
CITY OF EMERYVILLE

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
EMERYVILLE AUTHORIZING THE ISSUANCE AND SALE OF UP
TO \$50,000,000 OF THE CITY'S 2023 GENERAL OBLIGATION BONDS
AND AUTHORIZING ACTIONS RELATED THERETO**

Adopted February 21, 2023

TABLE OF CONTENTS

ARTICLE

DEFINITIONS; AUTHORITY

Section 1.01.	Definitions.....	2
Section 1.02.	Interpretation.....	4
Section 1.03.	Authority for this Resolution; Findings.....	5

ARTICLE II

THE BONDS

Section 2.01.	Authorization.....	6
Section 2.02.	Terms of 2017 Refunding Bonds.....	6
Section 2.03.	Redemption.....	7
Section 2.04.	Form of 2017 Refunding Bonds.....	8
Section 2.05.	Execution of 2017 Refunding Bonds.....	8
Section 2.06.	Transfer of 2017 Refunding Bonds.....	8
Section 2.07.	Exchange of 2017 Refunding Bonds.....	9
Section 2.08.	Bond Register.....	9
Section 2.09.	Temporary 2017 Refunding Bonds.....	9
Section 2.10.	2017 Refunding Bonds Mutilated, Lost, Destroyed or Stolen.....	9
Section 2.11.	Book Entry System.....	10

ARTICLE III

ISSUE OF BONDS; APPLICATION OF BOND PROCEEDS; SECURITY FOR THE BONDS

Section 3.01.	Issuance, Award and Delivery of Bonds.....	11
Section 3.02.	Accounts.....	11
Section 4.06.	Investment of Moneys.....	12
Section 3.04.	Application of Proceeds of Sale of the Bonds.....	12
Section 3.05.	Security for the Bonds.....	12

ARTICLE IV

SALE OF BONDS; APPROVAL OF A PAYING AGENT AGREEMENT AND A CONTINUING DISCLOSURE CERTIFICATE

Section 4.01.	Sale of the Bonds.....	14
Section 4.02.	Approval of Paying Agent Agreement.....	14
Section 4.03.	Continuing Disclosure.....	14
Section 4.04.	Official Action.....	14

ARTICLE V

OTHER COVENANTS OF THE CITY

Section 5.01.	Punctual Payment.....	15
Section 5.02.	Extension of Time for Payment.....	15
Section 5.03.	Protection of Security and Rights of Bondowners.....	15
Section 5.04.	Further Assurances.....	15

ARTICLE VI

THE PAYING AGENT

Section 6.01.	Appointment of Paying Agent.....	16
Section 6.02.	Paying Agent May Hold 2017 Refunding Bonds.....	16
Section 6.03.	Liability of Agents.....	16
Section 6.04.	Notice to Agents.....	17
Section 6.05.	Compensation, Indemnification.....	17

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES OF BONDOWNERS

Section 7.01.	Events of Default.....	18
Section 7.02.	Remedies of Bondowners.....	18
Section 7.03.	Non-Waiver.....	18
Section 7.04.	Remedies Not Exclusive.....	19

ARTICLE VIII

SUPPLEMENTAL RESOLUTIONS

Section 8.01.	Supplemental Resolutions Effective Without Consent of the Owners.....	20
Section 8.02.	Supplemental Resolutions Effective With Consent to the Owners.....	20

ARTICLE IX

MISCELLANEOUS

Section 9.01.	Benefits of Resolution Limited to Parties	21
Section 9.02.	Defeasance.....	21
Section 9.03.	Execution of Documents and Proof of Ownership by Bondowners	22
Section 9.04.	Waiver of Personal Liability	23
Section 9.05.	Destruction of Canceled 2017 Refunding Bonds	23
Section 9.06.	Partial Invalidity	23
Section 9.07.	Execution of Documents	23
Section 9.08.	Validation.....	24
Section 9.09.	Effective Date of Resolution	24
EXHIBIT A:	FORM OF BOND	
EXHIBIT B:	FORM OF PAYING AGENT AGREEMENT	
EXHIBIT C:	FORM OF CONTINUING DISCLOSURE CERTIFICATE	
EXHIBIT D:	GOVERNMENT CODE SECTION 5852.1 DISCLOSURE	

CITY OF EMERYVILLE

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
EMERYVILLE AUTHORIZING THE ISSUANCE AND SALE OF UP
TO \$50,000,000 OF THE CITY'S 2023 GENERAL OBLIGATION BONDS
AND AUTHORIZING ACTIONS RELATED THERETO**

RESOLVED, by the City Council (the "Council") of the City of Emeryville (the "City"), as follows:

WHEREAS, pursuant to Article 9, commencing with section 43600, of Chapter 4 of Division 4 of Title 4 of the California Government Code (the "Act"), the City of Emeryville (the "City") is empowered to issue general obligation bonds which are authorized by two-thirds of the electors voting on the proposition;

WHEREAS, more than two-thirds of the electors voting at a special municipal election held in the City on June 5, 2018, voted for a proposition authorizing the issuance by the City of general obligation bonds in the aggregate principal amount of \$50,000,000 to finance facilities to provide affordable housing and prevent displacement of vulnerable populations, including low and middle-income households, veterans, local artists, seniors, and the disabled and provide supportive housing for people experiencing homelessness; and help low and middle-income households purchase homes as described in and in compliance with the Affordable Housing Bond Administration and Expenditure Plan adopted by the Council on March 2, 2021;

WHEREAS, the City now intends to authorize the issuance and sale of general obligation bonds pursuant to such authority in ~~the total authorized an~~ amount up to \$50,000,000 (the "Bonds") pursuant to this Resolution and in conformity with the Act;

WHEREAS, pursuant to section 5852.1 of the California Government Code, which became effective on January 1, 2018 by the enactment of Senate Bill 450, certain ~~information~~ good faith estimates relating to the Bonds is set forth in Exhibit D attached to this Resolution, and such information is hereby disclosed and made public;

NOW, THEREFORE, it is hereby RESOLVED, by the City Council of the City of Emeryville, as follows:

ARTICLE I

DEFINITIONS; AUTHORITY

Section 1.01. Definitions. The terms defined in this Section 1.01, as used and capitalized herein, shall, for all purposes of this Resolution, have the meanings ascribed to them below, unless the context clearly requires some other meaning.

“*Act*” means Article 9, commencing with section 43600, of Chapter 4 of Division 4 of Title 4 of the California Government Code, as is in effect on the date of adoption hereof and as amended hereafter.

“*Articles*,” “*Sections*” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Resolution, and the words “*herein*,” “*hereof*,” “*hereunder*” and other words of similar import refer to this Resolution as a whole and not to any particular Article, Section or subdivision hereof.

