

RESOLUTION NO. 2013-01

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE LEMOORE REDEVELOPMENT AGENCY APPROVING THE FINAL FORM OF DOCUMENTS RELATING TO THE ISSUANCE AND SALE OF 2013 TAX ALLOCATION REFUNDING BONDS TO REFINANCE OUTSTANDING BONDS OF THE FORMER LEMOORE REDEVELOPMENT AGENCY, AND APPROVING RELATED MATTERS AND OFFICIAL ACTIONS

WHEREAS, pursuant to Section 34172(a) of the California Health and Safety Code (the “Code”), the Lemoore Redevelopment Agency (the “Former Agency”) has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173 of the Code, the City Council of the City of Lemoore has elected to serve as the successor agency to the Former Agency (the “Successor Agency”); and

WHEREAS, pursuant to Section 34179, an oversight board (the “Oversight Board”) has been duly established for the Successor Agency; and

WHEREAS, a Redevelopment Plan for a redevelopment project known and designated as the Lemoore Redevelopment Project (the “Redevelopment Project”) has been adopted and approved by the City of Lemoore and all requirements of law for and precedent to the adoption and approval of the Redevelopment Plan, as amended, have been duly complied with; and

WHEREAS, in order to provide financing for the Redevelopment Project, the Former Agency issued the following tax allocation bonds prior to its dissolution:

(a) the Lemoore Redevelopment Project, Issue of 1998, Tax Allocation Bonds, issued by the Former Agency in the aggregate original principal amount of \$6,180,000 (the “1998 TABs”), pursuant to an Indenture of Trust, dated as of April 1, 1999, by and between the Former Agency and U.S. Bank Trust National Association, as trustee (the “1998 Bonds Indenture”);

(b) the Lemoore Redevelopment Project, Series 2003 Tax Allocation Bonds, issued by the Former Agency in the aggregate original principal amount of \$13,835,000 (the “2003 TABs”), pursuant to an Indenture of Trust, dated as of May 1, 2003, by and between the Former Agency and U.S. Bank National Association, as trustee (the “2003 Bonds Indenture”);

(c) the Lemoore Redevelopment Project, 2011 Tax Allocation Bonds, issued by the Former Agency in the aggregate original principal amount of \$19,150,000 (the “2011 TABs”), pursuant to an Indenture of Trust, dated as of February 1, 2011, by and between the Former Agency and U.S. Bank National Association, as trustee (the “2011 Bonds Indenture”), and

WHEREAS, on June 27, 2012 as part of the Fiscal Year 2012-2013 State of California budget bill, the Governor signed into law Assembly Bill 1484 (“AB 1484”), which modified or added to some of the provisions of California Assembly Bill No. 26 (“AB 26”), including provisions related to the refunding of outstanding redevelopment agency bonds and the expenditure of remaining bond proceeds derived from redevelopment agency bonds issued on or before

December 31, 2010, thereby providing a mechanism to refund tax allocation bonds under certain enumerated circumstances; and

WHEREAS, it is hereby determined that based on current conditions in the municipal bond market, the 1998 TABs and the 2003 TABs (collectively, the “Prior Bonds”) may be refunded for the purpose of realizing debt service savings which would result in additional tax increment revenues for distribution to the affected taxing agencies; and

WHEREAS, Section 34177.5(a)(1) of the Code authorizes successor agencies to refund outstanding bonds provided that (i) the total interest cost to maturity on the refunding bonds or other indebtedness plus the principal amount of the refunding bonds or other indebtedness shall not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded plus the remaining principal of the bonds or other indebtedness to be refunded, and (ii) the principal amount of the refunding bonds or other indebtedness shall not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves, and to pay related costs of issuance (the “Refunding Criteria”); and

WHEREAS, Section 34177.5(b) of the Code authorizes the Successor Agency to issue bonds pursuant to Article 11 (commencing with §53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code (the “Refunding Bond Law”) for the purpose of refunding of outstanding bonds and other obligations of the Former Agency, subject to the conditions precedent contained in Section 34177.5 of the Code; and

