



FAIRFAX TOWN COUNCIL MEETING STAFF REPORT

MEETING DATE July 17, 2024
PREPARED FOR Mayor and Town Council
PREPARED BY Heather Abrams, Town Manager
SUBJECT Adopt the Resolution of Necessity and Waive First Reading and Read by Title Only Ordinance No. 890 Ordering the Submission of a Measure Incurring Bonded Indebtedness to the Voters at the November 2024 General Municipal Election

RECOMMENDATION

Adopt the Resolution of Necessity determining necessity to issue bonds and waive first reading and read by title only Ordinance No. 890 ordering the submission of the measure incurring bonded indebtedness for the purpose of the acquisition, construction, and improvement of roads and certain municipal infrastructure projects to Town voters.

BACKGROUND

On [May 8, 2024](#) the Town Council of the Town of Fairfax (the "Town") received the first presentation on the survey results. A second presentation occurred on June 5, 2024, for additional discussion.

Previous discussions:

The Council and staff have received complaints regarding the state of road repair within the Town. The Town is ranked lowest in Marin County on the Pavement Condition Index (PCI), a rating from 0 to 100 of the severity and extent of distresses observed on a pavement surface. The Council has received several presentations from staff and expert consultants regarding the current condition of roads and the limitations of the current budget for repairs within Fairfax, including on [February 1, 2023](#), [March 1, 2023](#), [January 10, 2024](#), [January 24, 2024](#).

The following is a summary of the information discussed:

Financial situation:

In 1999, the Council placed Measure K on the ballot to help fund road and infrastructure repairs of up to \$6.83 million, which was expended on Fairfax infrastructure nearly two decades ago. At that time, more than two-thirds of Fairfax voters approved, and bonds were issued in 2000, 2002, and 2006 (and subsequently refinanced in 2008, 2012, and 2016 for debt service savings). The Town's outstanding General Obligation Bonds currently have a very strong rating of AA+ by S&P, which allows the Town to access favorable financing rates compared to lower-rated credits.

Construction costs throughout California continue to escalate and Fairfax's road condition continues to decline. Unfortunately, the cost to complete the deferred maintenance and repairs needed outstrips the Town's current resources. Continuing pay-as-you-go repairs and maintenance will not be sufficient to maintain Fairfax's current low PCI rating, and improving Fairfax's PCI will require even more resources. Allocating additional resources is essential to improve Fairfax's PCI. Continuing to levy an ad valorem property tax to support a new General Obligation Bond authorization would provide needed additional funds to complete road projects and stabilize costs in the long term. This is

because regular maintenance is far less expensive than emergency repairs and full replacement following deferred maintenance.

Progress thus far:

Since 2022, Public Works Director Umbertis has successfully completed several large projects, including Scenic and Porteous repaving, retaining wall repairs at 145 Canyon, and one-time sidewalk improvements in town. The Council approved a project charter to help the Town work with the County of Marin to apply for grants to repair Bolinas Road, which appears to be gaining traction with federal funders. Grant applications typically require matching funds of 10% to 25%, and bond proceeds would facilitate applying to larger grants than Fairfax could otherwise access.

Several commenters have mentioned that Larkspur used to have the lowest PCI rating in Marin County; Larkspur now has among the highest PCI rating in Marin County, and the lowest PCI is now held by Fairfax. Larkspur was able to make this dramatic upturn in its PCI ranking by increasing the general sales tax from which the Larkspur Council allocated a portion of the revenue for the repair of its roads.

On [March 6, 2024](#), the Council established a Survey Subcommittee of Vice Mayor Blash and Council Member Hellman and approved the engagement of FM3 to conduct a scientific survey of voters in Fairfax. During that meeting, Council approved the agreement with FM3 for a scientific survey and the postcard for a total of \$32,690 from the Public Works General Fund 01-51- 821. The Subcommittee and staff met with FM3 to review the survey and postcard design. Postcards began arriving to Fairfax voters on April 15, 2024, and FM3 followed up with telephone calls and emails to voters that did not respond.