“*Authorized Investments*” means any investments permitted by law to be made with moneys belonging to, or in the custody of, the City.

“*Bond Counsel*” means any attorney or firm of attorneys nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

“*Bond Register*” means the registration books for the Bonds maintained by the Paying Agent.

“*Bonds*” means the ~~\$50,000,000 aggregate principal amount of~~ City of Emeryville (Alameda County, California) 2023 General Obligation Bonds (Federally Taxable) in an amount up to \$50,000,000, at any time Outstanding pursuant to this Resolution.

“*City*” means the City of Emeryville.

“*Closing Date*” means the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by the Original Purchaser.

“*Continuing Disclosure Certificate*” shall mean that certain Continuing Disclosure Certificate executed by the City and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“*Costs of Issuance*” means all items of expense directly or indirectly reimbursable to the City relating to the issuance, execution and delivery of the Bonds including, but not limited to, ~~filing and recording costs, settlement costs,~~ printing costs, reproduction and binding costs, legal fees and charges, fees and expenses of the Paying Agent, financial and other professional consultant fees, costs of obtaining credit ratings, fees for execution, transportation and safekeeping of the Bonds and charges and fees in connection with the foregoing.

“*Council*” means the City Council of the City.

“*County*” means Alameda County, California.

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"City Representative" means the Mayor, the City Manager, the Deputy City Manager, the Finance Director, the City Clerk or the City Treasurer of the City or any other person authorized by resolution of the Council of the City to act on behalf of the City with respect to this Resolution and the Bonds.

"Federal Securities" means United States Treasury Bonds, bills or certificates of indebtedness or those for which the full faith and credit of the United States are pledged for the payment of principal and interest.

"Information Services" means the Electronic Municipal Market Access System (referred to as "EMMA"), a facility of the Municipal Securities Rulemaking Council, (at <http://emma.msrb.org>); provided, however, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to called bonds as the City may designate in a request of the City delivered to the Trustee.

"Interest Payment Date" means with respect to interest, February 1 and August 1 of each year commencing on February 1, 2024, and with respect to principal, August 1, of each year commencing on August 1 in such year.

"Original Purchaser" means the first purchaser of the Bonds from the City.

"Outstanding" means, when used as of any particular time with reference to Bonds, all Bonds except:

(a) Bonds theretofore canceled by the Paying Agent or surrendered to the Paying Agent for cancellation;

(b) Bonds paid or deemed to have been paid within the meaning of Section 9.02 hereof; and

(c) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the City pursuant to this Resolution.

"Owner" or *"Bondowner"* mean any person who shall be the registered owner of any Outstanding Bond.

"Paying Agent" means The Bank of New York Mellon Trust Company, N.A., the Paying Agent appointed by the City and acting as paying agent, registrar and authenticating agent for the Bonds, or such other paying agent as shall be appointed by the City prior to the delivery of the Bonds, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 6.01 hereof.

"Paying Agent Agreement" means the Paying Agent/Bond Registrar/ Costs of Issuance Agreement, dated the Closing Date, by and between the City and the Paying Agent.

"Principal Office" means the principal corporate trust office of the Paying Agent in Los Angeles, California.

“Project” means facilities to provide affordable housing and prevent displacement of vulnerable populations, including low and middle-income households, veterans, local artists, seniors, and the disabled and provide supportive housing for people experiencing homelessness; and help low and middle-income households purchase homes, as described in and in compliance with the Affordable Housing Bond Administration and Expenditure Plan adopted by the Council on March 2, 2021.

“Project Costs” means (i) all costs of payment of, or reimbursement for, acquisition, construction, installation and equipment of the Project including but not limited to architect and engineering fees, contractor payments, costs of feasibility and other reports, inspection costs, performance bond premiums and permit fees, provided that any such costs are directly related to the acquisition or improvement of real property; and (ii) costs directly related to the administration of the funds and accounts created under this Resolution.

“Record Date” means the 15th day of the month preceding each Interest Payment Date.

“Resolution” means this Resolution, including all amendments hereto and supplements hereof which are duly adopted by the Council from time to time in accordance herewith.

“Securities Depositories” means The Depository Trust Company, 55 Water Street, 50th Floor, New York, NY 10041-0099, Attention: Call Notification Department, Fax (212) 855-7232; or to such other addresses and /or such other registered securities depositories holding substantial amounts of obligations of types similar to the Bonds.

“State” means the State of California.

“Supplemental Resolution” means any resolution supplemental to or amendatory of this Resolution, adopted by the City in accordance with Article VIII hereof.

“Term Bonds” means those Bonds for which mandatory redemption dates have been established upon the sale thereof.

“Written Request of the City” means an instrument in writing signed by the City Representative or by any other officer of the City duly authorized by the City and listed on a Written Request of the City for that purpose.

Section 1.02. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Resolution; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Resolution as a whole and not to any particular Article, Section or subdivision hereof.

Section 1.03. Authority for this Resolution; Findings. This Resolution is entered into pursuant to the provisions of the Act. It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of the Bonds do exist, have happened or have been performed in due and regular time and manner as required by the laws of the State, and that the amount of the Bonds, together with all other indebtedness of the City, does not exceed any limit prescribed by any laws of the State.

ARTICLE II

THE BONDS

Section 2.01. Authorization. The Bonds are hereby authorized to be issued by the City under and subject to the terms of the Act and this Resolution. This Resolution constitutes a continuing agreement with the Owners of all of the Bonds issued or to be issued hereunder and then Outstanding to secure the full and final payment of principal of and the interest on all of the Bonds which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The Bonds shall be designated the "City of Emeryville (Alameda County, California) 2023 General Obligation Bonds (Federally Taxable)."

Section 2.02. Terms of Bonds.

(a) *Form; Numbering*. The Bonds shall be issued as fully registered Bonds, without coupons, in the denomination of \$5,000 each or any integral multiple thereof, but in an amount not to exceed the aggregate principal amount of Bonds maturing in the year of maturity of the Bond for which the denomination is specified. Bonds shall be lettered and numbered as the Paying Agent shall prescribe.

(b) *Date of Bonds*. The Bonds shall be dated as of the Closing Date.

(c) *CUSIP Identification Numbers*. "CUSIP" identification numbers shall be imprinted on the Bonds, but such numbers shall not constitute a part of the contract evidenced by the Bonds and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and payment for the Bonds. In addition, failure on the part of the City to use such CUSIP numbers in any notice to Owners of the Bonds shall not constitute an Event of Default (hereinafter defined) or any violation of the City's contract with such Owners and shall not impair the effectiveness of any such notice.

