

**RESOLUTION NO. 71-17**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA AUTHORIZING A SUBSTITUTE LETTER OF CREDIT RELATING TO CITY OF RICHMOND, CALIFORNIA VARIABLE RATE WASTEWATER REVENUE REFUNDING BONDS, SERIES 2008A; APPROVING THE FORMS OF AND DIRECTING THE EXECUTION AND DELIVERY OF A FIFTH SUPPLEMENTAL WASTEWATER REVENUE BOND INDENTURE, A REPLACEMENT REMARKETING AGREEMENT, A REIMBURSEMENT AGREEMENT, A CUSTODY AGREEMENT, A FEE LETTER AND A CONTINUING DISCLOSURE AGREEMENT; APPROVING THE FORM AND DISTRIBUTION OF A REMARKETING STATEMENT; AUTHORIZING THE APPOINTMENT OF BARCLAYS CAPITAL INC. AS REMARKETING AGENT; AUTHORIZING AN AMENDMENT OR NOVATION OF AN INTEREST RATE SWAP; DIRECTING THE EXECUTION OF OR CERTAIN AMENDMENTS TO AN ISDA MASTER AGREEMENT AND DOCUMENTS RELATED THERETO; AND AUTHORIZING TAKING OF NECESSARY ACTIONS AND EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES IN CONNECTION THEREWITH**

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**WHEREAS**, pursuant to the Charter of the City of Richmond (the “City”) and Chapter 13.56 of Article 13 of the Richmond Municipal Code (together, the “Bond Law”), the City is authorized to issue revenue bonds to finance the acquisition, construction, improvement, furnishing, equipping, remodeling, repair, reconstruction or rehabilitation of the wastewater treatment and collection facilities of the City or for the purpose of refunding bonds issued for such purposes; and

**WHEREAS**, pursuant to the Bond Law and the Wastewater Revenue Bond Indenture, dated as of October 1, 2006, (the “Master Indenture”), as amended and supplemented, including as supplemented by a Third Supplemental Wastewater Revenue Bond Indenture (the “Third Supplemental Indenture”), dated as of October 1, 2008, each by and between the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), the City issued its \$33,015,000 aggregate principal amount of Variable Rate Wastewater Revenue Refunding Bonds Series 2008A of which \$32,895,000 is outstanding (the “Bonds”) and used the proceeds thereof to refund the City’s Wastewater Revenue Bonds, Series 2006B (the “Refunded Bonds”) and to pay costs of issuance of the Bonds; and

**WHEREAS**, the payment of principal, interest and purchase price with respect to the Bonds is supported by a letter of credit (the “Original Letter of Credit”) issued by MUFG Union Bank, N.A., formerly known as Union Bank of California, N.A. (“Union Bank”); and

**WHEREAS**, the Original Letter of Credit is scheduled to expire on October 21, 2017 and the City has determined that it would benefit the City to replace the Original Letter of Credit with a substitute letter of credit (the “Substitute Letter of Credit”) to be provided by Barclays Bank PLC (the “Bank”); and

**WHEREAS**, in connection with the substitution of the Substitute Letter of Credit for the Original Letter of Credit, the City desires that the Master Indenture and the Third Supplemental Indenture be amended, with the consent of Union Bank, pursuant to a Fifth Supplemental Wastewater Revenue Bond Indenture, by and between the City and the Trustee (the “Fifth Supplemental Indenture”) to permit the remarketing of the Bonds on the effective date of the Substitute Letter of Credit and make certain other amendments requested by the Bank, including that the reimbursement of the Bank for draws on the Substitute Letter of Credit shall constitute “Parity Debt” as defined in the Master Indenture and as further provided in the Fifth Supplemental Indenture; and

**WHEREAS**, the Bonds are in a Weekly Rate Period (as defined in the Third Supplemental Indenture) and the Third Supplemental Indenture contemplates that, so long as the Bonds are in a Weekly Rate Period, there will be a remarketing agent (the “Remarketing Agent”) for the Bonds; and

