

RESOLUTION NO. 2013-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, ACCEPTING A PROPOSAL OF TD BANK, N.A. TO PROVIDE THE CITY WITH A TERM LOAN IN ORDER TO REFUND ALL OF THE CITY'S OUTSTANDING RECREATION CAPITAL IMPROVEMENT GENERAL OBLIGATION BONDS, SERIES 2004 WHICH WERE ISSUED TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF VARIOUS RECREATIONAL FACILITIES; APPROVING THE FORM OF A LOAN AGREEMENT; APPROVING THE FORM OF AN ESCROW DEPOSIT AGREEMENT; AUTHORIZING THE ISSUANCE OF A CITY OF VENICE, FLORIDA RECREATION CAPITAL IMPROVEMENT GENERAL OBLIGATION REFUNDING BOND, SERIES 2014 PURSUANT TO SUCH LOAN AGREEMENT IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,600,000 IN ORDER TO EVIDENCE SUCH LOAN; AUTHORIZING THE REPAYMENT OF SUCH BOND FROM AD VALOREM TAXATION WITHOUT LIMIT ON ALL TAXABLE PROPERTY IN THE CITY; DELEGATING CERTAIN AUTHORITY TO THE MAYOR, CITY MANAGER AND OTHER OFFICERS OF THE CITY FOR THE AUTHORIZATION, EXECUTION AND DELIVERY OF THE LOAN AGREEMENT, THE ESCROW DEPOSIT AGREEMENT, THE BOND AND VARIOUS OTHER DOCUMENTS WITH RESPECT THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA:

SECTION 1. AUTHORITY FOR THIS RESOLUTION.

This Resolution is adopted pursuant to the provisions of the Florida Constitution, Chapter 166, Florida Statutes, the Charter of the City of Venice, Florida, the Referendum Ordinance (as defined herein) and other applicable provisions of law.

SECTION 2. DEFINITIONS.

When used in this Resolution, capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement (as defined herein), unless the context clearly indicates a different meaning.

"Act" shall mean the State of Florida Constitution, Chapter 166, Florida Statutes, the Charter of the City, the Referendum Ordinance and other applicable provisions of law.

"Bondholder" shall mean TD Bank, N.A. and its successors and assigns.

"City" shall mean the City of Venice, Florida, a municipal corporation duly organized and validly existing under the laws of the State of Florida.

"City Manager" shall mean the City Manager of the City and such other person as may be duly authorized to act on his or her behalf.

"Clerk" shall mean the City Clerk of the City, or her or his duly authorized designee.

"Council" shall mean the City Council of the City of Venice, Florida.

"Escrow Deposit Agreement" shall mean that certain Escrow Deposit Agreement to be executed between the City and The Bank of New York Mellon Trust Company, N.A., as Escrow Agent, relating to the refunding and defeasance of the Refunded Bonds, which shall be substantially in the form attached hereto as Exhibit C.

"Finance Director" shall mean the Finance Director of the City and such other person as may be duly authorized to act on his or her behalf.

"Financial Advisor" shall mean the City's financial advisor, Larson Consulting Services, LLC.

"Loan Agreement" shall mean the Loan Agreement to be executed between the Bondholder and the City, which shall be substantially in the form attached hereto as Exhibit B.

"Mayor" shall mean the Mayor of the City and in his or her absence or unavailability, the Vice-Mayor of the City and such other person as may be duly authorized to act on his or her behalf.

"Project" shall mean the acquisition, construction and equipping of various recreational capital improvements within the City as more particularly described in the Referendum Ordinance and the plans and specifications on file with the City, which improvements were financed with proceeds of the Refunded Bonds.

"Referendum Ordinance" shall mean Ordinance No. 2003-20 adopted by the Council on August 12, 2003.

"Refunded Bonds" shall mean the City's outstanding Recreation Capital Improvement General Obligation Bonds, Series 2004 issued under the authority of the Referendum Ordinance and pursuant to the Refunded Bonds Ordinance, to finance costs of the Project.