(d) *Maturities; Interest*. The Bonds shall mature (or, alternatively, be subject to mandatory sinking fund redemption as hereinafter provided) and become payable on August 1 in the years and in the amounts as determined upon the sale thereof. The Bonds shall bear interest at such rate or rates as shall be determined at the time of the sale thereof, payable semi-annually on each Interest Payment Date.

Each Bond shall bear interest from the Interest Payment Date next preceding the date of registration and authentication thereof unless (i) it is registered and authenticated as of an Interest Payment Date, in which event it shall bear interest from such date, or (ii) it is registered and authenticated prior to an Interest Payment Date and after the close of business on the fifteenth day of the month preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (iii) it is registered and authenticated prior to January 15, 2024, in which event it shall bear interest from the date described in paragraph (b) of this Section 2.02; *provided, however*, that if at the time of authentication of a Bond, interest is in default thereon, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Interest on the Bonds shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

(e) *Payment.* Interest on the Bonds (including the final interest payment upon maturity or earlier redemption) is payable by check of the Paying Agent mailed via first-class mail to the Owner thereof at such Owner's address as it appears on the Bond Register on each Record Date or at such other address as the Owner may have filed with the Paying Agent for that purpose; provided however, that payment of interest may be by wire transfer in immediately available funds to an account in the United States of America to any Owner of Bonds in the aggregate principal amount of \$1,000,000 or more who shall furnish written wire instructions to the Paying Agent at least five (5) days before the applicable Record Date. Principal of the Bonds is payable in lawful money of the United States of America at the Principal Office.

Section 2.03. Redemption.

(a) *Optional Redemption.* The Bonds are subject to optional redemption on the date and at the redemption price as determined upon the sale thereof. The City shall be required to give the Paying Agent written notice of its intention to redeem Bonds.

(b) *Mandatory Sinking Fund Redemption.* In the event and to the extent as determined upon the sale thereof, any maturity of Bonds may be designated as "Term Bonds" and shall be subject to mandatory sinking fund redemption. If some but not all of the Term Bonds have been redeemed pursuant to the preceding subsection (a) of this Section 2.03, the aggregate principal amount of such Term Bonds to be redeemed in each year pursuant to this subsection (b) shall be reduced in inverse order of sinking fund payment date in integral multiples of \$5,000, or in such other manner as shall be designated pursuant to written notice filed by the City with the Paying Agent.

(c) *Notice of Redemption.* The Paying Agent on behalf and at the expense of the City shall mail (by first class mail) notice of any redemption to the respective Owners of any Bonds designated for redemption, to the Securities Depositories and to one or more Information Service at least twenty (20) but not more than forty-five (45) days prior to the redemption date, at their respective addresses appearing on the Bond Register; *provided, however,* that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the Bond numbers and the maturity or maturities (in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Principal Office for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

Notwithstanding the foregoing, in the case of any optional redemption of the Bonds, the notice of redemption shall state that the redemption is conditioned upon receipt by the Paying Agent of sufficient moneys to redeem the Bonds on the scheduled redemption date, and that the optional redemption shall not occur if, by no later than the scheduled redemption date, sufficient moneys to redeem the Bonds have not been deposited with the Paying Agent. In the event that the Paying Agent does not receive sufficient funds by the scheduled optional redemption date to so redeem the Bonds to be optionally redeemed, the Paying Agent shall send written notice to the Owners, to the Securities Depositories and to one or more of the Information Services to the effect that the redemption did not occur as anticipated, and the Bonds for which notice of optional redemption was given shall remain Outstanding for all purposes.

(d) *Selection of Bonds for Redemption.* Whenever provision is made for the redemption of Bonds of more than one maturity, the Bonds to be redeemed shall be selected by the City evidenced by a Written Request of the City filed with the Paying Agent or, absent such selection

by the City, in inverse order of maturity of the Bonds subject to redemption and in each case, the Paying Agent shall select the Bonds to be redeemed within any maturity by lot in any manner which the Paying Agent in its sole discretion shall deem appropriate and fair. For purposes of such selection, all Bonds shall be deemed to be comprised of separate \$5,000 portions and such portions shall be treated as separate Bonds which may be separately redeemed.

(e) *Partial Redemption of Bonds.* In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the City shall execute and the Paying Agent shall authenticate and deliver to the Owner thereof, at the expense of the City, a new Bond or Bonds of the same maturity date, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed. Bonds need not be presented for mandatory sinking fund redemptions.

(f) *Effect of Redemption.* From and after the date fixed for redemption, if funds available for the payment of the principal of and interest (and premium, if any) on the Bonds so called for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Resolution other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in such notice. All Bonds redeemed pursuant to this Section 2.03 shall be canceled and shall be destroyed by the Paying Agent.

Section 2.04. Form of Bonds. The Bonds, the form of the Paying Agent's certificate of authentication and registration and the form of assignment to appear thereon shall be substantially in the forms, respectively, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Resolution, as are set forth in Exhibit A attached hereto.

Section 2.05. Execution of Bonds. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of its Mayor or its City Manager and its City Clerk and the Clerk who are in office on the date of adoption of this Resolution or at any time thereafter. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the purchaser, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the purchaser. Any Bond may be signed and attested on behalf of the City by such persons as at the actual date of the execution of such Bond shall be the proper officers of the City although at the nominal date of such Bond any such person shall not have been such officer of the City.

Only such Bonds as shall bear thereon a certificate of authentication and registration in the form set forth in Exhibit A attached hereto, executed and dated by the Paying Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Resolution, and such certificate of the Paying Agent shall be conclusive evidence that the Bonds so registered have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Resolution.

Section 2.06. Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the books required to be kept pursuant to the provisions of Section 2.08 hereof, by the person in whose name it is registered, in person or by its duly authorized attorney, upon surrender of such Bond for cancellation at the Principal Office, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. The Paying Agent shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Paying Agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount.

No transfers of Bonds shall be required to be made (a) fifteen days prior to the date established by the Paying Agent for selection of Bonds for redemption or (b) with respect to a Bond after such Bond has been selected for redemption.

Section 2.07. Exchange of Bonds. Bonds may be exchanged at the Principal Office for a like aggregate principal amount of Bonds of authorized denominations and of the same maturity. The Paying Agent shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

No exchanges of Bonds shall be required to be made (a) fifteen days prior to the date established by the Paying Agent for selection of Bonds for redemption or (b) with respect to a Bond after such Bond has been selected for redemption.

Section 2.08. Bond Register. The Paying Agent shall keep or cause to be kept sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection by the City upon reasonable notice; and, upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Bonds as herein before provided.