**WHEREAS**, in connection with the substitution of the Substitute Letter of Credit for the Original Letter of Credit, the City has determined that it would benefit the City to remove MUFG Securities Americas Inc., formerly known as Mitsubishi UFJ Securities (USA), Inc. (“Mitsubishi”) as the Remarketing Agent for the Bonds and to appoint Barclays Capital Inc. (“Barclays”) as the replacement Remarketing Agent for the Bonds; and

**WHEREAS**, in connection with the appointment of Barclays as Remarketing Agent for the Bonds, the City desires to terminate the Remarketing Agreement, dated as of December 13, 2013, by and between the City and Mitsubishi (the “Existing Remarketing Agreement”), and enter into a replacement Remarketing Agreement (the “Replacement Remarketing Agreement”) with Barclays; and

**WHEREAS**, in connection with the substitution of the Substitute Letter of Credit for the Original Letter of Credit and the remarketing of the Bonds, the City proposes to use a Remarketing Statement (the “Remarketing Statement”) describing the Bonds, the Substitute Letter of Credit and the Bank, among other things; and

**WHEREAS**, in order to provide the Substitute Letter of Credit, the Bank requires the City enter into (i) a Reimbursement Agreement (the “Reimbursement Agreement”), by and between the City and the Bank, providing for the terms upon which the City is to pay and reimburse the Bank for the credit enhancement provided by the Substitute Letter of Credit and to pay certain other amounts set forth therein, (ii) a Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) executed by the City and Willdan Financial Services, as dissemination agent relating to certain disclosure obligations of the City, (iii) a Fee Letter, by and between the City and the Bank (the “Fee Letter”) setting forth certain fees arising under or in relation to the Reimbursement Agreement and incorporated by reference therein, and (iv) a Custody Agreement, by and among the City, the Trustee and the Bank providing for the registration and delivery of Bank Bonds pursuant to the terms thereof; and

**WHEREAS**, Section 5922 of the California Government Code (hereafter, “Section 5922”) 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**, 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 reduce the amount of interest rate risk or lower the cost of borrowing in combination with the issuance of the Refunded Bonds and in compliance with the Section 5922 and the Swap Policy, the City entered into an interest rate swap pursuant to an ISDA Master Agreement, together with the credit support annex, schedule and confirmation thereto (the “2006 Swap Agreement”), originally between the City and Bear Stearns Capital Markets, Inc. and elected to maintain the Swap Agreement in effect with regard to the Bonds; and

**WHEREAS**, in order to further reduce the cost of borrowing in connection with the Bonds and the 2006 Swap Agreement, and in compliance with Section 5922 and the Swap Policy, the City entered into a replacement interest rate swap agreement pursuant to an ISDA Master Agreement, together with the schedule and confirmation thereto (the “2009 Swap Agreement”) between the City and Royal Bank of Canada (“RBC”) and amended the Master Indenture to reflect the 2009 Swap Agreement pursuant to a First Amendment to Wastewater Revenue Bond Indenture, dated as of November 1, 2009, by and between the City and the Trustee, with the consent of Union Bank (the “First Amendment” and together with the Master Indenture and the Third Supplemental Indenture, the “Indenture”); and

**WHEREAS**, in connection with the remarketing of the Bonds, the City has determined that it would be of benefit to (a) enter into an amendment to the 2009 Swap Agreement with RBC to amend the 2009 Swap Agreement (the “Swap Amendment”) or (b) effect a novation of the 2009 Swap Agreement to replace RBC with the Bank, acting as counterparty (the “Swap Novation”), each for the purpose of eliminating certain references to Moody’s Investors Service, and in compliance with Section 5922 and the Swap Policy; and

**WHEREAS**, in connection with such Swap Amendment or Swap Novation, the City desires to authorize negotiations with RBC and/or the Bank and the subsequent execution of such documents as necessary and appropriate to effect the Swap Amendment or Swap Novation, which, as to the Swap Amendment, shall include that certain Amendment to the 1992 Master Agreement between the City and RBC (the “Swap Amendment Agreement”) and as to the Swap Novation may include the execution of an ISDA Master Agreement, together with Schedule, Credit Support Annex and Confirmation (the “Swap Novation Documents”); and

**WHEREAS**, in furtherance of implementing the acceptance of the Substitute Letter of Credit, the removal of Mitsubishi and appointment of Barclays as Remarketing Agent for the Bonds, the remarketing of the Bonds in connection with the delivery of the Substitute Letter of Credit and the Swap Amendment or Swap Novation, the following documents have been prepared, reviewed and approved as to form by City staff, and presented at this meeting:

1. Fifth Supplemental Indenture;
2. Replacement Remarketing Agreement;
3. Remarketing Statement (form);
4. Reimbursement Agreement;
5. Custody Agreement;
6. Fee Letter;
7. Continuing Disclosure Agreement; and
8. Swap Amendment Agreement.

