

**RESOLUTION NO. 38-19**

**A RESOLUTION OF THE CITY COUNCIL PROVIDING FOR THE ISSUANCE OF THE CITY'S WASTEWATER REVENUE BONDS, SERIES 2019A AND ITS WASTEWATER REVENUE REFUNDING BONDS, SERIES 2019B; AUTHORIZING THE EXECUTION AND DELIVERY OF A SEVENTH SUPPLEMENTAL INDENTURE, A BOND PURCHASE AGREEMENT, AN ESCROW AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND AN OFFICIAL STATEMENT; APPROVING A FORM OF PRELIMINARY OFFICIAL STATEMENT IN CONNECTION THEREWITH; AUTHORIZING A SWAP TERMINATION PAYMENT RELATED TO THE CITY'S VARIABLE RATE WASTEWATER REVENUE REFUNDING BONDS, SERIES 2008A AND AUTHORIZING AND DIRECTING THE EXECUTION OF A SWAP TERMINATION AGREEMENT AND DOCUMENTS RELATED THERETO; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

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**WHEREAS**, pursuant to the charter of the City of Richmond, California (the "City") and Chapter 13.56 of Article 13 of the Richmond Municipal Code (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 (the "Enterprise") or for the purpose of refunding bonds issued for such purposes pursuant to the City's charter and the Bond Law; and

**WHEREAS**, the City has entered into a Wastewater Revenue Bond Indenture, dated as of October 1, 2006 (the "Master Indenture"), as amended and supplemented, including as amended and supplemented by a First Supplemental Wastewater Revenue Bond Indenture, dated as of October 1, 2006 (the "First Supplemental Indenture"), a Second Supplemental Wastewater Revenue Bond Indenture, dated as of October 1, 2006 (the "Second Supplemental Indenture"), a Third Supplemental Wastewater Revenue Bond Indenture, dated as of October 1, 2008 (the "Third Supplemental Indenture"), a First Amendment to Wastewater Revenue Bond Indenture, dated as of November 1, 2009 (the "First Amendment to Indenture"), a Fourth Supplemental Wastewater Revenue Bond Indenture, dated as of October 1, 2010 (the "Fourth Supplemental Indenture"), a Fifth Supplemental Wastewater Revenue Bond Indenture, dated as of July 1, 2017 (the "Fifth Supplemental Indenture"), and a Sixth Supplemental Wastewater Revenue Bond Indenture, dated as of August 1, 2017 (the "Sixth Supplemental Indenture"), each by and between the City and the Bank of New York Mellon Trust Company, N.A. as successor trustee (the "Trustee"); and

**WHEREAS**, pursuant to the Bond Law, the Master Indenture and the Third Supplemental Indenture, as amended by the Fifth Supplemental Indenture, the City issued its \$33,015,000 aggregate principal amount of Variable Rate Wastewater Revenue Refunding Bonds Series 2008A (the "Series 2008A Bonds") and used the proceeds thereof to refund the City's Wastewater Revenue Bonds, Series 2006B (the "Series 2006B Bonds") and to pay other costs of issuance of the Series 2008A Bonds; and

**WHEREAS**, the Series 2008A Bonds are supported by an irrevocable transferable letter of credit (the "Letter of Credit") issued by Barclays Bank PLC (the "Letter of Credit Bank"); and

**WHEREAS**, in accordance with the Bond Law, the Master Indenture and the Fourth Supplemental Indenture, the City has previously issued its Wastewater Revenue Bonds, Series 2010A in an aggregate principal amount of \$3,110,000 (the "Series 2010A Bonds"), and its Wastewater Revenue Bonds Taxable Build America Bonds, Series 2010B in an aggregate principal amount of \$41,125,000 (the "Series 2010B Bonds" and, together with the Series 2010A Bonds, the "Series 2010 Bonds" and together with the Series 2008A Bonds, the "Prior Bonds") to finance certain improvements to the Enterprise, fund capitalized interest on the Series 2010 Bonds, purchase a debt service reserve insurance policy, and pay certain costs of issuance; and

**WHEREAS**, only portions of the Series 2010 Bonds and Series 2008A Bonds are currently outstanding; 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 Series 2006B Bonds and in compliance with 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. ("Bear Stearns"), which the City and JP Morgan, as successor to Bear Stearns, elected to maintain in effect with regard to the Series 2008A Bonds; and

