING THE FORMS AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, A BOND PURCHASE CONTRACT, A CONTINUING DISCLOSURE AGREEMENT, TWO ESCROW AGREEMENTS AND A PRELIMINARY OFFICIAL STATEMENT; AND AUTHORIZING AND APPROVING CERTAIN ACTIONS TAKEN IN CONNECTION THEREWITH

WHEREAS, pursuant to Health and Safety Code section 34173(d), the City of Richmond (the "RCRA Successor Agency") is the successor agency to the dissolved Richmond Community Redevelopment Agency (the "Agency"), confirmed by Resolution No. 4-12 adopted on January 24, 2012; and

WHEREAS, pursuant to Health and Safety Code section 34173(g), the RCRA Successor Agency is a separate public entity from the public agency that provides for its governance; and

WHEREAS, the RCRA Successor Agency has duly established an oversight board (the "Oversight Board") pursuant to Health and Safety Code section 34179(a); and

WHEREAS, the Oversight Board, pursuant to Health and Safety Code section 34177.5(f) has directed the RCRA Successor Agency to issue bonds to refund bonds secured by loan agreements executed by the Agency (the "Obligations") to provide savings to the RCRA Successor Agency; and

WHEREAS, the Oversight Board has provided that the RCRA Successor Agency shall be able to recover its related costs in connection with the transaction; and

WHEREAS, recovery of such costs in connection with the transaction shall be supplemental to, and not constrained by, the administrative cost allowance as such allowance is defined in Health and Safety Code section 34171(b); and

WHEREAS, pursuant to Health and Safety Code section 34177.5(a) the RCRA Successor Agency has the authority, rights and powers of the Agency for the purpose of issuing bonds to refund the bonds secured by the Obligations; and

WHEREAS, pursuant to Health and Safety Code section 34177.5(g), any bonds issued by the RCRA Successor Agency to refund the Obligations shall be secured by a pledge of, and lien on, and shall be repaid from certain moneys deposited from time to time in the Redevelopment Property Tax Trust Fund established pursuant to subdivision (c) of Health and Safety Code Section 34172 as described in the Indenture; and

WHEREAS, in February 1998, the Agency issued its Richmond Redevelopment Agency Harbour Redevelopment Project Tax Allocation Refunding Bonds 1998 Series A (the "1998A Bonds") in the aggregate principal amount of \$21,862,799.15, of which \$9,860,000 is currently outstanding; and

WHEREAS, in November, 2000, the Richmond Joint Powers Financing Authority (the "Authority") issued its Tax Allocation Bonds Series 2000A (the "2000A Bonds") in the aggregate principal amount of \$25,720,000, of which \$12,185,000 is currently outstanding; and

WHEREAS, in November, 2000, the Authority issued its Housing Set-Aside Tax Allocation Bonds Series 2000B (Taxable) (the "2000B Bonds") in the aggregate principal amount of \$5,795,000, of which \$2,810,000 is currently outstanding; and

WHEREAS, in August 2003, the Authority issued its Tax Allocation Bonds Series 2003A (Tax-Exempt) (the “2003A Bonds”) in the aggregate principal amount of \$28,580,000, of which \$13,800,000 is currently outstanding; and

WHEREAS, Tamalpais Advisors, Inc., the independent financial advisor to the RCRA Successor Agency, has indicated that there are potential debt service savings that can be achieved through a refinancing of the 1998A Bonds, the 2000A Bonds, the 2000B Bonds and the 2003A Bonds (together, the “Prior Bonds”) and the RCRA Successor Agency now wishes to authorize the refunding of all or a portion of the Prior Bonds to achieve debt service savings; and

WHEREAS, pursuant to Article 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (the “Government Code”) and other applicable law, the RCRA Successor Agency is authorized to issue refunding bonds (the “Refunding Bonds”) to refund all or a portion of the Prior Bonds, and to sell its Refunding Bonds on a negotiated sale basis; and

WHEREAS, the RCRA Successor Agency has determined that because of the market’s unfamiliarity with successor agency refunding bonds, it is desirable to sell the Refunding Bonds on a negotiated sale basis to RBC Capital Markets Corporation (the “Underwriter”), pursuant to a bond purchase contract (the “Bond Purchase Contract”); and

WHEREAS, the RCRA Successor Agency now wishes to approve and appoint Tamalpais Advisors, Inc., as financial advisor (the “Financial Advisor”), Orrick, Herrington & Sutcliffe, LLP as bond counsel (“Bond Counsel”), Lofton & Jennings as disclosure counsel (“Disclosure Counsel”), and the Underwriter as underwriter, all in connection with the issuance of the Refunding Bonds; and

WHEREAS, the RCRA Successor Agency proposes to execute and deliver one or more Escrow Agreements directing the creation of escrow funds for deposit of proceeds of sale of the Refunding Bonds for the purpose of paying and redeeming the Prior Bonds; and

WHEREAS, there have been submitted and are on file with the City Clerk proposed forms of a Bond Purchase Contract, an Indenture, two Escrow Agreements, a Preliminary Official Statement, and a Continuing Disclosure Certificate, all with respect to the Refunding Bonds proposed to be issued and sold, and the City Finance Director has examined or caused to be examined each document and has approved the forms thereof, and has recommended that this City Council approve and direct the completion, where appropriate, and the execution of the documents and the consummation of such financing; and

WHEREAS, the RCRA Successor Agency has full legal right, power and authority under the law to enter into the transactions hereinafter authorized.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richmond, acting herein in its capacity as the successor agency to the dissolved Richmond Community Redevelopment Agency as follows:

Section 1. The foregoing recitals are true and correct, and this City Council so finds and determines.