**WHEREAS**, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the actions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City Council is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such actions for the purpose, in the manner and upon the terms herein provided;

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

**Section 1.** All of the recitals herein contained are true and correct and the City Council so finds.

**Section 2.** The form of the Fifth Supplemental Indenture on file with the City Clerk of the City and incorporated into this Resolution by reference is hereby approved. The Director of Finance or the City Manager, or any such officer’s designee (the “Authorized Representatives”) are each hereby authorized and directed, severally, for and on behalf of the City, to execute and deliver the Fifth Supplemental Indenture in substantially the form on file with the City Clerk and presented to this meeting, with such additions thereto or changes or insertions that hereafter become necessary in the interest of the City and which are approved by such Authorized Representative, in consultation with the City’s bond counsel and financial advisor, such approval to be conclusively evidenced by such execution and delivery.

**Section 3.** The form of the Reimbursement Agreement on file with the City Clerk of the City and incorporated into this Resolution by reference is hereby approved. The Authorized Representatives, or any such officer’s designee, are each hereby authorized and directed,

severally, for and on behalf of the City, to execute and deliver the Reimbursement Agreement in substantially the form on file with the City Clerk and presented to this meeting, with such additions thereto or changes or insertions that hereafter become necessary in the interest of the City and which are approved by such Authorized Representative, in consultation with the City's bond counsel and financial advisor, such approval to be conclusively evidenced by such execution and delivery.

**Section 4.** The form of Remarketing Statement relating to the Bonds on file with the City Clerk of the City and incorporated into this resolution by reference, is hereby approved. The Authorized Representatives, or any such officer's designee, are each hereby authorized and directed, to execute the Remarketing Statement relating to the Bonds in substantially the form thereof presented at this meeting, including such related information and with such additions thereto or changes therein as hereafter become necessary in the interest of the City and which are approved by the Authorized Representative, in consultation with disclosure counsel, such approval to be conclusively evidenced by the execution and delivery of such Remarketing Statement. The Remarketing Agent is hereby authorized to distribute the Remarketing Statement to potential investors, and to deliver the Remarketing Statement to purchasers of the Bonds, in connection with the remarketing of the Bonds.

**Section 5.** The removal of Mitisubishi as Remarketing Agent for the Bonds, in accordance with and pursuant to the provisions of the Indenture and the Existing Remarketing Agreement and the other documents and instruments relating to the Bonds, is hereby approved.

**Section 6.** The appointment of Barclays as successor Remarketing Agent for the Bonds, in accordance with and pursuant to the provisions of the Indenture and the other documents and instruments relating to the Bonds, is hereby approved.

**Section 7.** The form of the Replacement Remarketing Agreement on file with the City Clerk of the City and incorporated into this Resolution by reference is hereby approved. The Authorized Representatives, or any such officer's designee, are each hereby authorized and directed, severally, for and on behalf of the City, to execute and deliver the Replacement Remarketing Agreement in substantially the form on file with the City Clerk and presented to this meeting, with such additions thereto or changes or insertions that hereafter become necessary in the interest of the City and which are approved by such Authorized Representative, in consultation with the City's bond counsel and financial advisor, such approval to be conclusively evidenced by such execution and delivery.

**Section 8.** The form of the Continuing Disclosure Agreement on file with the City Clerk of the City and incorporated into this Resolution by reference is hereby approved. The Authorized Representatives, or any such officer's designee, are each hereby authorized and directed, severally, for and on behalf of the City, to execute and deliver the Continuing Disclosure Agreement in substantially the form on file with the City Clerk and presented to this meeting, with such additions thereto or changes or insertions that hereafter become necessary in the interest of the City and which are approved by such Authorized Representative, in consultation with the City's bond counsel and financial advisor, such approval to be conclusively evidenced by such execution and delivery.