As a reminder, the following steps in the process have been discussed. The Council is now being asked to initiate the process to place a bond measure on the November5, 2024 ballot.

Steps in the Process:

- Council Direction: On January 10, 2024, the Council discussed and directed staff to pursue a scientific survey on the possibility of a voter approved bond for road repairs.
- Voter Surveying/Polling: On March 6, 2024, the Council approved the surveying/polling firm that designed and implemented a poll of residents on bond options and collected data on the priorities and willingness to support a tax measure. The Council also appointed a Subcommittee of two Council Members to review the proposed survey questions before the scientific survey began. Surveying/polling was conducted in the latter half of April 2024.
- Project Planning: At the January 24, 2024, Council Meeting, Public Works staff and consultants presented the draft 5-year plan for paving, based on current resources. On June 5, 2024, Council directed staff to develop an updated draft of the 5-year paving plan, reflecting the use of potential bond proceeds. This revised 5-year plan (presented earlier in the July 17, 2024, Council Agenda) illustrates which projects could be completed with the additional resources.
- Council Approval: If the Council wishes to move forward, at this meeting the Council needs to approve the attached Resolution of Necessity and conduct a first reading of the Ordinance, and then, at the August 7 meeting, adopt the Ordinance and a resolution placing a measure on the November 2024 ballot. If the Council decides not to act this year, the next probable opportunity is in 2026.
- Voter Campaign: A group of residents would be needed to run the campaign for the measure, as Town staff are only allowed to provide educational information (not campaign materials).
- Voter Approval: If voters approve the measure, staff will bring financing documents, including estimates of borrowing costs and interest rates, and road projects back to the Council for review

and approval. The total estimated cost of the bond, including interest, is included in the documents attached to this report.

- Project Implementation: Once financing is secured, design will begin, and project timelines will be brought before the Council.

DISCUSSION

Unfortunately, significant road issues are commonplace in Fairfax and current pay-as-you-go funds will not be sufficient to keep the deferred maintenance from becoming more costly over time. General obligation bond proceeds could be used to allow the Town to make significant improvements. The Town has applied with the County to receive Federal grants, which require approximately 20% matching funds. Coming up with such matching funds will be a challenge for the Town without a bond measure.

The appropriate documents have now been prepared to place a general obligation bond measure on the November 2024 ballot, which are being presented as part of this agenda item.

In 1999, the voters of the Town approved a general obligation bond measure known as "Measure K." All bonds under the Measure K authority have been issued and all bond proceeds have been spent as authorized by the voters. The final maturity of the outstanding bonds related to Measure K is August 1, 2027. Thus, *ad valorem* property taxes related to Measure K will appear on property tax bills of Town residents through that date. The proposed bond measure, however, is completely separate from Measure K..

Resolution of Necessity

The Resolution of Necessity, which is required pursuant to Government Code Section 43607 to be passed by an affirmative vote of at least two-thirds of the Town Council, determines that the public interest or necessity demands the acquisition, construction, or completion of the municipal improvements, and that the costs of the improvements will require an expenditure of the Town greater than allowed by the Town's annual levy. The resolution also authorizes the execution of consultant services agreements with Urban Futures, Inc., as municipal advisor to the Town, and Best Best & Krieger LLP, as bond counsel.

Ordinance

Ordinance No. 890, pursuant to Government Code Section 43610, includes information regarding the object and purpose of the bonds, the estimated costs of the improvements, and the manner of holding the election. In addition, the Ordinance will be provided to voters as part of the voter information guide.

The Ordinance specifies that the purpose of issuing the general obligation bonds is to finance the costs of municipal improvement projects of the Town, primarily roads and other public infrastructure, and provides an anticipated cost of the authorized improvements. The Ordinance also sets a maximum limit on the aggregate principal amount of bonds not to exceed \$18,000,000, a maximum term of each bond issuance of 30 years, and a maximum interest rate of 8% (however, given current market conditions and strong credit rating of the Town's outstanding general obligation bonds, staff expects the true interest cost to be well below the legal maximum interest rate). The Ordinance also authorizes the establishment of a citizens' bond oversight committee and other accountability measures.

