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CITY ATTORNEY

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

- - 78270 - -

2003 DEC -4 PM 6:15

RESOLUTION OF APPROVING THE ISSUANCE AND SALE OF CERTIFICATES OF PARTICIPATION TO FINANCE A QUALIFIED ZONE ACADEMY PROGRAM AND APPROVING RELATED DOCUMENTS AND ACTIONS FOR THE OAKLAND SCHOOL OF THE ARTS

WHEREAS, the City of Oakland (the "City") has been requested by the Oakland School for the Arts ("School for the Arts") to issue on its behalf a qualified zone academy bond (as defined in Section 1397E of the Internal Revenue Code of 1986, as amended) to finance acquisition and construction of school facilities, including, without limitation, costs of demolition, architectural and engineering services, and temporary school facilities (collectively, the "Improvements"); and

WHEREAS, the School for the Arts has applied for and received from the California Department of Education an allocation of Qualified Zone Academy Bond ("QZAB") authority in the amount of \$811,000 to assist in financing the Improvements; and

WHEREAS, the QZAB program provides zero-interest financing for capital projects because the purchaser of QZAB debt receives a tax credit from the federal government instead of receiving interest payments from the school; and

WHEREAS, the City desires to execute and deliver certificates of participation ("Certificates") and related documents to finance the Improvements; and

WHEREAS, upon issuance of the Certificates, the School for the Arts will repay the COPs by making annual payments into an escrow account; and

WHEREAS, amounts on deposit in the escrow account will earn interest until the \$811,000 principal amount of the Certificates becomes due and payable; and

WHEREAS, costs of issuance associated with delivering the Certificates will be deducted from the \$811,000; and

WHEREAS, the City will select a national banking association, insurance company or corporation actively involved in the business of lending money to purchase the Certificates from the City; and

WHEREAS, all conditions, things and acts required by law to exist, to happen and to be performed precedent to and in connection with the execution, sale and delivery of the Certificates exist, have happened and been performed in due time, form and manner, in accordance with applicable law

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OAKLAND, AS FOLLOWS:

Section 1. Recitals. The City does hereby find and declare that the above recitals are true and correct and that the lease of the Improvements (and the sublease to the City), the execution, sale and delivery of the Certificates are proper public purposes.

Section 2. Execution, Sale and Delivery of 2003 Series A Certificates. The City Council hereby authorizes the execution, sale and delivery of the 2003 Series A Certificates in an aggregate principal amount of not to exceed of \$811,000 and shall not bear any interest.

Section 3. Trust Agreement. The form of Trust Agreement (the "Trust Agreement") among the City, the School for the Arts and the trustee named therein (the "Trustee") in substantially the form on file with the City Clerk, is hereby approved and adopted. The City Manager and the Director of the Finance and Management Agency are each separately hereby authorized and directed to execute and the City Clerk is hereby authorized to attest to, the Trust Agreement in substantially such form, with such changes, additions, amendments or modifications which are approved by the Director of the Finance and Management Agency, in consultation with the City Attorney (the "City Attorney"), in the interest of the City, such approval to be conclusively evidenced by said execution. The City hereby agrees to comply with, or cause to be complied with, all covenants of the City set forth in the Trust Agreement.

Section 4. Lease Agreement. The form of Lease Agreement (the "Lease Agreement") between the City and the School for the Arts, in substantially the form on file with the City Clerk, is hereby approved and adopted. The City Manager and the Director of the Finance and Management Agency are each separately hereby authorized and directed to execute and the City Clerk is hereby authorized to attest to, the Agreement in substantially such form, with such changes, additions, amendments or modifications (including but not limited to changes, additions, amendments or modifications necessary to obtain ratings on the 2003 Series A Certificates), which are approved by the Director of the Finance and Management Agency, in consultation with the City Attorney, in the interest of the City, such approval to be conclusively evidenced by said execution. The City hereby agrees to comply with, or cause to be complied with, all covenants of the City set forth in the Lease Agreement.

