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OFFICE OF THE  
CITY TREASURER

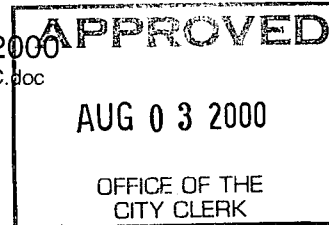
THOMAS P. FRIERY  
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July 17, 2000  
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Sacramento City Financing Authority  
Sacramento, California

Honorable Members in Session:

**SUBJECT: RESOLUTION AUTHORIZING AMENDMENTS TO THE TRUST INDENTURE AND LOAN AGREEMENT RELATING TO THE SACRAMENTO CITY FINANCING AUTHORITY SENIOR REVENUE BONDS (SACRAMENTO CONVENTION CENTER HOTEL PROJECT) 1999 SERIES A; AND AUTHORIZING AND APPROVING CERTAIN RELATED ACTIONS**

**LOCATION AND COUNCIL DISTRICT:** 14<sup>TH</sup> and J Streets, District 1

**RECOMMENDATION:**

This report recommends that the Sacramento City Financing Authority adopt the attached resolution that amends the Loan Agreement and the Trust Indenture for the subject financing.

**CONTACT PERSON:** Thomas P. Friery, Treasurer, 264-5168

**FOR COUNCIL MEETING OF:** August 3, 2000

**SUMMARY:**

Approval of the resolution will authorize amendment of the Loan Agreement and Trust Indenture removing the requirement for Consulting Engineer approval signature for Marketing and Pre-opening Expenses. This action will allow that an authorized representative of the Sacramento Hotel Corporation (Corporation) and Manager, without the signatures, consents, approvals or certifications of any other parties, may execute requisitions for such costs.

**COMMITTEE/COMMISSION ACTION:**

The Board of Directors of the Sacramento Hotel Corporation approved this action on June 8, 2000.

**BACKGROUND INFORMATION:**

At the May 4, 2000, meeting of the Board of Directors for the Sacramento Hotel Corporation, Vanir Construction Management, Inc. (Vanir) representative, Robert Pasko, requested the removal of his approval signature for the Marketing and Pre-opening Expenses. Vanir is currently serving as the Corporation's consulting engineer for the construction of the hotel and is required by bond documents to be an additional approval signature for requisitions. Mr. Pasko stated that expenditures such as Marketing and Pre-opening Expenses do not fall under the expertise of Vanir and were not included as a component of the contract since these costs are not related to the guaranteed fixed price of construction.

Counsel for the Corporation, Orrick, Herrington, and Sutcliffe, LLC., advised that under Section 5.2 of the Loan Agreement omitting the approval signature of the Consulting Engineer (Vanir) for Marketing and Pre-opening Expenses would technically violate the terms of the Loan Agreement and Indenture. The recommendation was made to amend the Loan Agreement and Indenture to remove the requirement that the Consulting Engineer be required to approve these expenditures.

The amended language allows that an authorized representative of the Corporation and the Manager, without the signatures, consents, approvals or certifications of any other parties may execute requisitions for Marketing and Pre-opening Expenses.

**FINANCIAL CONSIDERATIONS:**

This action is administrative and does not generate any additional financial obligations. All requisitions will continue to require review and approval by an authorized representative of the Corporation.

**ENVIRONMENTAL CONSIDERATIONS:**

The action of the Authority in adopting the resolution is administrative and therefore, not a project for purposes of the California Environmental Quality Act.

**POLICY CONSIDERATIONS:**

In their role as legal advisor to the Corporation, Orrick, Herrington, and Sutcliffe, LLC., has advised that pursuant to Sections 6.07(B)(1) and 9.02(A)(9) of the Trust Indenture, bondholder consent is not required to amend the Trust Indenture and Loan Agreement. Counsel has further determined that the amendments are a non-material event under the disclosure guidelines.

**ESBD CONSIDERATIONS:**

None; no goods or services are being purchased.