WHEREAS, the Successor Agency wishes at this time to authorize the issuance of its Successor Agency to the Lemoore Redevelopment Agency, Lemoore Redevelopment Project, Series 2013 Tax Allocation Refunding Bonds in the aggregate principal amount of not to exceed \$__,000,000 (the “Refunding Bonds”), for the purpose of providing funds to refinance the Prior Bonds, and to request that the Oversight Board also approve the issuance of the Refunding Bonds by the Successor Agency, as authorized by Section 34177.5(f) of the Code; and

WHEREAS, in order to efficiently accomplish the execution and delivery of the Refunding Bonds, the Successor Agency desires to appoint a financial advisor, placement agent, and bond counsel to provide the necessary professional services in connection therewith; and

WHEREAS, as a result of the refunding of the Prior Bonds, the Refunding Bonds will be secured by a pledge of and lien on the tax increment revenues received with respect to the Redevelopment Project, on a parity with the pledge and lien which secures the 2011 TABs, and such pledge and lien will be senior to all other outstanding notes, bonds and other obligations of the Former Agency; and

WHEREAS, the Successor Agency further requests that the Oversight Board also make certain determinations described below on which the Successor Agency will rely in its issuance of the Refunding Bonds; and

WHEREAS, the Successor Agency wishes at this time to approve the final form of various legal documents relating to the issuance and sale of an initial series of the Refunding Bonds for the purpose of refunding the Prior Bonds; and

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency to the Lemoore Redevelopment Agency, as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Authorization and Approval of Refunding Bonds. The Successor Agency hereby authorizes and approves the issuance of the Refunding Bonds, in one or more series, in the aggregate principal amount of not to exceed \$_____,000,000, for the purpose of providing for the refunding of the Prior Bonds. As a condition precedent to the sale and delivery of Refunding Bonds, staff of the Successor Agency shall cause the Financial Advisor to confirm in writing that the debt service savings resulting from the refunding of the Prior Bonds will achieve debt service savings in compliance with the Refunding Criteria.

Section 3. Authorization of Sale. The Successor Agency hereby authorizes the sale of the Refunding Bonds by either (a) negotiated sale to Southwest Securities for reoffering to the public, (b) private placement with a bank or other financial institution, or (c) a combination of (a) and (b); provided that the net present value of the debt service savings from the refunding is at least three percent (3%) of the par amount of the refunded Prior Bonds. The Designated Officers are hereby authorized to choose the method of sale in consultation with the Financial Advisor. The Board hereby authorizes the Designated Officers, and each of them individually, on behalf of this Board, to either (a) negotiate the final terms of the sale of the Bonds with Southwest Securities pursuant to the Purchase Agreement, (b) in conjunction with Southwest Securities, as placement agent, or (c) a combination of (a) and (b), negotiate the final terms of the sale of the Bonds to a bank or other financial institution.

Section 3. Authorized Representatives. The _____, _____, _____, and any other person authorized by the Successor Agency to act on its behalf shall each be an “Authorized Representative” of the Successor Agency for the purposes of structuring and providing for the issuance of the Refunding Bonds, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the Successor Agency, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the issuance of the Refunding 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 approved in this Resolution.

Section 4. Approval of Indenture of Trust. The Successor Agency hereby approves the Indenture of Trust (the “Indenture of Trust”), by and between the Successor Agency and U.S. Bank National Association, as Trustee, in substantially the form submitted at this meeting and made a part hereof as though set forth in full herein (the “Indenture”). An Authorized Representative is hereby authorized and directed to execute and deliver, and the Secretary of the Successor Agency is hereby authorized and directed to attest to, the Indenture for and in the

name and on behalf of the Successor Agency, in substantially the respective forms on file with the Secretary, with such changes therein, deletions therefrom and additions thereto as an Authorized Representative shall approve, such approval to be conclusively evidenced by the execution and delivery of the Indenture. The Successor Agency hereby authorizes the delivery and performance of the Indenture.