Section 2. This City Council hereby approves the issuance and sale of not to exceed forty-five million dollars (\$45,000,000) of Refunding Bonds in one or more series for the purpose of refunding all or a portion of the Prior Bonds as authorized by Sections 53580 et seq. of the Government Code and Section 34177.5 of the Health and Safety Code. The Refunding Bonds shall be designated the “Richmond Community Redevelopment Agency Successor Agency Refunding Bonds” with such other designations as the Authorized Officer (as defined in Section 4) may determine are necessary or desirable, provided that such bonds shall only be issued if the net present value savings generated by the refunding are greater than or equal to 3% of the principal amount of Prior Bonds being refunded. The proceeds of the Refunding Bonds may only be used as authorized by Section 34177.5(a) of the Health and Safety Code, including to defease the Prior Bonds, to establish customary debt service reserves, and to pay related costs of issuance and underwriting fees

Section 3. The maximum nominal annual interest rate on the Refunding Bonds shall be the statutory limit, payable as described in the Indenture referred to in Section 6 hereof. The Refunding Bonds shall mature on a date or dates, in such of the years, as shall be specified in the executed Bond Purchase Contract described in Section 4 hereof. No Refunding Bonds shall have principal maturing on more than one principal maturity date; however, it shall not be necessary that a portion of the aggregate principal amount mature in each year. The Refunding Bonds shall be issued as current interest Refunding Bonds, and may be issued as taxable, tax-exempt, or both taxable and tax-exempt Refunding Bonds.

The aggregate principal amount of the Refunding Bonds (so long as it does not exceed the limit set forth in Section 2 hereof), the date thereof, the maturity dates, principal amounts and annual rates of interest of each maturity thereof, the initial and semiannual interest payment dates thereof, and the terms of optional and mandatory sinking fund redemption thereof, shall be as specified in the executed Bond Purchase Contract.

Section 4. The City Council hereby authorizes the City Manager, the Finance Director, or any of their designees (each, an “Authorized Officer”) to sell the Refunding Bonds by negotiated sale to the Underwriter on such terms to be finally determined, upon consultation with Tamalpais Advisors Inc. (the “Financial Advisor”), and set forth in one or more Bond Purchase Contracts between the Successor Agency and the Underwriter; provided that the Underwriter’s discount for the sale of each series of Refunding Bonds shall not exceed 1% (exclusive of reasonable underwriting expenses). The proposed form of the Bond Purchase Contract for the Refunding Bonds, in substantially the form presented to this meeting (a copy of which is on file with the City Clerk), is hereby approved and adopted as the form of Bond Purchase Contract for the Refunding Bonds with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Union Bank, N.A. is hereby appointed as Trustee for the Refunding Bonds. The City Council hereby directs and authorizes the payment by the Trustee of the interest on and principal of the Refunding Bonds when such become due and payable, from the transfers made to the Trustee in accordance with the terms of the Refunding Bonds and the Indenture.

Section 6. The proposed forms of Indenture (together, the “Indenture”), in substantially the form presented to this meeting (a copy of which is on file with the City Clerk), are hereby approved. Each Authorized Officer, acting alone, is hereby authorized and directed to execute and deliver the Master Indenture and the First Supplemental Indenture with such changes and completions as such Authorized Officer executing such documents shall approve, which approval shall be conclusively evidenced by the execution and delivery thereof.

Section 7. The proposed form of preliminary official statement (the “Preliminary Official Statement”) relating to the Refunding Bonds on file with the City Clerk, is hereby approved with such changes, additions, completion and corrections as any Authorized Officer may approve. Such Preliminary Official Statement, together with any supplements thereto, shall be in form “deemed final” by the City for purposes of Rule 15c2-12, promulgated by the Securities and Exchange Commission (“S.E.C. Rule 15c2-12”), but is subject to revision, amendment and completion in a final Official Statement (the “Official Statement”). The Official Statement in substantially said form is hereby authorized and approved, with such changes therein as any Authorized Officer may approve, which approval shall be conclusively evidenced by execution and delivery thereof to the purchaser of the Refunding Bonds. Each Authorized Officer, acting alone, is hereby authorized and directed, for and in the name and on behalf of the City, to execute a certificate confirming that the Preliminary Official Statement has been “deemed final” by the City for purposes of S.E.C. Rule 15c2-12 and to deliver to the Underwriter the Preliminary Official Statement. The Underwriter is hereby authorized to distribute copies of the Preliminary Official Statement to persons who may be interested

in the purchase of the Refunding Bonds and is directed to deliver copies of the Official Statement to the purchasers of the Refunding Bonds.