RECOMMENDATION APPROVED:

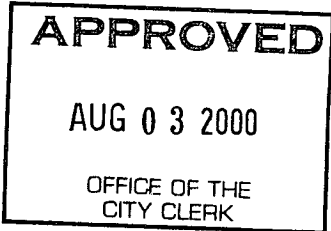


ROBERT P. THOMAS  
City Manager

Respectfully Submitted:



THOMAS P. FRIERY  
City Treasurer



**RESOLUTION NO. 2000-457**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**RESOLUTION AUTHORIZING AMENDMENTS TO THE TRUST INDENTURE AND LOAN AGREEMENT RELATING TO THE SACRAMENTO CITY FINANCING AUTHORITY SENIOR REVENUE BONDS (SACRAMENTO CONVENTION CENTER HOTEL PROJECT) 1999 SERIES A; AND AUTHORIZING AND APPROVING CERTAIN RELATED ACTIONS**

WHEREAS, the Sacramento City Financing Authority (the "Authority") issued its Senior Revenue Bonds (Sacramento Convention Center Hotel Project) 1999 Series A (the "Bonds") pursuant to a Trust Indenture, dated as of April 1, 1999 (the "Indenture"), as amended on September 1, 1999, each between the Authority and BNY Western Trust Company, as trustee, and loaned the proceeds thereof to the Sacramento Hotel Corporation (the "Corporation") pursuant to a Loan Agreement, dated as of April 1, 1999 (the "Loan Agreement"), between the Authority and the Corporation, in order to provide financing for the Sacramento Convention Center Hotel (the "Project"); and

WHEREAS, the Indenture and the Loan Agreement permit the disbursement of proceeds of the Bonds for marketing and pre-opening expenses for the Project only upon the presentment of a requisition signed by authorized representatives of the Corporation, its consulting engineer and its hotel development manager; and

WHEREAS, the review and signing of requisitions for marketing and pre-opening expenses is neither within the scope of said consulting engineer's expertise nor his contractual scope of services; and

WHEREAS, the parties to the Indenture and the Loan Agreement desire to amend such documents so as to permit disbursements for marketing and pre-opening expenses without the signature of said consulting engineer; and

WHEREAS, such amendments will neither have a materially adverse effect on the interests or rights of the holders of the Bonds, nor result in a material impairment of the security for the payment of the Bonds given by the Indenture, and, accordingly, such amendments may be made

**FOR CITY CLERK USE ONLY**

RESOLUTION NO: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

without the consent of any holders of the Bonds pursuant to Sections 6.07(B)(1) and 9.02(A)(9) of the Indenture; and

WHEREAS, there have been presented to this meeting substantially final drafts of the following documents (collectively, the "Documents"):

- (a) First Amendment to Loan Agreement; and
- (b) Second Amendment to Trust Indenture;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Sacramento City Financing Authority, as follows:

1. The Documents in substantially the form presented to this meeting, with such changes as may be approved by the Authorized Officer (defined below) signing the same, such approval to be conclusively evidenced by the execution and delivery thereof, are hereby authorized and approved.

2. The Treasurer of the Authority, and any designee of the Treasurer (collectively, the "Authorized Officers") be, and each individually is, hereby authorized to execute the Documents and to do and perform any and all such acts, including execution of any and all other documents, permits, contracts and certificates, as such officers shall deem necessary or advisable, to carry out the purposes and intent of the foregoing resolutions; and the Secretary of the Authority and any designee thereof are each individually authorized to attest the signature of any Authorized Officer on any such document.

3. Any actions taken by the officers of the Authority prior to the date of the foregoing resolutions adopted hereby that are within the authority conferred thereby are hereby ratified, confirmed, and approved as the acts and deeds of the Authority.

4. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2000 by the following vote:

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**FOR CITY CLERK USE ONLY**

RESOLUTION NO: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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AYES:

NOES:

ABSENT:

APPROVED:

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Chairman

[Seal]

ATTEST:

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Secretary

APPROVED AS TO FORM:

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Authority Counsel

SECRETARY'S CERTIFICATE

The undersigned, Secretary of the Sacramento City Financing Authority (the "Authority"), hereby certifies that the attached is a true and correct copy of Resolution No. 00-\_\_\_\_\_ and that said resolution was duly adopted by a quorum of the board of directors of the Authority at a meeting thereof held with all required notice on \_\_\_\_\_, 2000, and that said resolution has not been amended, modified or rescinded in any respect since the date of its adoption.