Section 2.09. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds shall be of such denominations as may be determined by the City, and may contain such reference to any of the provisions of this Resolution as may be appropriate. Every temporary Bond shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds may be surrendered, for cancellation, in exchange therefor at the Principal Office and the Paying Agent shall deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits pursuant to this Resolution as definitive Bonds executed and delivered hereunder.

Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated the City, at the expense of the Owner of said Bond, shall execute, and the Paying Agent shall thereupon authenticate and deliver, a new Bond of like maturity and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Paying Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Paying Agent shall be canceled by it and delivered to, or upon the order of, the City. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the City and, if such evidence be satisfactory to the City and indemnity satisfactory to it shall be given, the City, at the expense of the Owner, shall execute, and the Paying Agent shall thereupon authenticate and deliver, a new Bond of like maturity and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen. The City may require payment of a sum not exceeding the actual cost of preparing each new Bond issued under this Section and of the expenses which may be incurred by the City and the Paying Agent in the premises. Any Bond issued under the provisions of this Section 2.10 in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Resolution with all other Bonds issued pursuant to this Resolution.

Section 2.11. Book Entry System. Except as provided below, the owner of all of the Bonds shall be The Depository Trust Company, New York, New York ("DTC"), and the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. The Bonds shall be initially executed and delivered in the form of a single fully registered Bond for each maturity date of the Bonds in the full aggregate principal amount of the Bonds maturing on such date. The Paying Agent and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for all purposes of this Resolution, and neither the Paying Agent nor the City shall be affected by any notice to the contrary. The Paying Agent and the City shall not have any responsibility or obligation to any participant of DTC (a "Participant"), any person claiming a beneficial ownership interest in the Bonds under or through DTC or a Participant, or any other person which is not shown on the register of the City as being an Owner, with respect to the accuracy of any records maintained by DTC or any Participant or the payment by DTC or any Participant of any amount in respect of the principal or interest with respect to the Bonds. The Paying Agent shall cause to be paid all principal of and interest on the Bonds received from the City only to DTC, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the payment of the principal of and interest on the Bonds to the extent of the sum or sums so paid. Except under the conditions noted below, no person other than DTC shall receive a Bond. Upon delivery by DTC to the City of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the term "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

If the City determines that it is in the best interest of the beneficial owners that they be able to obtain Bonds and delivers a written certificate to DTC to that effect, DTC shall notify the Participants of the availability through DTC of Bonds. In such event, the City shall issue, transfer and exchange Bonds as requested by DTC and any other owners in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City shall be obligated to deliver Bonds as described in this Resolution. Whenever DTC requests the City to do so, the City will cooperate with DTC in taking appropriate action after reasonable notice to (a) make available one or more separate Bonds evidencing the Bonds to any DTC Participant having Bonds credited to its DTC account or (b) arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

Notwithstanding any other provision of this Resolution to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal of and interest on such Bond and all notices with respect to such Bond shall be made and given to DTC as provided as in the representation letter delivered on the date of issuance of the Bonds.

ARTICLE III

ISSUE OF BONDS; APPLICATION OF BOND PROCEEDS; SECURITY FOR THE BONDS

Section 3.01. Issuance, Award and Delivery of Bonds. At any time after the execution of this Resolution the City may issue and deliver Bonds in the principal amount of up to fifty million dollars (\$50,000,000), the final amount to be determined at the time of the sale thereof.

The City Representatives shall be, and are hereby, directed to cause the Bonds to be printed, signed and delivered to the Original Purchaser on receipt of the purchase price therefor and upon compliance of the conditions determined upon the sale thereof.

The Paying Agent is hereby authorized to deliver the Bonds to the Original Purchaser, upon receipt of a Written Request of the City.

Section 3.02. Accounts.

(a) *Proceeds Account*. There is hereby created, as an account within the General Fund of the City, the "2023 General Obligation Bonds Proceeds Account," which shall be maintained by the City Treasurer as a separate account, distinct from all other funds of the City, into which shall be paid on receipt thereof, the portion of the Bond proceeds designated in Section 3.04(b).

(b) *Administration and Disbursements From Proceeds Account*. Amounts in the Proceeds Account shall be disbursed to pay Project Costs. Disbursements from the Proceeds Account shall be made by a City Representative upon receipt of a certificate requesting disbursement, executed or approved by a City Representative. Each such certificate shall:

(i) set forth the amounts to be disbursed for payment or reimbursement of previous payments of Project Costs and the person or persons to whom said amounts are to be disbursed;

(ii) state that the amounts to be disbursed constitute Project Costs, that said amounts are required to be disbursed pursuant to a contract entered into therefor by or on behalf of the City, or were necessarily and reasonably incurred and that said amounts are not being paid in advance of the time, if any, fixed for payment; and

(iii) state that no amount set forth in the certificate was included in any certificate requesting disbursement previously filed with the City pursuant to this Section 3.02(b).

Amounts, if any, remaining in the Proceeds Account on the date of receipt of a request of a City Representative certifying that no further amounts are required to be disbursed for costs and expenses of the Project, shall be transferred to the Debt Service Account and shall be used for payment of Debt Service on the Bonds on the next Interest Payment Date in accordance with Section 302(d), and the Proceeds Account shall thereupon be closed.

(c) *Debt Service Account*. There is hereby created, as an account within the General Fund of the City, the "2023 General Obligation Debt Service Account," which shall be maintained by the City Treasurer as a separate account, distinct from all other funds of the City.

(d) *Administration and Disbursements From Debt Service Account*. All taxes levied by the County, as directed by the City herein, for the payment of the principal of and interest on the Bonds in accordance with Section 3.05 shall be deposited in the Debt Service Account by the City

promptly upon the receipt thereof from the County. The Debt Service Account is hereby pledged for the payment of the principal of and interest on the Bonds when and as the same become due. On or before the last business day preceding each Interest Payment Date, the City Treasurer shall transfer to the Paying Agent moneys on deposit in the Debt Service Account for application by the Paying Agent on the next succeeding Interest Payment Date to the payment of principal of or interest on the Bonds, or both. If, after payment in full of the Bonds, any amounts remain on deposit in the Debt Service Account, the City shall transfer such amounts to its General Fund, to be applied solely in a manner which is consistent with the requirements of applicable State law.

(e) *Redemption Account.* There is hereby created, as an account within the General Fund of the City, the "General Obligation Bonds Redemption Account," which shall be maintained by the City Treasurer as a separate account, distinct from all other funds of the City. The Redemption Account shall be maintained by the City Treasurer to pay for the prior redemption of the Bonds. Any funds legally available may, at any time on or after the first optional redemption date as determined upon the sale thereof, at the option of the City, be paid to the City Treasurer for deposit in the Redemption Account and application to the prior redemption of Bonds.

