

RESOLUTION NO. 49-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK (“IBANK”) FOR FINANCING THE LOWER LINDA MAR SEWER SYSTEM REHABILITATION AND REPAIR PROJECT AND THE ULTRAVIOLET DISINFECTION REPLACEMENT PROJECT AS PART OF THE WASTEWATER CAPITAL IMPROVEMENT PLAN; AUTHORIZING THE INCURRING OF AN OBLIGATION PAYABLE TO IBANK FOR THE FINANCING OF A CAPITAL IMPROVEMENT PROJECT IF IBANK APPROVES SAID APPLICATION AND CONTINGENT UPON THE CITY COUNCIL SUBSEQUENTLY APPROVING THE FINANCING AGREEMENT; APPROVING THE DECLARATION OF OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES FROM THE PROCEEDS OF AN OBLIGATION; AND APPROVING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the California Infrastructure and Economic Development Bank (“IBank”) administers a financing program to assist local governments with the financing of eligible projects in accordance with Section 63000 et seq. of the California Government Code (the “Act”); and

WHEREAS, IBank created the Infrastructure State Revolving Fund Program (“ISRF Program”) pursuant to the provision of the Act; and

WHEREAS, IBank has instituted an application process for financing under its ISRF Program; and

WHEREAS, IBank’s Criteria, Priorities and Guidelines for the Selection of Projects for Financing under the ISRF Program, dated February 23, 2016, and as may thereafter be amended from time to time (the “Criteria”), establishes requirements for the financing of projects under the ISRF Program; and

WHEREAS, the City of Pacifica (“Applicant”) desires to submit an application (“Financing Application”) to IBank under the ISRF Program for financing the costs of the Lower Linda Mar Sewer System Rehabilitation and Repair and Ultraviolet Disinfection Replacement Projects (“Project”) in an amount not to exceed \$21,000,000.00; and

WHEREAS, the Act and the Criteria require the Applicant to make, by resolution of its governing body, certain findings prior to a project being selected for financing by IBank; and

WHEREAS, the Applicant expects to incur or pay certain expenditures in connection with the Project from its Wastewater Enterprise Fund that are reimbursable with the proceeds of tax exempt bonds or other tax exempt securities under Federal Tax Law (defined below) prior to incurring indebtedness for the purpose of financing costs associated with the Project on a long-term basis (the “Reimbursement Expenditures”); and

WHEREAS, contingent upon City Council approval, the Applicant reasonably expects that a financing arrangement (“Obligation”) in an amount not expected to exceed \$21,000,000 will be entered into under and memorialized by one or more financing

agreements and related documents (collectively, the “Financing Agreement”) and that certain proceeds of such Obligation will be used to reimburse the Applicant for Reimbursement Expenditures incurred or paid prior to incurring the Obligation; and

WHEREAS, the Applicant acknowledges that IBank funds the ISRF Program, in part, with the proceeds of tax exempt bonds and, as such, has certain compliance obligations that may require it to have the Applicant enter into one or more new financing agreements to replace the Financing Agreement (collectively, the “Replacement Agreement”) on terms and conditions substantially identical to the original Financing Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFICA THAT:

Section 1. The City of Pacifica hereby approves confirms, ratifies, and affirms all actions of the Applicant’s representatives, employees and officers heretofore taken in connection with, or with respect to, submitting the Financing Application, and the consideration and approval of the Obligation and the Financing Agreement, if IBank approves the Financing Application and the Obligation and contingent upon the City Council approval of the Financing Agreement, and in connection therewith the City of Pacifica finds and certifies:

- a. The Project facilitates the effective and efficient use of existing and future public resources so as to promote both economic development and conservation of natural resources;
- b. The Project develops and enhances public infrastructure in a manner that will attract, create, and sustain long-term employment opportunities;
- c. That the Project is consistent with the City of Pacifica’s General Plan and the General Plan of the County of San Mateo;
- d. The proposed financing is appropriate for the Project;
- e. The Project is consistent with the Criteria; and
- f. It has considered (i) the impact of the Project on California’s land resources and the need to preserve such resources; (ii) whether the Project is economically or socially desirable; and (iii) whether the project is consistent with, and in furtherance of the State Environmental Goals and Policy Report (as defined in the Criteria).

Section 2. The Applicant hereby declares its official intent to use proceeds of the Obligation to reimburse itself for the Reimbursement Expenditures with the proceeds of tax-exempt bonds or other tax-exempt securities issued under the provisions of the Internal Revenue Code of 1986, as amended, and those Treasury Regulations implementing such provisions (collectively, “Federal Tax Law”). This declaration is made solely for purposes of establishing compliance with applicable requirements of Federal Tax Law and its date is controlling for purposes of reimbursement under Federal Tax Law. This declaration does not bind the Applicant to make any expenditure, incur any indebtedness, or proceed with the Project.

Section 3. All of the Reimbursement Expenditures were made no earlier than 60 days prior to the date of this Resolution. The Applicant will allocate proceeds of the Obligation to pay Reimbursement Expenditures within eighteen (18) months of the later of

the date the original expenditure was paid or the date the Project was placed in service or abandoned, but in no event more than three (3) years after the original expenditure was paid.

Section 4. The City Manager and his or her designee is hereby authorized and directed to act on behalf of the Applicant in all matters pertaining to the Financing Application, and if IBank approves the Financing Application and the Obligation and if the City Council subsequently approves the Financing Agreement, the execution of related financial documents, including but not limited to, the authority to: (i) pledge the revenues of the City's wastewater enterprise fund and all legally available amounts in the wastewater enterprise fund on a parity basis with the Applicant's obligations in connection with the existing debts, to the repayment of the Obligation, (ii) provide covenants relating to, among other things, maintaining the debt service coverage ratio required by IBank, rates and charges to be pledged, and as to any other security or collateral securing the Obligation, and (iii) take any other action necessary or desirable to enable the Applicant to enter into the Financing Agreement and incur the Obligation and with the authority to make payments from the wastewater enterprise fund revenues and other legally available sources of funds for the repayment of the Obligation and to provide covenants relating to the Obligation and as to any security or collateral securing the Obligation.

Section 5. If the Financing Application and the Obligation is approved by IBank and subsequently approved by the City Council, the City Manager and his or her designee is authorized to negotiate, enter into and sign financing documents and any amendments thereto, including, but not limited to the Financing Agreement and the Replacement Agreement, with IBank for the purposes of financing the Obligation.

Section 6. This Resolution shall become effective immediately upon adoption.

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I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the City Council of the City of Pacifica in a regular meeting assembled on the 8th day of August 2022, by the following vote:

AYES, Councilmembers: Beckmeyer, Bier, Bigstyck, O'Neill, Vaterlaus.

NOES, Councilmembers: n/a.

ABSENT, Councilmembers: n/a.

ABSTAIN, Councilmembers: n/a.


Mary Bier (Aug 18, 2022 11:37 PDT)


Mary Bier, Mayor

ATTEST:

APPROVED AS TO FORM:



Sarah Coffey, City Clerk



Michelle Kenyon, City Attorney










For Signature: ResolutionNo49-2022_iBankApplication_WastewaterCapitalProjects

Final Audit Report

2022-08-18

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