

RESOLUTION NO. 11726-08

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, AUTHORIZING PROCEEDING WITH THE EXECUTION AND DELIVERY OF A MODIFICATION AGREEMENT RELATING TO A MORAL OBLIGATION AGREEMENT SECURING PAYMENT OF THE 1998 INDUSTRIAL DEVELOPMENT REVENUE BONDS (NEWPORT NEWS SHIPBUILDING – SEARS AND VSS BUILDING PROJECTS) ISSUED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS, VIRGINIA.

WHEREAS, the Economic Development Authority of the City of Newport News, Virginia (the Authority), has issued its \$26,000,000 revenue bonds, namely its \$13,600,000 1998 Series A Taxable Industrial Development Revenue Bond (Newport News Shipbuilding – Sears Building Project) (the Series A Taxable Bond) and its \$12,400,000 1998 Series B Taxable Industrial Development Revenue Bond (Newport News Shipbuilding – VSS Building Project) (the Series B Taxable Bond), the proceeds of which were used to finance the acquisition, renovation and construction of the Sears Building and the Virginia Specialty Stores Building located in the downtown area of the City of Newport News, Virginia (the City), and the construction of two parking garages, which collectively provide approximately 1,400 parking spaces and surface parking adjacent to or in the immediate vicinity of such buildings for use by the occupants thereof (the Project), and for lease to Newport News Shipbuilding and Dry Dock Company, its successors and assigns (the Lessee), and Newport News Shipbuilding, Inc., its successors and assigns (the Guarantor); and

WHEREAS, the Series A Taxable Bond and the Series B Taxable Bond (hereinafter collectively referred to as the Bonds) were issued by the Authority and purchased by Bank of America, N.A. (formerly, NationsBank, N.A.) (the Bank) pursuant to a Bond Purchase and Financing Agreement (the Bond Purchase Agreement) dated as of March 1, 1998, between the Authority and the Bank; and

WHEREAS, the Bonds are secured by payments under the lease described above (the Lease) and by the City, subject to appropriation, under a Moral Obligation Agreement (the Moral Obligation Agreement) dated as of March 1, 1998, among the City, the Authority and the Bank, which Moral Obligation Agreement limits the City's maximum aggregate obligation with respect to payment of principal on the Bonds to \$20,000,000; and

WHEREAS, the Bonds are additionally secured by a Credit Line Deed of Trust (the Deed of Trust) dated as of March 1, 1998, between the Authority and Kevin M. Larkin and Franklin P. Early, as Trustees, either of whom may act, and recorded in the Clerk's Office of the Circuit Court of the City of Newport News, Virginia (the Clerk's Office); and

WHEREAS, the Bonds currently bear interest at a fixed rate of 6.48% per annum but from and after October 1, 2008, the Bonds shall bear interest at a fixed rate expected to approximate 5.40% per annum; and

WHEREAS, at the request of the Authority, the Bank has agreed to limit the City's maximum aggregate obligation with respect to the payment of principal on the Bonds to \$4,000,000 under the Moral Obligation Agreement and it is necessary and appropriate for the Authority, the City and the Bank to enter into a Modification Agreement to be dated as of October 1, 2008 (the Modification Agreement), in order to so amend the Moral Obligation Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News, Virginia:

1. That the Council approves the City entering into a Modification Agreement to effect the reduction of the City's obligation with respect to the payment of principal on the Bonds from \$20,000,000 to \$4,000,000 with the form and terms of such Modification Agreement to be first approved by the City Manager and City Attorney, after which the City Manager and the City Clerk are hereby authorized to execute and deliver such Modification Agreement in its approved form.

2. That the City Manager is authorized to do and perform such other things and acts as he shall deem necessary or appropriate to carry out the transactions contemplated by this resolution.

3. That this resolution shall be in effect on and after the date of its adoption, October 14, 2008.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON OCTOBER 14, 2008

Mabel V. Washington, CMC  
City Clerk

Joe S. Frank  
Mayor

A true copy, teste:

City Clerk