(f) *Costs of Issuance Account.* A fund, to be known as the "2023 General Obligation Bonds Costs of Issuance Account" (the "Costs of Issuance Account"), is hereby established with the Paying Agent, acting as costs of issuance custodian (the "Custodian") for the Bonds. Moneys deposited therein shall be used solely for the payment of Costs of Issuance as provided in the Paying Agent Agreement.

Section 3.03. Investment of Moneys. The City shall invest all moneys held in any of the funds or accounts established with it hereunder in accordance with the investment policies of the City, as such policies shall exist at the time of investment, and in accordance with section 53601 of the California Government Code. Earnings on the investment of amounts held in any fund or account established hereunder shall be credited to the respective fund or account from which such investments are made.

Section 3.04. Application of Proceeds of Sale of the Bonds. On the Closing Date, the proceeds of sale of the Bonds shall be paid by the Original Purchaser as follows:

(a) to the Custodian, an amount equal to the amounts required for the payment of Costs of Issuance, for deposit in the Costs of Issuance Account; and

(b) to the City Treasurer and deposited by the City Treasurer in the Proceeds Account.

Section 3.05. Security for the Bonds.

(a) The Bonds are general obligations of the City and the City has the power, is obligated and hereby covenants to levy *ad valorem* taxes upon all property within the City subject to taxation by the City, without limitation of rate or amount, for the payment of the Bonds and the interest thereon, in accordance with section 43632 of the California Government Code. Amounts in the General Fund of the City are not pledged to the payment of the Bonds. However, nothing herein limits the ability of the City to provide for payment of the principal of and interest on the Bonds from any source of legally available funds of the City. Any amounts so advanced by the City from legally available funds may be reimbursed from *ad valorem* property taxes subsequently collected under this Section 5.03

(b) The City hereby directs the County to levy on all the taxable property in the City (except for certain classes of personal property), in addition to all other taxes, a continuing direct and *ad valorem* tax annually during the period the Bonds are outstanding in an amount sufficient

to pay the principal of and interest on the Bonds when due, which moneys when collected will be transferred to the City for deposit in the Debt Service Account.

ARTICLE IV

SALE OF BONDS; APPROVAL OF A PAYING AGENT AGREEMENT; AND A CONTINUING DISCLOSURE CERTIFICATE

Section 4.01. Sale of the Bonds. The Bonds shall be competitively sold by the City pursuant to a preliminary official statement and a notice of intention and a notice of sale or, alternatively, sold by negotiation pursuant to a bond purchase agreement, as shall be determined and approved by the Council at a subsequent meeting.

Section 4.02. Approval of Paying Agent Agreement. The Paying Agent Agreement, in the form attached hereto as Exhibit B, together with any additions thereto or changes therein deemed necessary or advisable by a City Representative, is hereby approved by the Council. The City Representatives are hereby authorized and directed to execute the Paying Agent Agreement for and in the name and on behalf of the City. The Council hereby authorizes the delivery and performance of the Paying Agent Agreement.

Section 4.03. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate, substantially in the form attached hereto as Exhibit C which shall be executed by a City Representative and delivered on the Closing Date. Notwithstanding any other provision of this Resolution, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, any Owner of the Bonds may take such actions as may be necessary and appropriate to compel compliance, including seeking mandate of specific performance by court order.

Section 4.04. Official Action. All actions heretofore taken by the officers and agents of the City with respect to the sale and issuance of the Bonds are hereby approved, and each City Representative is hereby authorized and directed for and in the name and on behalf of the City, to do any and all things and take any and all actions relating to the execution and delivery of any and all certificates, requisitions, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this resolution.

ARTICLE V

OTHER COVENANTS OF THE CITY

Section 5.01. Punctual Payment. The City will punctually pay, or cause to be paid, the principal of and interest on the Bonds, in strict conformity with the terms of the Bonds and of this Resolution, and it will faithfully observe and perform all of the conditions, covenants and requirements of this Resolution and of the Bonds. Nothing herein contained shall prevent the City from making advances of its own moneys, howsoever derived, to any of the uses or purposes permitted by law.

Section 5.02. Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the City will not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Bonds and will not, directly or indirectly, approve any such arrangement by purchasing or funding said claims for interest or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the City, such claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Resolution, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have so extended or funded.

Section 5.03. Protection of Security and Rights of Bondowners. The City will preserve and protect the security of the Bonds and the rights of the Bondowners, and will warrant and defend their rights against all claims and demands of all persons. From and after the sale and delivery of any of the Bonds by the City, the Bonds shall be incontestable by the City.

Section 5.04. Further Assurances. The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the compliance of this Resolution, and for the better assuring and confirming unto the Owners of the Bonds of the rights and benefits provided in this Resolution.

ARTICLE VI

THE PAYING AGENT

Section 6.01. Appointment of Paying Agent. The Bank of New York Mellon Trust Company, N.A. is hereby appointed Paying Agent for the Bonds. The Paying Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Resolution, and, even during the continuance of an Event of Default, no implied covenants or obligations shall be read into this Resolution against the Paying Agent. The Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by executing and delivering to the City the Paying Agent Agreement.

The City may remove the Paying Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a bank or trust company doing business in the State of California, having a combined capital (exclusive of borrowed capital) and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 6.01 the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Paying Agent may at any time resign by giving written notice to the City and the Bondowners of such resignation. Upon receiving notice of such resignation, the City shall promptly appoint a successor Paying Agent by an instrument in writing. Any resignation or removal of the Paying Agent and appointment of a successor Paying Agent shall become effective upon acceptance of appointment by the successor Paying Agent.

Section 6.02. Paying Agent May Hold Bonds. The Paying Agent may become the owner of any of the Bonds in its own or any other capacity with the same rights it would have if it were not Paying Agent.

Section 6.03. Liability of Agents. The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of the City, and the Paying Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Resolution or of the Bonds, nor shall incur any responsibility in respect thereof, other than as set forth in this Resolution. The Paying Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default.

In the absence of bad faith, the Paying Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Paying Agent and conforming to the requirements of this Resolution; but in the case of any such certificates or opinions by which any provision hereof are specifically required to be furnished to the Paying Agent, the Paying Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Resolution.

The Paying Agent shall not be liable for any error of judgment made in good faith by a responsible officer unless it shall be proved that the Paying Agent was negligent in ascertaining the pertinent facts.