Date:

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Secretary

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SACRAMENTO CITY FINANCING AUTHORITY

and

SACRAMENTO HOTEL CORPORATION

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FIRST AMENDMENT TO LOAN AGREEMENT

Dated as of June 1, 2000

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SACRAMENTO CITY FINANCING AUTHORITY  
SENIOR REVENUE BONDS  
(SACRAMENTO CONVENTION CENTER HOTEL PROJECT)  
1999 SERIES A

and

SACRAMENTO CITY FINANCING AUTHORITY  
SUBORDINATE REVENUE BONDS  
(SACRAMENTO CONVENTION CENTER HOTEL PROJECT)  
1999 SERIES B

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## LOAN AGREEMENT

THIS FIRST AMENDMENT TO LOAN AGREEMENT, dated as of June 1, 2000 (the "Amendment"), between SACRAMENTO CITY FINANCING AUTHORITY, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the "Authority"), and SACRAMENTO HOTEL CORPORATION, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California (collectively, the "Corporation"),

### WITNESSETH:

WHEREAS, the Authority issued its Senior Revenue Bonds (Sacramento Convention Center Hotel Project) 1999 Series A (the "Bonds") pursuant to a Trust Indenture, dated as of April 1, 1999 (the "Indenture"), between the Authority and the Trustee, and loaned the proceeds thereof to the Sacramento Hotel Corporation (the "Corporation") pursuant to a Loan Agreement, dated as of April 1, 1999 (the "Original Loan Agreement"), between the Authority and the Corporation, in order to provide financing for the Sacramento Convention Center Hotel (the "Project"); and

WHEREAS, the Original Loan Agreement permits the disbursement of proceeds of the Bonds for marketing and pre-opening expenses for the Project only upon the presentment of requisitions signed by authorized representatives of the Corporation, the Consulting Engineer and the Manager; and

WHEREAS, the review and signing of requisitions for marketing and pre-opening expenses is neither within the scope of said consulting engineer's expertise nor his contractual scope of services; and

WHEREAS, the parties to the Original Loan Agreement desire to amend such document so as to permit disbursements for marketing and pre-opening expenses without the signature of said consulting engineer; and

WHEREAS, such amendment will neither have a materially adverse effect on the interests of the holders of the Bonds, nor result in any material impairment of the security for the payment of the Bonds given by the Indenture, and, accordingly, such amendment may be made without the consent of any holders of the Bonds pursuant to Sections 6.07(B)(1) of the Indenture;

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

Section 1. Definitions. All capitalized terms defined in this Amendment shall have the meanings given in this Amendment for all purposes hereof. All capitalized terms used

but not defined in this Amendment shall have the meanings given in the Original Loan Agreement.

Section 2. Amendment of Section 5.2 of the Original Loan Agreement. The third sentence of paragraph (1) of subsection (a) of Section 5.2 of the Original Loan Agreement is hereby amended to read in full as follows:

Notwithstanding any contrary provision herein, Requisitions for Project Costs of the type described in paragraph (ix) of the definition thereof, or for Pre-Construction Services, may be executed and certified by an Authorized Representative of the Corporation, without any other signatures, consents, approvals or certifications; *and Requisitions for Project Costs included within the amount budgeted for "marketing and pre-opening expenses," as set forth in Part "C" of Exhibit E to the Development Management Agreement, may be executed and certified by Authorized Representatives of the Corporation and the Manager, without the signatures, consents, approvals or certifications of any other parties.*

3. Incorporation By Reference; Interpretation. The Original Loan Agreement is hereby incorporated in this Amendment by this reference as if fully set forth herein, and the provisions of the Original Loan Agreement, except as amended hereby, shall be fully applicable to this Amendment. In the event of any irreconcilable conflict between the terms of the Original Loan Agreement and the terms of this Amendment, the terms of this Amendment shall control.

4. Counterpart Signatures. This Amendment may be executed in one or more counterparts, which, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Authority and the Corporation have caused this Amendment to be executed in their respective names by their duly authorized officers, all as of the date first above written.

SACRAMENTO CITY FINANCING  
AUTHORITY

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Authority Counsel

SACRAMENTO HOTEL CORPORATION

By: \_\_\_\_\_  
President