

RESOLUTION NO. 44-08

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CONVERSION OF THE RICHMOND JOINT POWERS FINANCING AUTHORITY LEASE REVENUE BONDS (REFUNDING AND CIVIC CENTER PROJECT), SERIES 2007 TO A TEMPORARY LONG-TERM INTEREST RATE PERIOD; APPROVING A REMARKETING MEMORANDUM; AND AUTHORIZING 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 Government Code Section 6584 et. seq. and pursuant to that certain Joint Exercise of Powers Agreement by and between the City and the Richmond Redevelopment Agency dated as of December 1, 1989; 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 Exercise of 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 heretofore requested the Authority to issue its \$101,420,000 Joint Powers Financing Authority Lease Revenue Bonds (Refunding and Civic Center Project), Series 2007 (the “Bonds”), pursuant to the Indenture, dated as of September 1, 2007 (the “Indenture”), by and between the Authority and Zions First National Bank as trustee (the “Trustee”) for the purpose of financing and refinancing certain 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, the Bonds were issued in a Weekly Interest Rate Period, and the City entered into a Standby Bond Purchase Agreement, dated as of September 1, 2007 (the “Liquidity Agreement”), with Dexia Credit Local (the “Credit Provider”) in order to provide a source of payment for the purchase of Bonds tendered by the owners thereof when such purchase is required in accordance with the terms of the Indenture; 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, in order to minimize debt service and maximize benefits to the City, the City requested that the Authority execute a swap agreement in compliance with the Swap Policy providing for fixed swap rates on the Bonds; and

WHEREAS, the Authority has heretofore executed the ISDA Master Agreement and related Schedule, Credit Support Annex and Confirmation (hereinafter referred to as the “2007 Swap Agreement”), each between the Authority and the Royal Bank of Canada (the “Counterparty”); and

WHEREAS, the municipal finance market has experienced volatility since the original issuance of the Bonds, and the City has determined that it is necessary and desirable to temporarily convert the Bonds from the Weekly Interest Rate Period to a temporary fixed interest rate mode (the “Conversion”) pursuant to the Indenture, namely to the Long-Term Interest Rate Period; and

WHEREAS, in connection with the Conversion, the Authority will execute and deliver a First Amendment to Indenture, dated as of May 1, 2008 (the “First Amendment to Indenture”), by and between the Authority and the Trustee, amending certain provisions of the Indenture; and

WHEREAS, in connection with the Conversion, the Authority will execute and deliver an Amendment No. 1 to Standby Bond Purchase Agreement, tentatively dated as of

May 28, 2008 (the “First Amendment to Liquidity Agreement”), by and between the Authority and the Trustee, amending certain provisions of the Liquidity Agreement; and

WHEREAS, so long as the Bonds are in the Long-Term Interest Rate Period, the City deems it necessary and desirable for the Authority to maintain the 2007 Swap Agreement in full force and effect by entering into an offsetting interest rate swap agreement with the Counterparty (the “2008 Swap Agreement”) in compliance with the Swap Policy; 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, pursuant to Section 5922 of the Government Code of the State of California, the City hereby finds and determines that the 2008 Swap Agreement is entered into 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, in connection with the remarketing of the Bonds in the Long-Term Interest Rate Period pursuant to the Remarketing Agreement, dated as of September 1, 2007 (the “Remarketing Agreement”), by and between the Authority and RBC Capital Markets, as remarketing agent (the “Remarketing Agent”), the City will execute and deliver a Remarketing Memorandum describing the bonds (the “Remarketing Memorandum”); and

WHEREAS, the City intends to make a deposit of \$4,000,000 into the Interest Account of the Revenue Fund for the Bonds (the “Reimbursement Expenditures”) for the payment of interest on the Bonds prior to the time the Project is placed in service.

WHEREAS, the City may actually pay some of the Reimbursement Expenditures prior to the issuance of indebtedness by the Authority for the purpose of financing the Reimbursement Expenditures on a long-term basis;

WHEREAS, the City reasonably expects that debt obligations of the Authority in an amount not expected to exceed \$4,000,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Reimbursement Expenditures; and

WHEREAS, Section 1.150-2 of the Treasury Regulations requires the City to declare its reasonable official intent to reimburse prior expenditures with proceeds of a subsequent borrowing; and

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

1. the First Amendment to Indenture, and
2. the First Amendment to Liquidity Agreement, and
3. the 2008 Swap Agreement, and
4. the Remarketing Memorandum; and

WHEREAS, this Council has been presented with the form of each document referred to herein relating to the Conversion, 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 Conversion; and

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

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 so finds and determines.