No provision of this Resolution shall require the Paying Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

The Paying Agent may execute any of the powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Paying Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

Section 6.04. Notice to Agents. The Paying Agent may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Paying Agent may consult with counsel, who may be of counsel to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties under this Resolution the Paying Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Paying Agent, be deemed to be conclusively proved and established by a certificate of the City, and such certificate shall be full warrant to the Paying Agent for any action taken or suffered under the provisions of this Resolution upon the faith thereof, but in its discretion the Paying Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

Section 6.05. Compensation, Indemnification.

(a) The City shall pay to the Paying Agent from time to time reasonable compensation for all services rendered under this Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties under this Resolution. Any City Representative is hereby authorized to execute an agreement or agreements with the Paying Agent in connection with such fees and expenses. The City further agrees to indemnify and save the Paying Agent harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or bad faith.

(b) The City shall indemnify and hold harmless, to the extent permitted by law, the County and its officers and employees ("Indemnified Parties"), against any and all losses, claims, damages or liabilities, joint or several, to which such Indemnified Parties may become subject related to the proceedings for sale, award, issuance and delivery of the Bonds in accordance therewith and herewith. The City shall also reimburse any such Indemnified Parties for any legal or other expenses incurred in connection with investigating or defending any such claims or actions.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES OF BONDOWNERS

Section 7.01. Events of Default. The following events (“Events of Default”) shall be events of default hereunder:

(a) if default shall be made in the due and punctual payment of the principal of on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) if default shall be made in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable;

(c) if default shall be made by the City in the observance of any of the covenants, agreements or conditions on its part in this Resolution or in the Bonds contained, and such default shall have continued for a period of thirty (30) days after written notice thereof to the City; or

(d) a filing by or on behalf of the City of a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, seeking reorganization of the City under the federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property.

Section 7.02. Remedies of Bondowners. Any Bondowner shall have the right, for the equal benefit and protection of all Bondowners similarly situated:

(a) by mandamus, suit, action or proceeding, to compel the City and its members, officers, agents or employees to perform each and every term, provision and covenant contained in this Resolution and in the Bonds, and to require the carrying out of any or all such covenants and agreements of the City and the fulfillment of all duties imposed upon it;

(b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the Bondowners’ rights; or

(c) upon the happening of any Event of Default, by suit, action or proceeding in any court of competent jurisdiction, to require the City and its members and employees to account as if it and they were the trustees of an express trust.

Section 7.03. Non-Waiver. Nothing in this Article VII or in any other provision of this Resolution, or in the Bonds, shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the principal of and interest on the Bonds to the respective Owners of the Bonds at the respective dates of maturity, as herein provided, or affect or impair the right of action, which is also absolute and unconditional, of such Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.

A waiver of any default by any Bondowner shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of any Owner of any of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein,

and every power and remedy conferred upon the Bondowners by this Article VI may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners of the Bonds.

If a suit, action or proceeding to enforce any right or exercise any remedy be abandoned or determined adversely to the Bondowners, the City and the Bondowners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

Section 7.04. Remedies Not Exclusive. No remedy herein conferred upon the Owners of Bonds shall be exclusive of any other remedy and that each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or thereafter conferred on the Bondowners.

ARTICLE VIII

SUPPLEMENTAL RESOLUTIONS

Section 8.01. Supplemental Resolutions Effective Without Consent of the Owners. For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the City may be adopted, which, without the requirement of consent of the Owners of the Bonds, shall be fully effective in accordance with its terms:

(a) to add to the covenants and agreements of the City in this Resolution, other covenants and agreements to be observed by the City which are not contrary to or inconsistent with this Resolution as theretofore in effect;

(b) to add to the limitations and restrictions in this Resolution, other limitations and restrictions to be observed by the City which are not contrary to or inconsistent with this Resolution as theretofore in effect;

(c) to confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, this Resolution, of any moneys, securities or funds, or to establish any additional funds or accounts to be held under this Resolution;

(d) to cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Resolution; or

(e) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Bonds.

Section 8.02. Supplemental Resolutions Effective With Consent to the Owners. Any modification or amendment of this Resolution and of the rights and obligations of the City and of the Owners of the Bonds, in any particular, may be made by a Supplemental Resolution, with the written consent of the Owners of at least two-thirds in aggregate principal amount of the Bonds Outstanding at the time such consent is given. No such modification or amendment shall permit a change in the terms of maturity of the principal of any Outstanding Bonds or of any interest payable thereon or a reduction in the principal amount thereof or in the rate of interest thereon, or shall reduce the percentage of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or shall change any of the provisions in Section 7.01 hereof relating to Events of Default, or shall reduce the amount of moneys pledged for the repayment of the Bonds without the consent of all the Owners of such Bonds, or shall change or modify any of the rights or obligations of any Paying Agent without its written assent thereto.

ARTICLE IX
MISCELLANEOUS

Section 9.01. Benefits of Resolution Limited to Parties. Nothing in this Resolution, expressed or implied, is intended to give to any person other than the City, the Paying Agent and the Owners of the Bonds, any right, remedy, claim under or by reason of this Resolution. Any covenants, stipulations, promises or agreements in this Resolution contained by and on behalf of the City shall be for the sole and exclusive benefit of the Owners of the Bonds.

Section 9.02. Defeasance.

(a) *Discharge of Resolution*. Bonds may be paid by the City in any of the following ways, provided that the City also pays or causes to be paid any other sums payable hereunder by the City:

- (i) by paying or causing to be paid the principal or redemption price of and interest on Bonds Outstanding, as and when the same become due and payable;
- (ii) by depositing, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 9.02(c) to pay or redeem Bonds Outstanding; or
- (iii) by delivering to the Paying Agent, for cancellation by it, Bonds Outstanding.

If the City shall pay all Bonds Outstanding and shall also pay or cause to be paid all other sums payable hereunder by the City, then and in that case, at the election of the City (evidenced by a certificate of a City Representative, filed with the Paying Agent, signifying the intention of the City to discharge all such indebtedness and this Resolution), and notwithstanding that any Bonds shall not have been surrendered for payment, this Resolution and other assets made under this Resolution and all covenants, agreements and other obligations of the City under this Resolution shall cease, terminate, become void and be completely discharged and satisfied, except only as provided in Section 9.02(b). In such event, upon request of the City, the Paying Agent shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and shall execute and deliver to the City all such instruments as may be necessary to evidence such discharge and satisfaction, and the Paying Agent shall pay over, transfer, assign or deliver to the City all moneys or securities or other property held by it pursuant to this Resolution which are not required for the payment or redemption of Bonds not theretofore surrendered for such payment or redemption.