Section 5. Certificate Purchase Agreement. The form of Certificate Purchase Agreement (the "Certificate Purchase Agreement") among the City, the School for the Arts and the purchaser named therein, in substantially the form on file with the City Clerk, is

hereby approved and adopted. The City Manager and the Director of the Finance and Management Agency are each separately hereby authorized and directed to execute and the City Clerk is hereby authorized to attest to, the Certificate Purchase Agreement in substantially such form, with such changes, additions, amendments or modifications, which are approved by the Director of the Finance and Management Agency, in consultation with the City Attorney, in the interest of the City, such approval to be conclusively evidenced by said execution. The City hereby agrees to comply with, or cause to be complied with, all covenants of the City set forth in the Certificate Purchase Agreement.

Section 6. Private Placement Memorandum. The Director of the Finance and Management Agency is hereby authorized and directed, in consultation with the City Attorney, to prepare a private placement memorandum for the 2003 Series A Certificates authorized by this Resolution. The form of proposed private placement memorandum (the "Private Placement Memorandum"), in substantially the form presented to this City Council, and on file with the City Clerk, is hereby approved and adopted with such changes, additions, amendments or modifications as may be made in accordance with Section 9 hereof. The City Manager and the Director of the Finance and Management Agency are each separately hereby authorized and directed to cause to be distributed to the purchaser of the 2003 Series A Certificates copies of the Private Placement Memorandum.

Section 7. Appointment of Special Counsel and Other Agents. The retention of the law firm of Jones Hall as special counsel to the City in connection with the execution, sale and delivery of the 2003 Series A Certificates is hereby approved. The City Attorney is hereby authorized to negotiate and execute contractual agreements with Jones Hall in connection with the execution, sale and delivery of the 2003 Series A Certificates.

The City Manager and the Director of the Finance and Management Agency are hereby authorized to retain such other agents as they deem necessary to effect the execution, sale and delivery of the Certificates, including, but not limited to, underwriters and a trustee.

Section 8. Payment of Costs of Issuance. The Director of the Finance and Management Agency is hereby authorized and directed to pay, or cause to be paid on behalf of the City, the costs of issuance associated with the 2003 Series A Certificates.

Section 9. Modification to Documents. Any City official authorized by this Resolution to execute any document is hereby further authorized, in consultation with the Director of the Finance and Management Agency and the City Attorney, to approve and make such changes, additions, amendments or modifications to the document or documents the official is authorized to execute as may be necessary or advisable (provided that such changes, additions, amendments or modifications shall not authorize an aggregate principal amount of 2003 Series A Certificates in excess of \$811,000). The approval of any change, addition, amendment or modification to any of the aforementioned

documents shall be evidenced conclusively by the execution and delivery of the document in question.

Section 10. Official Action. The City Manager, the Director of the Finance and Management Agency, and any and all other officers of the City are 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, including execution and delivery of any and all subleases, sub-subleases, assignments, certificates, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the execution and delivery of the Certificates.

Section 11. Ratification. All actions heretofore taken by the officials, employees and agents of the City with respect to the execution, sale and delivery of the 2003 Series A Certificates are hereby approved, confirmed and ratified.

In Council, Oakland, California, December ^{DEC 16 2003} __, 2003 passed by the following vote:

AYES-- 7 BROOKS, BRUNNER, CHANG, NADEL, QUAN, ~~REID~~, WAN AND PRESIDENT DE LA FUENTE

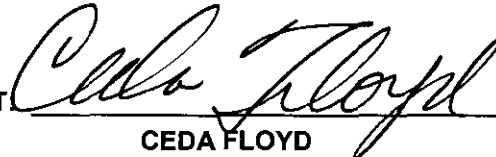
NOES-

ABSENT-

ABSTENTION-

EXCUSED - 1 REID

ATTEST



CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California