**WHEREAS**, in order to further reduce the cost of borrowing in connection with the Series 2008A Bonds and the 2006 Swap Agreement, and in compliance with Section 5922 and the Swap Policy, the City and Royal Bank of Canada ("RBC") entered into a replacement interest rate swap agreement pursuant to an ISDA Master Agreement, together with the schedule and confirmation thereto, dated November 19, 2009 (the "2009 Swap Agreement") and executed the First Amendment to Indenture in connection therewith; and

**WHEREAS**, in order to further reduce the cost of borrowing in connection with the Series 2008A Bonds and the 2009 Swap Agreement, and in compliance with Section 5922 and the Swap Policy, the City and RBC entered into an amendment to the 2009 Swap Agreement, dated May 30, 2017, for the purpose of eliminating certain references to Moody's Investors Service; and

**WHEREAS**, the City, after due investigation and deliberation, has determined that it is in the interests of the City at this time to issue its Wastewater Revenue Bonds, Series 2019A (the "Series 2019A Bonds") and its Wastewater Revenue Refunding Bonds, Series 2019B (the "Series 2019B Bonds") and together with the Series 2019A Bonds, the "Bonds") pursuant to the Master Indenture and a Seventh Supplemental Indenture (the "Seventh Supplemental Indenture," and together with the Master Indenture, the First Supplemental Indenture, the Second Supplemental Indenture, the Third Supplemental Indenture, the First Amendment to Indenture, the Fourth Supplemental Indenture, the Fifth Supplemental Indenture, and the Sixth Supplemental Indenture, collectively, referred to herein as the "Indenture"), between the City and the Trustee; and

**WHEREAS**, the City has engaged in a capital improvement plan associated with the Enterprise and desires to authorize the Series 2019A Bonds for the purpose of funding capital improvements to the Enterprise in furtherance thereof and paying other costs of issuance related to the Bonds; and

**WHEREAS**, the City further desires to authorize the Series 2019B Bonds for the purpose of (i) funding the defeasance and redemption of all or a portion of the outstanding Series 2010 Bonds, (ii) reimbursing the Letter of Credit Bank for a draw on the Letter of Credit funding the redemption of all or a portion of the outstanding Series 2008A Bonds, (iii) funding all or a portion of a related termination payment (the "Termination Payment") in connection with the termination of the 2009 Swap Agreement (the "Termination"), and (iv) paying other costs of issuance relating to the Bonds; and

**WHEREAS**, the City acknowledges that RBC has neither recommended nor proposed the Termination; and

**WHEREAS**, the City desires to authorize representatives of the City to negotiate with RBC regarding the terms of the Termination and the Termination Payment and authorize the execution of the Termination Agreement in connection therewith, all in compliance with the Swap Policy; and

**WHEREAS**, the City desires (i) to enter into the Seventh Supplemental Indenture, a Bond Purchase Agreement (the “Bond Purchase Agreement”), an Escrow Agreement for the defeasance and redemption of all or a portion of the Series 2010 Bonds (the “Escrow Agreement”), a Termination Agreement for the 2009 Swap Agreement (the “Termination Agreement”) and a Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”), and (ii) to deliver a Preliminary Official Statement (the “Preliminary Official Statement”) and a final Official Statement (the “Official Statement”) with respect to the Bonds; and

**WHEREAS**, in furtherance of implementing the issuance of the Bonds, the following documents have been prepared, reviewed and approved as to form by City staff, and presented at this meeting:

1. Seventh Supplemental Indenture;
2. Bond Purchase Agreement;
3. Preliminary Official Statement (form);
4. Continuing Disclosure Agreement;
5. Escrow Agreement; and
6. Termination Agreement.

**WHEREAS**, Section 5852.1 of the Government Code of the State of California requires that the City obtain from an underwriter, municipal advisor or private lender and disclose, prior to authorization of the issuance of bonds with a term of greater than 13 months, good faith estimates of the following information in a meeting open to the public: (a) the true interest cost of the bonds, (b) the sum of all fees and charges paid to third parties with respect to the bonds, (c) the amount of proceeds of the bonds expected to be received net of the fees and charges paid to third parties and any reserves or capitalized interest paid or funded with proceeds of the bonds, and (d) the sum total of all debt service payments on the bonds calculated to the final maturity of the bonds plus the fees and charges paid to third parties not paid with the proceeds of the bonds; and