(b) *Discharge of Liability on Bonds*. Upon the deposit, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 9.02(c) to pay or redeem any Outstanding Bond (whether upon or prior to its maturity or the redemption date of such Bond), provided that, if such Bond is to be redeemed prior to maturity, notice of such redemption shall have been given as in Section 2.03 provided or provision satisfactory to the Paying Agent shall have been made for the giving of such notice, then all liability of the City in respect of such Bond shall cease and be completely discharged, except only that thereafter the Owner thereof shall be entitled only to payment of the principal of and interest on such Bond by the City, and the City shall remain liable for such payment, but only out of such money or securities deposited with the Paying Agent as aforesaid for such payment, provided further, however, that the provisions of Section 9.02(d) shall apply in all events.

The City may at any time surrender to the Paying Agent for cancellation by it any Bonds previously issued and delivered, which the City may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

(c) *Deposit of Money or Securities with Paying Agent.* Whenever in this Resolution it is provided or permitted that there be deposited with or held in trust by the Paying Agent money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held may include money or securities held by the Paying Agent in the funds and accounts established pursuant to this Resolution and shall be:

(i) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as in Section 2.03 provided or provision satisfactory to the Paying Agent shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount or redemption price of such Bonds and all unpaid interest thereon to the redemption date; or

(ii) Federal Securities (not callable by the issuer thereof prior to maturity) the principal of and interest on which when due, in the opinion of a certified public accountant delivered to the City, will provide money sufficient to pay the principal or redemption price of and all unpaid interest to maturity, or to the redemption date, as the case may be, on the Bonds to be paid or redeemed, as such principal or redemption price and interest become due, provided that, in the case of Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Section 2.03 provided or provision satisfactory to the Paying Agent shall have been made for the giving of such notice;

provided, in each case, that the Paying Agent shall have been irrevocably instructed (by the terms of this Resolution or by request of the City) to apply such money to the payment of such principal or redemption price and interest with respect to such Bonds.

(d) *Payment of Bonds After Discharge of Resolution.* Notwithstanding any provisions of this Resolution, any moneys held by the Paying Agent in trust for the payment of the principal or redemption price of, or interest on, any Bonds and remaining unclaimed for one year after the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption or by acceleration as provided in this Resolution), if such moneys were so held at such date, or one year after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall, upon request of the City, be repaid to the City free from the trusts created by this Resolution, and all liability of the Paying Agent with respect to such moneys shall thereupon cease; *provided, however,* that before the repayment of such moneys to the City as aforesaid, the Paying Agent may (at the cost of the City) first mail to the Owners of all Bonds which have not been paid at the addresses shown on the registration books maintained by the Paying Agent a notice in such form as may be deemed appropriate by the Paying Agent, with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof.

Section 9.03. Execution of Documents and Proof of Ownership by Bondowners. Any request, declaration or other instrument which this Resolution may require or permit to be executed by Bondowners may be in one or more instruments of similar tenor, and shall be executed by Bondowners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Bondowner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number and date of holding the same shall be proved by the registry books.

Any request, declaration or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Paying Agent in good faith and in accordance therewith.

Section 9.04. Waiver of Personal Liability. No Councilmember, officer, agent or employee of the City shall be individually or personally liable for the payment of the principal of or interest on the Bonds; but nothing herein contained shall relieve any such Councilmember, officer, agent or employee from the performance of any official duty provided by law.

Section 9.05. Destruction of Canceled Bonds. Whenever in this Resolution provision is made for the surrender to the City of any Bonds which have been paid or canceled pursuant to the provisions of this Resolution, a certificate of destruction duly executed by the Paying Agent shall be deemed to be the equivalent of the surrender of such canceled Bonds and the City shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to.

Section 9.06. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Resolution shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Resolution. The City hereby declares that it would have adopted this Resolution and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Resolution may be held illegal, invalid or unenforceable. If, by reason of the judgment of any court, the City is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the City hereunder shall be assumed by and vest in the City in trust for the benefit of the Bondowners.

Section 9.07. Execution of Documents. The Mayor, the City Manager, the City Clerk, the Finance Director and the City Treasurer of the City, and any and all other officers of the City, are each authorized and directed in the name and on behalf of the City to make any and all certificates, requisitions, agreements, notices, consents, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate the lawful issuance, sale and delivery of the Bonds. Whenever in this Resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

Section 9.08. Validation. The Bonds are subject to section 860 et seq. of the California Code of Civil Procedure. In order to ensure the validity of the Bonds and the Projects to be financed with the proceeds of the Bonds, the City will proceed to issue the Bonds only after the 60 day period following adoption of this Resolution for actions to be brought pursuant to section 863 of the California Code of Civil Procedure has expired.

Section 9.09. Effective Date of Resolution. This Resolution shall take effect from and after the date of its passage and adoption.

THE FOREGOING RESOLUTION is approved and adopted by the City Council of the City of Emeryville this 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

EXHIBIT A TO RESOLUTION

FORM OF BOND

United States of America
State of California
Alameda County

**CITY OF EMERYVILLE
2023 GENERAL OBLIGATION BOND
(Federally Taxable)**

INTEREST RATE: _____ %	MATURITY DATE: August 1, _____	ISSUE DATE: May 10, 2023	CUSIP: _____
---------------------------	-----------------------------------	-----------------------------	-----------------

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: _____ DOLLARS

The CITY OF EMERYVILLE, general law city and municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City"), for value received hereby promises to pay to the Registered Owner stated above, or registered assigns (the "Owner"), on the Maturity Date stated above (subject to any right of prior redemption hereinafter provided for), the Principal Sum stated above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the interest payment date next preceding the date of authentication of this Bond (unless (i) this Bond is authenticated on an interest payment date, in which event it shall bear interest from such date of authentication, or (ii) this Bond is authenticated prior to an interest payment date and after the close of business on the fifteenth day of the month preceding such interest payment date, in which event it shall bear interest from such interest payment date, or (iii) this Bond is authenticated on or prior to January 15, 2024, in which event it shall bear interest from the Issue Date stated above; provided however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the interest payment date to which interest has previously been paid or made available for payment on this Bond) until payment of such Principal Sum in full, at the rate per annum stated above, payable on February 1 and August 1 in each year, commencing February 1, 2023, calculated on the basis of 360-day year comprised of twelve 30-day months. Principal hereof is payable at the office of The Bank of New York Mellon Trust Company, N.A. (the "Paying Agent"), in Los Angeles, California. Interest hereon (including the final interest payment upon maturity or earlier redemption) is payable by check or draft of the Paying Agent mailed by first-class mail to the Owner at the Owner's address as it appears on the registration books maintained by the Paying Agent as of the close of business on the fifteenth day of the month next preceding such interest payment date (the "Record Date"), or at such other address as the Owner may have filed with the Paying Agent for that purpose; provided however, that payment of interest may be by wire transfer in immediately available funds to an account in the United States of America to any Owner of Bonds in the aggregate principal amount of \$1,000,000 or more who shall furnish written wire instructions to the Paying Agent at least five (5) days before the applicable Record Date.

