

RESOLUTION NO. 71-07

A RESOLUTION OF THE CITY COUNCIL APPROVING THE ISSUANCE BY THE RICHMOND JOINT POWERS FINANCING AUTHORITY OF NOT TO EXCEED \$105,000,000 AGGREGATE PRINCIPAL AMOUNT OF LEASE REVENUE BONDS (REFUNDING AND CIVIC CENTER PROJECT), SERIES 2007 AND RELATED SWAP; AUTHORIZING THE FORMS OF AND DIRECTING THE EXECUTION AND DELIVERY OF A SITE LEASE, A FACILITY LEASE, A BOND PURCHASE CONTRACT AND AN OFFICIAL STATEMENT; AUTHORIZING A LEASE FINANCING WITH THE RICHMOND JOINT POWERS FINANCING AUTHORITY; AND APPROVING THE TAKING OF ALL NECESSARY ACTIONS IN CONNECTION THEREWITH

WHEREAS, the Richmond Joint Powers Financing Authority (the "Authority") is empowered to assist the City of Richmond (the "City") in financing and refinancing certain public capital improvements pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California and pursuant to that certain Joint Exercise of Powers Agreement, dated as of December 1, 1989 (the "Joint Powers Agreement"), by and between the City and the Richmond Redevelopment Agency; and

WHEREAS, pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "JPA Law") and the Joint Powers Agreement, the Authority is authorized to issue bonds for financing and refinancing public capital improvements whenever there are significant public benefits; and

WHEREAS, the City has requested, and it furthers the public purpose for, the Authority to assist the City in the financing of public capital improvements within the City, including the demolition, site preparation, construction, furnishing, and equipping of a city hall building, hall of justice building, arts center, auditorium building, conference space and civic center plaza (the "2007 Project"); and

WHEREAS, in accordance with the JPA law this City Council (the "Council") on the date hereof held a public hearing on the proposed financing following publication of the notice of the public hearing at least five days prior thereto in a newspaper of general circulation in the City and the City Council hereby approves the financing and finds that it will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation, bond underwriting or bond issuance costs; and

WHEREAS, the Authority has heretofore authorized and issued its Refunding Revenue Bonds (Lease and Gas Tax Revenues), Series 1995A (the "1995A Bonds"), its Refunding Revenue Bonds (Multiple Redevelopment Projects), Series 1995B (the "1995B Bonds"), its Port Terminal Lease Revenue Bonds, Series 1996 (the "1996 Bonds"), and its Lease Revenue Bonds, Series 2001A (the "2001 Bonds"), and desires to prepay or refinance all or a portion of such outstanding bonds (such portion being prepaid or refunded referred to herein as the "Prior Bonds"); and

WHEREAS, the City desires to approve the sale and issuance by the Authority of not to exceed \$105,000,000 in aggregate principal amount of Richmond Joint Powers Financing Authority Lease Revenue Bonds (Refunding and Civic Center Project), Series 2007, in one or more series (the "Bonds"), pursuant to an indenture, to be dated as of August 1, 2007, (the "Indenture"), between the Authority and Zions First National Bank, for the purpose of financing and refinancing certain public capital improvements within the City; and

WHEREAS, Section 5922 of the California Government Code provides that in connection with, or incidental to, the issuance or carrying of bonds any public entity may enter into any contracts which the public entity determines to be appropriate to place the obligations represented by the bonds, in whole or in part, on the interest rate, cash flow or other basis desired by the public entity, including without limitation contracts commonly known as interest rate swap agreements, forward payment conversion agreements or contracts providing for payments based on levels of, or changes in, interest rates or stock or other indices, or contracts to exchange cash flows or a series of payments, in each case to hedge payment, rate, spread or similar exposure; and

WHEREAS, in order to minimize debt service and maximize benefits to the City, the Authority is hereby requested to issue the Bonds with a variable interest rate and to execute a swap agreement or agreements providing for fixed swap rates on all or a portion of the Bonds (the “Swap”); and

WHEREAS, the Authority will execute the Swap using the ISDA Master Agreement and related Schedule, Credit Support Annex and Confirmation (hereinafter referred to as the “Swap Agreement”), each to be entered into between the Authority and the Royal Bank of Canada (the “Counterparty”); and

WHEREAS, the City has previously adopted a set of standard policies governing certain financial transactions designed to reduce interest rate risk or lower overall borrowing costs set forth in the City of Richmond Swap Policy (the “Swap Policy”); and

WHEREAS, the City desires to authorize and direct the selection of the Counterparty by the Authority, the negotiation, execution and delivery of the Swap Agreement and the negotiation and the securing of credit support for all or a portion of the Bonds and the swap payments and the consummation of such transactions; and