Section 5. Approval of Escrow Agreements. The Successor Agency hereby approves two separate Escrow Deposit and Trust Agreement (collectively, the “Escrow Agreements”) each between the Successor Agency and U.S. Bank National Association, as escrow agent, prescribing the terms and provisions for the refunding of the 1998 TABs and the 2003 TABs, respectively, in substantially the form submitted at this meeting and made a part hereof as though set forth in full herein. An Authorized Representative is hereby authorized and directed to execute and deliver, and the Secretary of the Successor Agency is hereby authorized and directed to attest to, each of the Escrow Agreements for and in the name and on behalf of the Successor Agency, in substantially the respective forms on file with the Secretary, with such changes therein, deletions therefrom and additions thereto as an Authorized Representative shall approve, such approval to be conclusively evidenced by the execution and delivery of the Escrow Agreements. The Successor Agency hereby authorizes the delivery and performance of the Escrow Agreements.

Section 6. Appointment of Consultants. The Successor Agency hereby appoints The Weist Law Firm as Bond Counsel, Cooperman Associates as Financial Advisor, and Southwest Securities as underwriter or placement agent in connection with the financing described in this Resolution. An Authorized Representative is authorized and directed to execute an agreement with each of such firms in the respective forms on file with the Secretary. As provided in such agreements compensation payable to Financial Advisor, Placement Agent and Bond Counsel is contingent upon the successful completion of the financing proceedings and shall be paid from a portion of the proceeds of the Refunding Bonds.

Section 7. Oversight Board Approval. The Successor Agency hereby formally requests the Oversight Board to approve the issuance and sale of the Refunding Bonds as provided in this Resolution and the Indenture.

Section 8. Determinations by the Oversight Board. The Successor Agency hereby further requests that the Oversight Board make the following determinations upon which the Successor Agency will rely in its issuance of the Refunding Bonds:

(a) As provided in Section 34177.5(f) of the Code, the Successor Agency is authorized to recover its costs incurred in connection with the issuance of the Refunding Bonds from the proceeds of the Refunding Bonds, including the cost of reimbursing the City for administrative staff time spent with respect to the authorization, issuance, sale and delivery of the Refunding Bonds.

(b) The authorization and sale of the Refunding Bonds, and the application of proceeds thereof to the refunding in whole or in part of the Prior Bonds and the payment of costs of issuance, as provided in the Indenture and authorized by Section 34177.5(a) of the Code, shall, upon initial approval of the Oversight Board, be implemented by the Successor Agency,

notwithstanding the provisions of Section 34177.3 of the Code or any other provision of law to the contrary, without the requirement for further approval from the Oversight Board, the California Department of Finance, the Kings County Auditor-Controller or any other person or entity other than the Successor Agency.

(c) The Successor Agency shall enter the amounts of the final debt service determined upon sale and delivery of the Refunding Bonds into the Recognized Obligation Debt Service Schedule attached to the Indenture, and the amounts so entered shall be final and conclusive upon the Oversight Board, the California Department of Finance and all other interested persons and entities and the Recognized Obligation Debt Service Schedule shall not be amended except as provided in the Indenture.

(d) The Successor Agency shall be entitled to receive its full allocation of Administrative Cost Allowance under Section 34181(a)(3) of the Code without any deductions with respect to continuing costs related to the Refunding Bonds, such as trustee's fees, auditing and fiscal consultant fees and continuing disclosure and rating agency costs (collectively, "Continuing Costs of Issuance"), and such Continuing Costs of Issuance shall be payable from property tax revenues pursuant to Section 34183 of the Code.

Section 9. Filing of this Resolution. The Secretary of the Successor Agency is hereby authorized and directed to file a certified copy of this Resolution with the Oversight Board and, as provided in Section 34180(j) of the Code, with the Kings County Administrative Officer, the Kings County Auditor-Controller and the California Department of Finance.

Section 10. Official Actions. All actions heretofore taken by the officers and agents of the Successor Agency with respect to the issuance of the Refunding Bonds are hereby approved, confirmed and ratified. Each Authorized Representative and any and all other officers of the Successor Agency are hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, including requisitions for the payment of costs of issuance of the Refunding Bonds, agreements, including agreements in customary form providing for the investment of the proceeds of the Refunding Bonds, notices, consents, and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the sale, issuance and delivery of the Refunding Bonds and the refunding of the Prior Bonds.

Section 11. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

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PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Successor Agency to the Lemoore Redevelopment Agency at a special meeting this 3rd day of December, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

ATTEST:

Brooke Austin, Secretary

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