This Bond is one of a duly authorized issue of Bonds of the City designated as "City of Emeryville (Alameda County, California) 2023 General Obligation Bonds" (the "Bonds"), in an aggregate principal amount of _____ dollars (\$ _____), all of like tenor and date (except for such variation, if any, as may be required to designate varying numbers, maturities, interest rates or redemption and other provisions) and all issued pursuant to the provisions of Article 9, commencing with section 43600, of Chapter 4 of Division 4 of Title 4 of the California Government Code (the "Act"), and pursuant to Resolution No. _____ of the City adopted February 21, 2023 (the "Resolution"), authorizing the issuance of the Bonds. Reference is hereby made to the Resolution (copies of which are on file at the office of the Clerk of the City Council of the City) and the Act for a description of the terms on which the Bonds are issued and the rights

thereunder of the owners of the Bonds and the rights, duties and immunities of the Paying Agent and the rights and obligations of the City thereunder, to all of the provisions of which Resolution the Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the City for the purpose of financing facilities to provide affordable housing and prevent displacement of vulnerable populations, including low and middle-income households, veterans, local artists, seniors, and the disabled and provide supportive housing for people experiencing homelessness; and help low and middle-income households purchase homes. The issuance of the Bonds was authorized by a vote of more than two-thirds of the qualified voters of the City voting at a special municipal election held on June 5, 2018, at which time a total amount of \$50,000,000 of bonds was approved. The Bonds constitute the [first] [total] issue of bonds pursuant to such authorization.

This Bond and the interest hereon and on all other Bonds and the interest thereon (to the extent set forth in the Resolution) are general obligations of the City and the City has the power and is obligated to levy *ad valorem* taxes for the payment of the Bonds and the interest thereon upon all property within the City which is subject to taxation by the City.

The Bonds maturing prior to August 1, ____, are non-callable. The Bonds maturing on and after August 1, ____, are callable for redemption prior to their stated maturity date at the option of the City, as a whole, or in part on any date on or after August 1, ____ (in such maturities as are designated by the City, or, if the City fails to designate such maturities, on a proportional basis), and may be redeemed prior to the maturity thereof by payment of all principal, plus accrued interest to date of redemption, without premium.

[If applicable:] The Bonds maturing on August 1, 20__ (the "Term Bonds") are also subject to mandatory sinking fund redemption on August 1 in the years, and in the amounts, as set forth in the following table, at a redemption price equal to one hundred percent (100%) of the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; provided, however, that if some but not all of the Term Bonds have been redeemed pursuant to the preceding paragraph, the aggregate principal amount of Term Bonds to be redeemed under this paragraph shall be reduced on a pro rata basis in integral multiples of \$5,000, as shall be designated pursuant to written notice filed by the City with the Paying Agent:

Sinking Fund Redemption Date (August 1)	Principal Amount to be Redeemed
---	---------------------------------------

†Maturity

The Paying Agent shall give notice of the redemption of the Bonds at the expense of the City. Such notice shall specify: (a) that the Bonds or a designated portion thereof are to be redeemed, (b) the numbers and CUSIP numbers of the Bonds to be redeemed, (c) the date of notice and the date of redemption, (d) the place or places where the redemption will be made, and (e) descriptive information regarding the Bonds including the dated date, interest rate and stated maturity date. Such notice shall further state that on the specified date there shall become due and payable upon each Bond to be redeemed, the portion of the principal amount of such Bond to be redeemed, together with interest accrued to said date, and that from and after such date interest with respect thereto shall cease to accrue and be payable.

The Bonds are issuable as fully registered Bonds, without coupons, in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Resolution. Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations and of the same maturity.

This Bond is transferable by the Owner hereof, in person or by his attorney duly authorized in writing, at said office of the Paying Agent in Los Angeles, California, but only in the manner and subject to

the limitations provided in the Resolution, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor.

The City and the Paying Agent may treat the Owner hereof as the absolute owner hereof for all purposes, and the City and the Paying Agent shall not be affected by any notice to the contrary.

The Resolution may be amended without the consent of the Owners of the Bonds to the extent set forth in the Resolution.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time and manner as required by the laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Resolution.

This Bond shall not be entitled to any benefit under the Resolution or become valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been signed manually by the Paying Agent.

Unless this certificate is presented by an authorized representative of The Depository Trust Company; a New York corporation ("DTC"), to the City or the Paying Agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, the City of Emeryville has caused this Bond to be executed in its name and on its behalf with the facsimile signatures of Mayor and City Clerk, all as of the Issue Date stated above.

CITY OF EMERYVILLE

By _____
Mayor

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Resolution.

Authentication Date:

THE BANK OF NEW YORK MELLON TRUST
COMOANY, N.A., as Paying Agent

By _____
Authorized Signatory

ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Bond and do(es) hereby irrevocably constitute(s) and appoint(s)

attorney, to transfer the same on the registration books of the Paying Agent with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Notice: Signature(s) must be guaranteed by a qualified guarantor institution.

Notice: The signature on this assignment must correspond with the name(s) as written on the face of the within bond in every particular without alteration or enlargement or any change whatsoever."

EXHIBIT B TO RESOLUTION
FORM OF PAYING AGENT AGREEMENT
[TO BE ATTACHED PRIOR TO ADOPTION]

EXHIBIT C TO RESOLUTION
FORM OF CONTINUING DISCLOSURE CERTIFICATE

[TO BE ATTACHED PRIOR TO ADOPTION]

EXHIBIT D TO RESOLUTION

GOVERNMENT CODE SECTION 5852.1 DISCLOSURE

The following information consists of estimates that have been provided by the City's municipal advisor as of January 10, 2023, which has been represented to have been provided in good faith:

(A) True Interest Cost of the Bonds: 6.34%

(B) Finance Charges (Costs of Issuance): 615,000

(C) Net Proceeds to be Received for the Bonds: \$49,385,000
(net of finance charges)

(D) Total Payment Amount through Maturity: \$101,347,059

The foregoing estimates constitute good faith estimates only.

The principal amount of the Bonds, the true interest cost of the Bonds, 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 amount used for purposes of such estimates, (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 timing of the need for proceeds of the Bonds and other factors. The actual interest rates with respect to 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.