

RESOLUTION NO. 2010-04

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MARIN ENERGY AUTHORITY APPROVING THE EXECUTION AND DELIVERY OF A REVOLVING CREDIT AGREEMENT AND A CREDIT AGREEMENT, EACH BY AND BETWEEN THE MARIN ENERGY AUTHORITY AND RIVER CITY BANK, AND THE ISSUANCE OF PROMISSORY NOTES IN CONNECTION THEREWITH

WHEREAS, the Marin Energy Authority (“MEA”) is a joint powers authority established on December 19, 2008, and organized under the Joint Exercise of Powers Act (Government Code Section 6500 et seq.); and

WHEREAS, MEA members include the following Marin communities: the County of Marin, the City of Belvedere, the Town of Fairfax, the City of Mill Valley, the Town of San Anselmo, the City of San Rafael, the City of Sausalito and the Town of Tiburon; and

WHEREAS, pursuant to Government Code Section 53850 et seq. (the “Act”), the MEA may borrow money by issuing a note or notes in anticipation of the receipt of taxes, income, revenue, cash receipts and other moneys to be received by the MEA, for any purpose for which the MEA is authorized to expend moneys, including but not limited to current expenses, capital expenditures, investment and reinvestment, and the discharge of any obligation or indebtedness of the MEA; and

WHEREAS, Section 53853 of the Act provides that such notes may be issued upon the authority of a resolution of the legislative body of the local agency; and

WHEREAS, pursuant to the Act, the Board of Directors (the “Board”) of the Marin Energy Authority, being the governing body of the MEA, wishes to authorize the MEA in: (i) the borrowing of not to exceed \$500,000 by the issuance of a promissory note (“Revolving Note”) reflecting a commitment from River City Bank (“Lender”) for a revolving credit facility, as more particularly described in the Revolving Credit Agreement (“Revolving Credit Agreement”), by and between MEA as borrower and River City Bank as Lender, in substantially the form attached hereto as Exhibit A and incorporated herein by this reference; and (ii) the borrowing of not to exceed \$950,000 by the issuance of a promissory note (“Credit Note”) reflecting a commitment from Lender for a credit facility, as more particularly described in the Credit Agreement (“Credit Agreement”, and together with the Revolving Credit Agreement, the “Agreements”), by and between MEA and Lender, in substantially the form attached hereto as Exhibit B and incorporated herein by this reference; and

WHEREAS, pursuant to the Act, the Revolving Note and the Credit Note (collectively, the "Notes") may be made payable during the fiscal year succeeding the fiscal year in which they were issued, but in no event later than 15 months after the date of issue, and the Notes shall be payable only from revenue received or accrued during the fiscal year in which the Notes were issued; and

WHEREAS, pursuant to Section 53856 and Section 53857 of the Act, the MEA may pledge any taxes, income, revenue, cash receipts or other moneys of the MEA, including moneys deposited in inactive or term deposits, to the repayment of the Notes, and to the extent not paid from the taxes, income, revenue, cash receipts or other moneys of the MEA pledged for the payment thereof, shall be paid with interest thereon from any other moneys of the MEA lawfully available therefor; and

WHEREAS, the Notes to be issued pursuant to the Agreements in any fiscal year, when added to the interest payable thereon, may not and do not exceed 85 percent of the estimated amount of the uncollected taxes, income, revenue (including but not limited to revenue from state and federal governments), cash receipts and other moneys of the MEA which will be available for the payment of principal of the Notes and the interest thereon, as required by Section 53858 of the Act;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Marin Energy Authority:

1. The above recitals, and each of them, are true and correct.
2. The Board hereby authorizes the execution and delivery of: (i) the Revolving Credit Agreement, pursuant to which the Revolving Note shall be issued, in a principal amount not to exceed \$500,000, and (ii) the Credit Agreement, pursuant to which the Credit Note shall be issued, in a principal amount not to exceed \$950,000. The MEA may voluntarily prepay the principal and interest on the Notes, in whole or in part, at any time, without penalty, prior to the maturity date thereof. Notice of such prepayment will be provided to Lender by the MEA at least one day prior to the date desired for prepayment pursuant to the terms of the Agreements.
3. As security for the payment of the principal of and interest on the Notes, the MEA hereby pledges an amount, for the applicable month, equal to: (a) from the date the Notes are issued through September 2010, an amount equal to 0.6% of the amounts deposited into the Primary Secured Account (as defined in the Agreements) for each applicable month, and (b) from October 2010 and thereafter, an amount equal to 5% of the amounts deposited in the Primary Secured Account (such pledged amounts being hereinafter called the "Pledged Revenues").

The principal of the Notes and the interest thereon shall be a first lien and charge against and shall be payable from the first moneys received by the MEA from such Pledged Revenues, as provided by law.

In the event that there are insufficient Pledged Revenues received by the MEA, then the amount of any deficiency shall be satisfied and made up from any other moneys of the MEA lawfully available for the repayment of the Notes and the interest thereon.

4. The Agreements, in substantially the forms presented and on file with the Secretary of the MEA, are incorporated herein by reference, and the Interim Director of the MEA and the Chair of the Board ("Authorized Officers") are hereby authorized and directed, for and in the name and on behalf of the MEA, to execute and deliver the Agreements in substantially said forms, with such additions or changes therein as may be approved by such officers upon consultation with General Counsel for the MEA. Approval of such additions and changes shall be conclusively evidenced by the execution and delivery of the Agreements.

5. The Authorized Officers are hereby authorized to execute the Notes by their manual or facsimile signatures; and such officers shall be authorized to cause the blank spaces thereof to be filled in prior to initial delivery as may be appropriate.

6. The Authorized Officers and all other officers of the MEA are hereby authorized and directed, jointly and severally, to do any and all things, to execute and deliver any and all documents that they may deem necessary or advisable in order to effectuate the purposes of this Resolution without further approval of the Board, and any such actions previously taken by such officers are hereby ratified and confirmed.

7. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED at a regular meeting of the Marin Energy
Authority Board of Directors on this 12th day of March 2010, by the following vote:

AYES NOES ABSTAIN ABSENT

City of Belvedere

Town of Fairfax

County of Marin

City of Mill Valley

Town of San Anselmo

City of San Rafael

City of Sausalito

Town of Tiburon


Cathy L. Long

CHAIR, MARIN ENERGY AUTHORITY BOARD

ATTEST:

SECRETARY, MARIN ENERGY AUTHORITY BOARD