"Refunded Bonds Ordinance" shall mean Ordinance No. 2004-06 adopted by the Council on January 13, 2004.

"Series 2014 Bond" shall mean the City of Venice, Florida Recreation Capital Improvement General Obligation Refunding Bond, Series 2014, as such Series 2014 Bond is more particularly described in the Loan Agreement.

The words "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms shall refer to this Resolution.

Words importing the singular number include the plural number, and vice versa.

SECTION 3. RESOLUTION TO CONSTITUTE CONTRACT.

In consideration of the purchase and acceptance of the Series 2014 Bond by the Bondholder, the provisions of this Resolution shall be a part of the contract of the City with the Bondholder, and shall be deemed to be and shall constitute a contract between the City and the Bondholder. The pledge made in this Resolution and the provisions, covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the benefit, protection and security of the Bondholder.

SECTION 4. FINDINGS.

It is hereby ascertained, determined and declared that:

(A) Pursuant to the Referendum Ordinance, the Council ordered the holding of a bond referendum election to determine if the qualified electors of the City would approve the issuance of not exceeding \$10,000,000 in aggregate principal amount of general obligation bonds payable from ad valorem taxes levied without limit against all taxable property within the City for the principal purpose of financing costs of the Project.

(B) On November 4, 2003, a bond referendum election was held and the issuance of not exceeding \$10,000,000 in aggregate principal amount of general obligation bonds payable from ad valorem taxes levied without limit against all taxable property within the City for the principal purpose of financing costs of the Project was approved by a majority of the qualified electors of the City voting in said referendum election.

(C) On February 12, 2004, the City issued the Refunded Bonds to finance costs of the Project.

(D) The City has determined that it is in its best interest to refund the Refunded Bonds in order to achieve debt service savings.

(E) Pursuant to a competitive solicitation process, the City's Financial Advisor solicited proposals from financial institutions to provide a term loan to currently refund the Refunded Bonds.

(F) The Bondholder submitted its proposal to provide the City with a term loan in the amount of not to exceed \$6,600,000 aggregate principal amount to currently refund the Refunded Bonds, which proposal was the most favorable proposal received by the City and is attached hereto as Exhibit A.

(G) The Series 2014 Bond shall be a general obligation of the City, legally secured by and payable from ad valorem taxes levied without limit against all taxable property within the City.

(H) A portion of the proceeds of the Series 2014 Bond shall be deposited pursuant to the Escrow Deposit Agreement in amounts which, together with certain other legally available

moneys of the City, will be sufficient to fully defease and redeem the Refunded Bonds in accordance with the terms of the Refunded Bonds Ordinance.

(I) The Council hereby determines that the refunding of the Refunded Bonds shall only occur if such refunding will result in a lower net average interest cost rate for the Series 2014 Bond as compared to the Refunded Bonds and shall not exceed any debt limitation prescribed by law.

(J) It is not reasonably anticipated that more than \$10,000,000 of tax-exempt obligations as defined under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), will be issued by the City during calendar year 2014.

(K) Due to the potential volatility of the market for tax-exempt obligations such as the Series 2014 Bond, the complexity of the transactions relating to such Series 2014 Bond and the proposed private placement of the Series 2014 Bond to the Bondholder following a competitive solicitation process, it is in the best interest of the City to issue the Series 2014 Bond by a negotiated sale to the Bondholder, permitting the City to obtain the best possible price, terms and interest rate for the Series 2014 Bond.

SECTION 5. AUTHORIZATION OF THE REFUNDING; CONDITIONAL NOTICE OF REDEMPTION.