Section 8. The proposed form of the Continuing Disclosure Certificate, in substantially the form presented to this meeting (a copy of which is on file with the City Clerk) is hereby approved. Each Authorized Officer, acting alone, is hereby authorized to execute one or more Continuing Disclosure Certificates on behalf of the RCRA Successor Agency in connection with the issues of each series of Refunding Bonds, with such changes, additions and completions as such officer executing such certificates shall approve and containing such covenants of the RCRA Successor Agency as shall be necessary to comply with the requirements of S.E.C. Rule 15c2-12. The RCRA Successor Agency hereby covenants and agrees that it will comply with and carry out all of the provisions of each such Continuing Disclosure Certificate.

Section 9. The proposed forms of Escrow Agreement in substantially the form presented to this meeting (a copy of which is on file with the City Clerk) are hereby approved. Each Authorized Officer, acting alone, is hereby authorized to execute one or more Escrow Agreements on behalf of the RCRA Successor Agency in connection with the redemption of the Prior Bonds, with such changes and completions as such Authorized Officer executing such Escrow Agreements shall approve, which approval shall be conclusively evidenced by the execution and delivery thereof.

Section 10. The firm of RBC Capital Markets Corporation, is hereby appointed Underwriter of the Refunding Bonds. Orrick, Herrington & Sutcliffe LLP is hereby approved and appointed Bond Counsel in connection with the issuance of the Refunding Bonds. Lofton & Jennings, LLP is hereby approved and appointed Disclosure Counsel in connection with the issuance of the Refunding Bonds. Tamalpais Advisors, Inc. is hereby approved and appointed Financial Advisor in connection with the issuance of the Refunding Bonds. Fraser & Associates is hereby approved and appointed Fiscal Consultant in connection with the issuance of the Refunding Bonds.

Section 11. All actions heretofore taken by the officers and agents of the RCRA Successor Agency or the City Council with respect to the sale and issuance of the Refunding Bonds are hereby approved, confirmed and ratified, and the officers of the RCRA Successor Agency and the City Council are hereby authorized and directed, for and in the name and on behalf of the RCRA Successor Agency, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Refunding Bonds in accordance with this Resolution.

Section 12. The City Manager, the Finance Director or such other officer or agent as they may designate, and other appropriate officers and agents of the RCRA Successor Agency are hereby authorized and directed to execute and deliver any and all documents and certificates that may be required to be executed in connection with the retirement and refunding of a portion of the Prior Bonds and the sale and delivery of the Refunding Bonds (including any documents necessary in connection with bond insurance or other credit enhancement for the bonds or investment of the proceeds of the Refunding Bonds), and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the RCRA Successor Agency has approved in this Resolution.

Section 13. If any one or more of the agreements, conditions, covenants or terms contained herein required to be observed or performed by or on the part of the RCRA Successor Agency shall be contrary to law, then such agreement or agreements, such condition or conditions, such covenant or covenants or such term or terms shall be null and void and shall be deemed severable from the remaining agreements, conditions, covenants and terms hereof and shall in no way affect the validity hereof or of the Refunding Bonds, and the owners of the Refunding Bonds shall retain all the benefit, protection and security afforded to them hereunder and under all provisions of applicable law. The City Council hereby declares that it would have adopted this Resolution and each and every other section, paragraph, subdivision, sentence, clause and phrase hereof

and would have authorized the issuance of the Refunding Bonds pursuant hereto irrespective of the fact that any one or more of the sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

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 May 21, 2013, by the following vote:

AYES: Councilmembers Bates, Beckles, Butt, Myrick, Rogers,
Vice Mayor Boozé, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

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. 44-13, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on May 21, 2013.

CLERK'S CERTIFICATE

I, Diane Holmes, City Clerk of the City of Richmond, do hereby certify as follows:

The foregoing resolution is a full, true and correct copy of a resolution duly adopted at a regular meeting of the City Council of said City duly and regularly held at the special meeting place thereof on the 21st day of May, 2013, of which meeting all of the members of said Governing Board had due notice and at which a majority thereof were present; and that at said meeting said resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

An agenda of said meeting was posted before said meeting at City Hall, 450 Civic Center Plaza, Richmond, California 94804, a location freely accessible to members of the public, and a brief description of said resolution appeared on said agenda.

I have carefully compared the foregoing with the original on file and of record in my office, and the foregoing is a full, true and correct copy of the original resolution adopted at said meeting.

Said resolution has not been amended, modified or rescinded since the date of its adoption and the same is now in full force and effect.

Dated: _____, 2013.

City Clerk of the City of Richmond