Section 2. The Council hereby authorizes the conversion of the Bonds from the Weekly Interest Rate Period to the Long-Term Interest Rate Period and hereby approves the form of the First Amendment to Indenture.

Section 3. The proposed form of the First Amendment to Liquidity 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 First Amendment to Liquidity Agreement 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.

Section 4. The proposed form of the 2008 Swap Agreement on file with the City Clerk is hereby approved. The Council hereby determines that if the Bonds are temporarily converted to long-term interest rate mode bonds, the entering into of the 2008 Swap Agreement with the Counterparty pursuant to Section 5922 of the California Government Code in a notional amount not exceeding the outstanding principal amount of the Bonds would be designed to reduce the Authority's cost of borrowing for the Bonds, and the City Manager and the Director of Finance of the City are each hereby authorized and directed, acting singly, for and in the name and on behalf of the City, to negotiate the 2008 Swap Agreement with the Counterparty in a notional amount not exceeding the principal amount of any Bonds, with a view to reducing the City's cost of borrowing evidenced and represented by such Bonds, and such officer is hereby authorized to execute and deliver the 2008 Swap Agreement in substantially the form presented to this meeting with such changes therein, deletions therefrom and additions thereto, as may be approved by such officer in consultation with the City's swap advisor and bond counsel, with such execution to be conclusive evidence of such approval; provided, however, that such officer shall not execute and deliver the 2008 Swap Agreement unless: (a) such agreement is designed (i) to reduce or hedge the amount or duration of any payment, interest rate, spread or similar risk, or (ii) to result in a lower cost of borrowing when used in combination with the conversion of the Bonds; (b) the term of such 2008 Swap Agreement does not exceed the final maturity of the Bonds; (c) the initial notional amount of such 2008 Swap Agreement does not exceed the outstanding principal amount of the Bonds; (d) the amounts payable by the Authority with respect to such 2008 Swap Agreement shall be payable solely and exclusively from Revenues (as defined in the Indenture); and (e) such 2008 Swap Agreement conforms with the Swap Policy of the City. In accordance with Section 5922 of the California Government Code, the City hereby finds and determines that the 2008 Swap Agreement entered into in accordance with this Resolution and consistent with the requirements set forth herein is designed to reduce the amount or duration of payment, interest rate, spread or similar risk or result in a lower cost of borrowing when used in combination with the conversion of the Bonds.

Section 5. The proposed form of Remarketing Memorandum on file with the City Clerk is hereby approved. The Remarketing Agent is hereby directed to distribute copies of the Remarketing Memorandum to all actual purchasers of the Bonds upon conversion. The City Manager and the Finance Director of the City are each hereby authorized and directed, acting singly, for and in the name and on behalf of the City, to execute and deliver a Remarketing Memorandum 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. Distribution by the Remarketing Agent of a Preliminary Remarketing Memorandum relating to the converted Bonds is hereby approved and the City Manager and the Finance Director of the City are each hereby authorized and directed, acting singly, to execute a certificate confirming that the Preliminary Remarketing Memorandum has been "deemed final" by the Authority for purposes of Securities and Exchange Commission Rule 15c2-12.

Section 6. The City hereby declares its official intent to use proceeds of indebtedness to reimburse itself for Reimbursement Expenditures.

Section 7. This declaration is made solely for purposes of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations. This declaration does not bind the City to make any expenditure or incur any indebtedness.

Section 8. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver, on behalf of the City, any certificate, consent, request, approval, notice, amendment, confirmation, supplement or revision permitted or required to be delivered pursuant to the documents authorized hereby or otherwise as may be necessary or desirable in connection with the interest rate mode conversion of the Bonds without further authorization by this Board, and any and all documents which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution including, but not limited to, the execution and delivery of a tax certificate and any amendments to the Liquidity Agreement, the 2007 Swap Agreement or other documents related to the Bonds. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 9. This resolution shall take effect immediately upon its passage.

I certify that the foregoing resolution was passed and adopted by the City Council at a regular meeting thereof, held on the 6th day of May, 2008, by the following vote:

AYES: Councilmembers Bates, Butt, Lopez, Marquez, Rogers, Sandhu,
Thurmond, Viramontes, and Mayor McLaughlin

NOES: None

ABSTENTION: None

ABSENT: None

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. 44-08, finally passed and adopted by the Council of the City of Richmond at a joint meeting held on May 6, 2008.

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 6th day of May, 2008, 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, 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: _____, 2008.

City Clerk