**WHEREAS**, in compliance with said section, the City has obtained from Barclays Capital Inc. (the “Representative”), acting on behalf of itself and Raymond James & Associates, Inc. (collectively, the “Underwriters”) the required good faith estimates for the Bonds in connection with this agenda item, attached hereto as Exhibit A; and

**WHEREAS**, Public Resources Advisory Group is serving as financial advisor (the “Financial Advisor”) to the City, Schiff Hardin LLP is serving as disclosure counsel (the “Disclosure Counsel”) to the City, Orrick, Herrington & Sutcliffe LLP is serving as bond counsel (“Bond Counsel”) to the City, and The Majors Group, a Qualified Independent Representative, as defined in the Commodity Futures Trading Commission Business Conduct Standards, is serving as swap advisor (the “Swap Advisor”) to the City in connection with the financing; and

**WHEREAS**, the City may seek commitments from financial institutions or municipal bond insurance companies to provide credit support for the Bonds; and

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

**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 City Council hereby so finds and determines.

Section 2. The issuance of the Bonds in one or more series, on the terms and conditions set forth in, and subject to the limitations specified herein and in the Indenture as finally executed, is hereby authorized and approved in an aggregate principal amount not to

exceed \$115,000,000 and the true interest cost on the Bonds shall not exceed seven percent (7.00%). The terms of the Bonds shall be finally determined by the Director of Finance or the City Manager (each, an "Authorized Representative").

Section 3. The form of the Seventh Supplemental Indenture 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, or any such officer's designee, for and on behalf of the City, to execute and deliver the Seventh 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, such approval to be conclusively evidenced by such execution and delivery.

Section 4. The form of Bond Purchase Agreement by and between the Representative and the City, on file with the City Clerk and incorporated into this Resolution by reference is hereby approved. The Authorized Representatives, or their designees, are each hereby authorized and directed, severally, for and on behalf of the City to accept the offer of the Underwriters to purchase the Bonds as reflected in the Bond Purchase Agreement and to execute and deliver the Bond Purchase 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 municipal advisor and bond counsel, such approval to be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement; provided, however, that such additions, changes or insertions in the Bond Purchase Agreement shall not specify an underwriter's discount in excess of 0.8% of the principal amount of the Bonds.

Section 5. The form of Continuing Disclosure Agreement among the City, the Trustee and Willdan Financial Services, as dissemination agent, on file with the City Clerk and incorporated into this Resolution by reference is hereby approved. The Authorized Representatives, or their designees, 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 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 municipal advisor and disclosure counsel, such approval to be conclusively evidenced by the execution and delivery of the Continuing Disclosure Agreement.

Section 6. The form of Escrow Agreement by and between the City and The Bank of New York Mellon Trust Company, N.A., as escrow agent on file with the City Clerk of the City and incorporated into this Resolution by reference is hereby approved. The Authorized Representatives, or their designees, 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 Escrow 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 municipal advisor, such approval to be conclusively evidenced by such execution and delivery.

Section 7. The form of Preliminary Official Statement relating to the Bonds on file with the City Clerk and incorporated into this resolution by reference, is hereby approved. The Authorized Representatives, or their designees, are each hereby authorized and directed, severally, for and on behalf of the City, to execute a certificate deeming the Preliminary Official Statement in said form final as of its date, except for certain final pricing and related information, pursuant to Securities Exchange Commission Rule 15c2-12. The Underwriters are hereby authorized to distribute the Preliminary Official Statement in said form as so deemed final to prospective purchasers of the Bonds. The Authorized Representatives, or their designees, are each hereby authorized and directed, severally, for and on behalf of the City, to execute the final Official Statement relating to the Bonds in substantially the form of such deemed final Preliminary Official Statement, including such final pricing and 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 such Authorized Representative, in consultation with disclosure

counsel, such approval to be conclusively evidenced by the execution and delivery of such Official Statement. The Underwriters are hereby authorized to distribute copies of said final Official Statement to all actual purchasers of the Bonds.

Section 8. The Termination is hereby approved and the form of Termination Agreement by and between the City and RBC on file with the City Clerk of the City and incorporated into this Resolution by reference is hereby approved. The City hereby authorizes the payment of the Termination Payment from the proceeds of the Bonds. The Authorized Officers are each hereby authorized, acting singly, to negotiate the terms of the Termination and the Termination Payment and thereafter execute the Termination Agreement in such form as Authorized Officers executing such Termination Agreement shall determine and approve, such approval to be conclusively evidenced by the execution and delivery thereof by the City and such Termination Agreement shall be in compliance with the Swap Policy.