(A) The refunding of the Refunded Bonds through the issuance of the Series 2014 Bond and the use of other legally available moneys of the City is hereby authorized and approved pursuant to the terms of the hereinafter described Escrow Deposit Agreement. The maximum aggregate principal amount of the Series 2014 Bond authorized to be issued hereunder is \$6,600,000; provided, however, the actual aggregate principal amount of the Series 2014 Bond that may be issued in accordance with the provisions of this Resolution shall not exceed the limitations imposed by Section 132.35, Florida Statutes. The Refunded Bonds will be refunded from proceeds of the Series 2014 Bond and certain other legally available moneys of the City. The Series 2014 Bond will not be issued unless it bears a lower net average interest cost rate than the Refunded Bonds.

(B) The paying agent for the Refunded Bonds is hereby authorized and directed to issue a notice of redemption in accordance with the provisions of the Refunded Bonds Ordinance that is expressly conditioned on the successful issuance of the Series 2014 Bond on or before the redemption date for the Refunded Bonds. The City Manager is hereby authorized and directed to coordinate, with the assistance of the Financial Advisor and Bond Counsel, to determine the redemption date for the Refunded Bonds and to coordinate with the paying agent for the Refunded Bonds the issuance of the conditional notice of redemption referred to in the immediately preceding sentence.

SECTION 6. ACCEPTANCE OF PROPOSAL.

The City hereby accepts the proposal of the Bondholder, attached as Exhibit A, to provide the City with a term loan to currently refund the Refunded Bonds. The Mayor, the City Manager

and the Finance Director are each hereby authorized to execute and deliver any documents required to formally accept such proposal and the terms thereof. All actions taken by such officers or their designees and the Financial Advisor with respect to such proposal prior to the date hereof, including but not limited to executing an interest rate lock agreement, are hereby authorized and ratified. To the extent of any conflict between the provisions of this Resolution or the Loan Agreement and the proposal, the provisions of this Resolution and the Loan Agreement shall prevail.

SECTION 7. FINANCIAL PLAN.

The financial plan described by Section 132.36(1)(d), Florida Statutes, was prepared by the Financial Advisor to the City based upon the information provided herein and current market conditions and is attached hereto as Exhibit D. Such financial plan demonstrates, among other things, that the Series 2014 Bond bears a lower net average interest cost rate than the Refunded Bonds.

SECTION 8. APPROVAL OF FORM OF LOAN AGREEMENT AND SERIES 2014 BOND.

The City hereby approves a term loan from the Bondholder in the principal amount of not to exceed \$6,600,000 and such aggregate principal amount does not exceed the limitations imposed by Section 132.35, Florida Statutes. The City Manager and the Finance Director are hereby authorized to determine, upon the advice of the Financial Advisor, the actual principal amount of the Series 2014 Bond provided such principal amount shall not exceed \$6,600,000 and all legally required debt limitations. The terms and provisions of the Loan Agreement in substantially the form attached hereto as Exhibit B are hereby approved by the City, with such changes, insertions and additions as the Mayor may approve. The City hereby authorizes the Mayor to execute and deliver, and the Clerk to attest and affix the City seal to, the Loan Agreement substantially in the form attached hereto as Exhibit B, with such changes, insertions and additions as the City Attorney and Bond Counsel to the City may approve, the Mayor's execution thereof being evidence of such approval. In order to evidence the loan under the Loan Agreement, it is necessary to provide for the execution and delivery of the Series 2014 Bond. The Mayor and the Clerk are authorized to execute and deliver the Series 2014 Bond substantially in the form attached to the Loan Agreement as Exhibit A with such changes, insertion and additions as the City Attorney and Bond Counsel to the City may approve, the Mayor's execution thereof being evidence of such approval.

Notwithstanding the foregoing, the Loan Agreement shall not be executed by the City nor shall the Series 2014 Bond be issued unless the following conditions are satisfied:

(A) The aggregate principal amount of the Series 2014 Bond shall not exceed the amount sufficient to pay (i) the principal amount of the Refunded Bonds, (ii) the aggregate amount of unmatured interest payable on the Refunded Bonds to the date of their redemption or maturity, whichever is earlier, (iii) the redemption premiums, if any, on the Refunded Bonds,

and (iv) the costs and expenses for issuing the Series 2014 Bond and refunding the Refunded Bonds.