WHEREAS, pursuant to Section 5922 of the Government Code of the State of California, the City hereby finds and determines that the Swap Agreement is entered into by the Authority in connection with, or incidental to, the issuance or carrying of the Bonds, will reduce the amount and duration of interest rate risk with respect to the Bonds and is designed to reduce the amount or duration of payment, rate, spread or similar risk or result in a lower cost of borrowing when used in combination with the Bonds or enhance the relationship between risk and return with respect to investments; and

WHEREAS, there have been presented to this meeting the proposed forms of:

1. an Indenture, dated as of August 1, 2007, by and between the Authority and Zions First National Bank, as trustee (the “Trustee”);
2. a site lease, dated as of August 1, 2007, (the “Site Lease”), by and between the City and the Authority;
3. a facility lease, dated as of August 1, 2007, (the “Facility Lease”), by and between the City and the Authority;
4. a continuing disclosure agreement, to be dated the date of issuance of the Bonds (the “Continuing Disclosure Agreement”), by and between the City and Munifinancial, as dissemination agent;
5. a Swap Agreement;
6. a bond purchase contract, to be dated the date of sale of the Bonds (the “Bond Purchase Contract”), among the Authority, the City and RBC Capital Markets, Inc., as representative of the Underwriters (the “Underwriter”);
7. a remarketing agreement, to be dated as of August 1, 2007 (the “Remarketing Agreement”), by and between the Authority, the City and RBC Capital markets, as remarketing agent (the “Remarketing Agent”); and
8. an official statement relating to the Bonds (the “Official Statement”); and

WHEREAS, Tamalpais Advisors, Inc. is serving as financial advisor (the “Financial Advisor”) to the City and the Authority and Orrick, Herrington & Sutcliffe LLP is serving as bond counsel (“Bond Counsel”) to the City and the Authority in connection with the financing; and

WHEREAS, this Council has been presented with the form of each document referred to herein relating to the Bonds, and the Council has examined and approved each

document and desires to authorize and direct the execution of such documents and the consummation of such financing; and

WHEREAS, this Council has conducted a public hearing in accordance with Section 6586.5 of the Government Code and has determined that the issuance of the Bonds will result in significant public benefits, including demonstrable savings in effective interest rate, employment benefits from undertaking the project in a timely fashion and more efficient delivery of local agency services; and

WHEREAS, the Authority has full legal right, power and authority under the laws of the State of California to enter into the transactions hereinafter authorized; and

WHEREAS, the Authority expects to finance the 2007 Project on a tax-exempt basis.

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

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

Section 2. The Council hereby approves the issuance of the Bonds by the Authority, in an aggregate principal amount not to exceed \$105,000,000, for the financing of the 2007 Project and refinancing of certain other capital improvements within the City.

Section 3. The officers of the City may, if it is determined to be necessary or desirable, assist the Authority in obtaining bond insurance for the Bonds and a surety bond or bonds with respect to all or a portion of the reserve requirement with respect to the Bonds.

Section 4. The proposed form of Site Lease on file with the City Clerk, is hereby approved. The City Manager and Director of Finance are each hereby authorized and directed, severally, or any such officer's designee, for and on behalf of the City, to execute and deliver the Site Lease in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the term thereof shall not exceed forty-five years.

Section 5. The proposed form of Facility Lease on file with the City Clerk, is hereby approved. The City Manager and Director of Finance are each hereby authorized and directed, severally, or any such officer's designee, for and on behalf of the City, to execute and deliver the Facility Lease in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the maximum annual amount of base rental payable thereunder by the City shall not exceed \$13,000,000.

Section 6. The form of Indenture on file with the Clerk, is hereby approved. The City Manager and Director of Finance are each hereby authorized and directed, severally, or any such officer's designee, for and on behalf of the City, to approve the delivery of the Indenture in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by the Authority. Among the changes authorized to be made to the Indenture are such changes as are necessary in the event the City Manager or the Director of Finance, upon consultation with the Financial Advisor, determines it is desirable to purchase a municipal bond insurance policy and/or a surety bond for the Bonds.

Section 7. The proposed form of Bond Purchase Contract on file with the City Clerk is hereby approved. The City Manager and Director of Finance are each hereby authorized and directed, severally, or any such officer's designee, for and on behalf of the City, to accept the offer of the Underwriter to purchase the Bonds as reflected in the Bond Purchase Contract; and to execute and deliver the Bond Purchase Contract in substantially the form on file with the City Clerk, with such additions, deletions or changes therein as such officer determines are necessary or appropriate and are approved by such officer, such approval to be conclusively evidenced by the execution and delivery of the Bond Purchase Contracts; provided, that the interest rate on the Bonds shall not exceed twelve percent (12%) per annum and the underwriting discount

(excluding any original issue discount) shall not exceed one percent (1.0%) of the principal amount of Bonds sold.