Section 9. 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, the defeasance and/or redemption of all or a portion of the Series 2010B Bonds and the Series 2008A Bonds and the termination of the 2009 Swap Agreement, including, but not limited to, the execution and delivery of a tax certificate, the execution of any purchase instructions for escrow securities, a letter engaging a duly licensed firm to provide a verification report, bidding agent services, or any investment requirement or direction of investment with respect to Bond funds, which investment may consist of investments or investment agreements that have a term of up to the term 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 including obtaining credit support in the form of a municipal bond insurance policy, a surety bond, or such other form as the Authorized Representatives may find acceptable and purchasing open market securities or authorizing the purchase of U.S. State and Local Government securities in connection with the defeasance and refunding of all or a portion of the Series 2010 Bonds. 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. An Authorized Representative may execute one or more of any documents authorized herein as to form. Any such documents authorized herein may be dated such date, and different series designations given to the Bonds, as may be appropriate to indicate when the Bonds are actually sold or delivered or the nature of the Bonds.

Section 10. 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 City Council, and the Authorized Representatives are 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 11. This resolution shall take effect immediately upon its passage.

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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 May 21, 2019, by the following vote:

AYES: Councilmembers Johnson, Martinez, Myrick, Willis, Vice Chair Choi, and Mayor Butt.  
NOES: None.  
ABSTENTIONS: None.  
ABSENT: Councilmember Bates.

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. 87-19**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on May 21, 2019.

  
Pamela Christian  
Pamela Christian, Clerk of the City of Richmond

## EXHIBIT A

### GOOD FAITH ESTIMATES

The good faith estimates set forth herein are provided with respect to the City of Richmond, California Wastewater Revenue Bonds, Series 2019A (the "Series 2019A Bonds") and City of Richmond, California Wastewater Revenue Refunding Bonds, Series 2019B (the "Series 2019B Bonds") and together with the Series 2019A Bonds, the "Bonds") in compliance with Section 5852.1 of the California Government Code. Such good faith estimates have been provided to the City of Richmond, California (the "City") by Barclays Capital Inc. (the "Representative"), acting on behalf of itself and Raymond James & Associates, Inc. for the Bonds.

Principal Amount. The Representative has informed the City that, based on the City's financing plan and current market conditions, its good faith estimate of the aggregate principal amount of the Bonds to be sold is \$86,570,000 (the "Estimated Principal Amount").

True Interest Cost of the Bonds. Assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, the good faith estimate of the true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Bonds, is 3.29%.

Finance Charge of the Bonds. Assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, the good faith estimate of the finance charge for the Bonds, which means the sum of all fees and charges paid to third parties (or costs associated with the Bonds), is \$762,000.

Amount of Proceeds to be Received. Assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, the good faith estimate of the amount of proceeds expected to be received by the City for sale of the Bonds, less the finance charge of the Bonds, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the Bonds, is \$104,434,000.

Total Payment Amount. Assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, the good faith estimate of the total payment amount, which means the sum total of all payments the City will make to pay debt service on the Bonds, plus the finance charge for the Bonds, as described above, not paid with the proceeds of the Bonds, calculated to the final maturity of the Bonds, is \$154,565,370.

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Bonds issued and sold, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Bonds being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Bonds sold being different from the Estimated Principal Amount, (c) the actual amortization of the Bonds being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Bonds being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the City's financing plan, or a combination of such factors. The actual date of sale of the Bonds and the actual principal amount of Bonds sold will be determined by the City based on the need for project funds and other factors. The actual interest rates borne by the Bonds will depend on market interest rates at the time of sale thereof. The actual amortization of the Bonds will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of the City. The Bonds shall have a maximum true interest cost of 7.00%.

CLERK'S CERTIFICATE

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

The foregoing resolution is a full, true and correct copy of **Resolution No. 38-19** 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 21<sup>st</sup> day of May, 2019, 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 Johnson, Martinez, Myrick, Willis, Vice Chair Choi, and Mayor Butt.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmember Bates.

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: May 28, 2019.

  
Pamela Christian  
City Clerk of the City of Richmond

[SEAL]