(B) The issuance of the Series 2014 Bond shall not exceed any debt limitation prescribed by law and such Series 2014 Bond, when issued, will be within the limits of all constitutional or statutory debt limitations.

(C) Receipt of a final financial plan prepared by the Financial Advisor complying with said Section 132.36(1)(d), Florida Statutes.

(D) Receipt of a certification of debt service savings as provided in Section 132.39, Florida Statutes, executed by the City Manager or his designee.

(E) The Series 2014 Bond shall bear a lower net average interest cost rate than the Refunded Bonds.

SECTION 9. APPROVAL OF FORM OF ESCROW DEPOSIT AGREEMENT.

The City hereby authorizes the Mayor to execute and the Clerk to attest the Escrow Deposit Agreement and to deliver the Escrow Deposit Agreement to The Bank of New York Mellon Trust Company, N.A., Jacksonville, Florida, which is hereby appointed as escrow agent thereunder (the "Escrow Agent"). All of the provisions of the Escrow Deposit Agreement when executed and delivered by the City as authorized herein and when duly authorized, executed and delivered by the Escrow Agent, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein, and the Escrow Deposit Agreement shall be in substantially the form attached hereto as Exhibit C, with such changes, amendments, modifications, omissions and additions, including the date of such Escrow Deposit Agreement, as may be approved by the City Attorney and Bond Counsel to the City. Execution by the Mayor of the Escrow Deposit Agreement shall be deemed to be conclusive evidence of the approval of such changes.

SECTION 10. DESIGNATION OF THE SERIES 2014 BOND AS A QUALIFIED TAX-EXEMPT OBLIGATION.

The City hereby designates the Series 2014 Bond as a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code. This designation is based upon the findings of the City set forth in Section 4(J) hereof and the City Manager is authorized to certify such finding upon the issuance of the Series 2014 Bond.

SECTION 11. GENERAL OBLIGATION.

The obligation of the City to repay the Series 2014 Bond is a general obligation payable from ad valorem taxes levied without limit on all taxable property in the City, in the manner set forth in

the Loan Agreement, and the full faith, credit and taxing power of the City are hereby pledged for the full and prompt payment of the principal of and interest on the Series 2014 Bond.

SECTION 12. GENERAL AUTHORIZATION.

The Mayor, the City Manager, the Finance Director and the Clerk are authorized to execute and deliver such documents, instruments and contracts, whether or not expressly contemplated hereby, and the City Attorney and other employees or agents of the City are hereby authorized and directed to do all acts and things required hereby or thereby as may be necessary for the full, punctual and complete performance of all the terms, covenants, provisions and agreements herein and therein contained, or as otherwise may be necessary or desirable to effectuate the purpose and intent of this Resolution.

SECTION 13. SEVERABILITY OF INVALID PROVISIONS.

If any one or more of the covenants, agreements or provisions of this Resolution shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements and provisions of this Resolution and shall in no way affect the validity of any of the other covenants, agreements or provisions hereof or of the Series 2014 Bond authorized to be issued hereunder.

SECTION 14. REPEAL OF INCONSISTENT DOCUMENTS.

All ordinances, resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

SECTION 15. EFFECTIVE DATE.

This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 10TH DAY OF DECEMBER, 2013.

(SEAL)

CITY OF VENICE, FLORIDA

By: _____
John W. Holic, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

STATE OF FLORIDA

COUNTY OF SARASOTA

I, Lori Stelzer, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of a Resolution duly adopted by the City Council of the City of Venice, at a meeting thereof duly convened and held on the 10th day of December, 2013, a quorum being present.

IN THE WITNESS WHEREOF, I hereunto set my hand and the official seal this ____ day of December, 2013.

Lori Stelzer, MMC, City Clerk

EXHIBIT A

Proposal of TD Bank, N.A.

EXHIBIT B

Form of Loan Agreement

EXHIBIT C

Form of Escrow Deposit Agreement

EXHIBIT D

Financial Plan