Section 8. The City Manager and Director of Finance, are each authorized to assist the Authority to negotiate the Swap Agreement, which Swap Agreement will be in an aggregate notional amount not to exceed \$105,000,000, in such form as the officer of the Authority executing such Swap Agreement shall determine and approve, such approval to be conclusively evidenced by the execution and delivery thereof by the Authority. The Swap Agreement shall comply with the Swap Policy.

Section 9. The proposed form of Remarketing Agreement on file with the City Clerk is hereby approved. The City Manager and Director of Finance are each hereby authorized and directed, acting singly, for and in the name and on behalf of the City, to execute and deliver the Remarketing Agreement in substantially said form, with such changes therein as such executing officer may require or approve, such approval to be conclusively evidenced by execution and delivery.

Section 10. The proposed form of Continuing Disclosure Agreement on file with the City Clerk is hereby approved. The City Manager and Director of Finance are each hereby authorized and directed, acting singly, for and in the name and on behalf of the City, to execute and deliver the Continuing Disclosure Agreement in substantially said form, with such changes therein as such executing officer may require or approve, such approval to be conclusively evidenced by execution and delivery.

Section 11. The proposed form of Official Statement on file with the City Clerk is hereby approved. The City Manager and Director of Finance are each hereby authorized and directed, severally, or any such officer's designee, for and on behalf of the City, to execute and deliver the Official Statement in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The Underwriter is hereby directed to distribute copies of the Official Statement to all actual purchasers of the Bonds. Distribution by the Underwriter of a Preliminary Official Statement relating to the Bonds (either in printed form or by posting electronically) is hereby approved and the City Manager and Director of Finance are each hereby authorized and directed, acting singly, to execute a certificate confirming that the Preliminary Official Statement has been "deemed final" by the City for purposes of Securities and Exchange Commission Rule 15c2-12.

Section 12. The City Manager or Director of Finance is hereby authorized on behalf of the City to enter into or to instruct the Authority or the Trustee to enter into one or more investment agreements, forward delivery agreements or other investment products (hereinafter collectively referred to as the "Investment Agreement") providing for the investment of moneys in any of the funds and accounts created under the Indenture, on such terms as such officer of the City shall deem appropriate, which investments are hereby authorized to have terms of up to the final maturity of the Bonds. Pursuant to Section 5922 of the California Government Code, the Board of Supervisors hereby finds and determines that the Investment Agreement will reduce the amount and duration of interest rate risk with respect to amounts invested pursuant to the Investment Agreement and is designed to reduce the amount or duration of payment, rate, spread or similar risk or result in a lower cost of borrowing when used in combination with the Bonds or enhance the relationship between risk and return with respect to investments.

Section 13. The officers and agents of the City are, and each of them hereby is, authorized and directed to do any and all things and to execute and deliver any and all documents which they or any of them deem necessary or advisable in order to consummate the sale of the Bonds, including, but not limited to, the execution and delivery of a continuing disclosure certificate or agreement and a tax certificate, and the execution of the Swap Agreement (including any documents necessary in connection with bond insurance or other credit enhancement for the bonds or the investment of proceeds of the 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 City has approved in this Resolution. All actions heretofore taken by the officers and agents of the City with respect to the sale, execution and delivery of the Bonds, and the other transactions authorized and contemplated herein are hereby approved, confirmed and ratified. Notwithstanding any provision of this resolution authorizing an officer

to take any action or execute any document to the contrary, in the absence of such officer or in lieu of such officer, the person designated in writing by such officer, may take such action or execute such document with like effect as fully as though named in this resolution instead of such officer.

Section 14. All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, whether before or after the sale or issuance of the Bonds, including without limitation any of the foregoing that may be necessary or desirable in connection with any default under or amendment of such documents or additional confirmations, settlements or revisions, may be given or taken, without further authorization by this Board, by the City Manager or Director of Finance and each such officer is hereby authorized and directed to give any such consent, approval, notice, order or request and to take any such action which such officers may deem necessary or desirable to further the purposes of this Resolution.

Section 15. This Resolution shall take effect from and after its adoption.

I certify that the foregoing resolution was passed and adopted by the City Council of the City of Richmond at a meeting thereof, held on July 17, 2007, by the following vote:

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|--------------|--|
| AYES: | Councilmembers Lopez, Marquez, Rogers, Sandhu, Thurmond, Viramontes and Mayor McLaughlin |
| NOES: | None |
| ABSTENTIONS: | None |
| ABSENT: | Councilmembers Bates and Butt |

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

LOUISE RENNE, Interim
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. 71-07, finally passed and adopted by the Council of the City of Richmond at a meeting held on July 17, 2007.

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 regular meeting place thereof on the 17th day of July, 2007, of which meeting all of the members of said City Council 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, 1401 Marina Way South, 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: _____, 2007.

City Clerk of the
City of Richmond