**Section 9.** The form of the Custody Agreement on file with the City Clerk of the City and incorporated into this Resolution by reference is hereby approved. The Authorized Representatives, or any such officer's designee, are each hereby authorized and directed, severally, for and on behalf of the City, to execute and deliver the Custody Agreement in substantially the form on file with the City Clerk and presented to this meeting, with such additions thereto or changes or insertions that hereafter become necessary in the interest of the City and which are approved by such Authorized Representative, in consultation with the City's bond counsel and financial advisor, such approval to be conclusively evidenced by such execution and delivery.

**Section 10.** The form of the Fee Letter on file with the City Clerk of the City and incorporated into this Resolution by reference is hereby approved. The Authorized Representatives, or any such officer's designee, are each hereby authorized and directed, severally, for and on behalf of the City, to execute and deliver the Fee Letter in substantially the

form on file with the City Clerk and presented to this meeting, with such additions thereto or changes or insertions that hereafter become necessary in the interest of the City and which are approved by such Authorized Representative, in consultation with the City's bond counsel and financial advisor, such approval to be conclusively evidenced by such execution and delivery.

**Section 11.** The City Council hereby determines pursuant to Section 5922 that the Swap Novation and the Swap Amendment are 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 and the carrying of the remaining outstanding Bonds or enhance the relationship between risk and return with respect to investments.

**Section 12.** The City Council hereby approves the Swap Novation and the Swap Amendment. The form of the Swap Amendment Agreement on file with the City Clerk of the City and incorporated into this Resolution by reference is hereby approved. The Authorized Representatives are each hereby authorized and directed, severally, for and on behalf of the City, to negotiate such Swap Amendment or Swap Novation with RBC and/or the Bank, and execute and deliver the Swap Amendment Agreement or Swap Novation Documents as such Authorized Representatives executing such documents shall determine and approve, in consultation with the City's bond counsel and financial advisor, such approval to be conclusively evidenced by such execution and delivery and in compliance with Section 5922 and the Swap Policy.

**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 certificates and representations, signature certificates, no-litigation certificates, tax and rebate certificates and certificates concerning the contents of the Remarketing Statement, distributed in connection with the remarketing of the Bonds, necessary or desirable to accomplish the transactions set forth above, 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 Authorized Representative to take any action or execute any document to the contrary, in the absence of such Authorized Representative or in lieu of such Authorized Representative, the person designated in writing by such Authorized Representative, may take such action or execute such document with like effect as fully as though named in this resolution instead of such Authorized Representative.

**Section 14.** All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, including without limitation any of the foregoing which may be necessary or desirable in connection with administering the documents or any default under or amendment of such documents or additional confirmations, settlements or revisions, may be taken or given by the Authorized Representatives, or any such officer's designee, without further authorization by this City Council, and the Authorized Representatives, or any such officer's designee, is hereby authorized and directed to give such consent, approval, notice, order or request and to take any such action which such officer may deem necessary or desirable to further the purposes of this resolution and the transactions contemplated hereby.

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

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I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held June 20, 2017, by the following vote:

AYES: Councilmembers Choi, Martinez, McLaughlin, Myrick, Willis, and Mayor Butt.  
NOES None.  
ABSTENTIONS: None.  
ABSENT: Vice Mayor Beckles.

PAMELA CHRISTIAN  
CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:

TOM BUTT

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. 71-17**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on June 20, 2017.



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Pamela Christian, Clerk of the City of Richmond

CLERK'S CERTIFICATE

I, Pamela Christian, City Clerk of the City of Richmond, do hereby certify as follows:

The foregoing **Resolution No. 71-17** 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 20th day of June, 2017, 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: Councilmembers Choi, Martinez, McLaughlin, Myrick, Willis, and Mayor Butt.

NOES None.

ABSTENTIONS: None.

ABSENT: Vice Mayor Beckles.

An agenda of said meeting was posted before said meeting at City Hall, 450 Civic Center Plaza in the City of Richmond, California, 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: June 22, 2017.

  
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City Clerk of the  
City of Richmond

[SEAL]