

RESOLUTION NO. 109-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY FOR THE PURPOSE OF FINANCING OR REFINANCING THE ACQUISITION, RENOVATION AND IMPROVEMENT OF CERTAIN FACILITIES FOR THE BENEFIT OF TISSUE BANKS INTERNATIONAL, INC.

WHEREAS, pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “Act”), certain public agencies (the “Members”) have entered into a Joint Exercise of Powers Agreement relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the “Agreement”) in order to form the California Municipal Finance Authority (the “Authority”), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes or other evidences of indebtedness; and

WHEREAS, the City of Richmond, California (the “City”), has determined that it is in the public interest and for the public benefit that the City become a Member of the Authority in order to facilitate the promotion of economic, cultural and community development activities in the City, including the financing of projects therefor by the Authority; and

WHEREAS, there is now before this City Council (the “City Council”) the form of the Agreement; and

WHEREAS, the Agreement has been filed with the City, and the members of the City Council, with the assistance of its staff, have reviewed said document; and

WHEREAS, the Authority is authorized to issue and sell revenue bonds and other obligations for the purpose, among others, of financing or refinancing the construction of capital projects; and

WHEREAS, Tissue Banks International, Inc., a Maryland nonprofit corporation (the “Borrower”) has requested that the Authority incur one or more nonrecourse loans in the maximum aggregate principal amount of \$11,000,000 (the “Loans”) for the purpose of making one or more loans to the Borrower, to enable to the Borrower to (1) finance the acquisition and renovation of an approximately 57,800 square foot facility for the purpose of collecting, processing and distributing human tissues for transplant and related purposes, located at 880 Harbor Way South Street, Richmond, California; (2) refinance certain related equipment; (3) finance the acquisition of certain new medical equipment; and (4) pay certain expenses incurred in connection with the incurrence of the Loans (collectively, the “Project”); and

WHEREAS, in order for the interest on the Loans to be tax-exempt, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code), requires that an “applicable elected representative” of the governmental unit, the geographic jurisdiction of which contains the site of the facilities to be financed with the proceeds of the Loans, hold a public hearing on the incurrence of the Loans and approve the incurrence of the Loans following such hearing; and

WHEREAS, the Authority has determined that the City Council is an “applicable elected representative” for purposes of holding such hearing; and

WHEREAS, the Authority has requested that the City Council approve the incurrence of the Loans by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and, the requirements of Section 4 of the Agreement; and

WHEREAS, notice of such public hearing has been duly given as required by the Code, and this City Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the financing or refinancing of the Project and the Authority’s incurrence of the Loans therefor; and

WHEREAS, it is in the public interest and for the public benefit that the City Council approve the incurrence of the Loans by the Authority for the aforesaid purposes.

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

Section 1. The foregoing recitals are true and correct.

Section 2. The Agreement is hereby approved and the Mayor, the City Manager or the designee thereof is hereby authorized and directed to execute said document, and the City Clerk or such Clerk's designee is hereby authorized and directed to attest thereto.

Section 3. The City Council hereby approves the incurrence of the Loans by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the incurrence of the Loans (a) by the "Applicable elected representative" of the governmental unit having jurisdiction over the area in which the Project is to be located in accordance with Section 147(f) of the Code and; (b) by the City Council in accordance with Section 4 of the Agreement.

Section 4. The incurrence of the Loans shall be subject to the approval of the Authority of all financing documents relating thereto which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Loans.

Section 5. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, rehabilitation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 6. The executing officer(s), the Clerk and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purpose of this Resolution and the transactions herein authorized.

Section 7. The Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Authority in care of its counsel:

Harriet Welch, Esq.
Squire Sanders (US) LLP
555 South Flowers St., Suite 3100
Los Angeles, CA 90071-2300

Section 8. This resolution shall take effect immediately upon its passage.

I certify that the foregoing Resolution was passed and adopted by the Members of the City Council of the City of Richmond at a regular meeting held on September 11, 2012, by the following vote:

AYES: Councilmembers Bates, Beckles, Boozé, Butt, Ritterman, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: Vice Mayor Rogers.

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. 109-12, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on September 11, 2012.