After the first reading at the July 17 Town Council meeting, the Ordinance will need to be brought back to the Town Council for approval on August 7, along with a separate resolution, before being submitted (along with other required documents) to the Marin County Registrar of Voters by the August 9, 2024 deadline for the measure to appear on the November 2024 ballot.

Approval of the general obligation bond measure requires a two-thirds vote (or 55% should ACA-1 be passed by the voters of the State at the November election) of all qualified voters voting on the proposition in favor of the measure. As detailed in the Ordinance, if this requirement is met, the Town would have the authority to issue and sell general obligation bonds in one or more series, in the aggregate principal amount not to exceed \$18,000,000, for the purposes set forth in the Ordinance. The bonds would be general obligations of the Town payable from, and secured by, *ad valorem* property taxes levied and collected on taxable property in the Town. The revenue generated from the *ad valorem* property taxes would be used solely for the payment of debt service on the bonds.

FISCAL IMPACT

The Town will incur costs related to the election and the costs of issuance of any general obligation bonds. For the \$18 million bond, the estimated average annual tax rate is approximately \$30 per \$100,000 of assessed value (AV), and is a property tax in addition to Measure K. Originally in 1999, Measure K was estimated to have a max tax rate of \$58 per \$100,000 of assessed value and the current rate is \$22.50 per \$100,000 of AV. The Measure K tax rate has been decreasing over time and will end in 2027. Fairfax median AV is approximately \$630,000, and they would pay \$189 per year for the proposed new road bond.

STEPS TO PLACE THE MEASURE ON THE BALLOT

Should the Town Council approve the Resolution of Necessity and approve the first reading of the Ordinance at this meeting, a second reading will be scheduled for the August 7 meeting. Assuming approval of the second reading, the Town Council will then, at the August 7 meeting, take up a resolution placing the measure on the ballot, setting the 75-word ballot question, and setting other procedural details regarding the election. The Town Council would also consider actions related to authorship of direct and rebuttal arguments for the measure which will appear in the voter information guide.

ATTACHMENTS

- A. Resolution of Necessity
- B. Ordinance No. 890

RESOLUTION NO. 24-

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY DEMAND THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF MUNICIPAL IMPROVEMENT PROJECTS, AND THEIR FINANCING THROUGH THE ISSUANCE OF GENERAL OBLIGATION BONDS

WHEREAS, the Town of Fairfax (the “Town”) is a municipal corporation duly organized and existing under the Constitution and laws of the State of California; and

WHEREAS, the Town is authorized to call an election for the proposition of incurring a bonded indebtedness and to issue such bonds to finance municipal improvements pursuant to certain provisions of the California Government Code, including Article 1 of Chapter 4 of Division 4 of Title 4 (commencing with Section 43600) and Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 (commencing with Section 53506) (collectively, the “Bond Law”); and

WHEREAS, the Town intends to issue its general obligation bonds (the “Bonds”) under and pursuant to the Bond Law to finance the cost of the acquisition, construction, and improvement of municipal infrastructure projects of the City for road improvements and certain other improvements to municipal infrastructure (the “Improvements”); and

WHEREAS, in order to initiate proceedings under the Bond Law to provide for the issuance of general obligation bonds, the Town Council of the Town (the “Town Council”) must make certain findings and determinations which the Town Council now desires to make.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Declaration of Necessity to Issue Bonds. The public interest and necessity demand, and it is the intention of the Town Council to require the acquisition, construction, and improvement of the Improvements, and to issue the general obligation bonds (the “Bonds”) to finance the cost thereof, subject to completion of the proceedings required by the Bond Law.

Section 2. Findings. The Town Council hereby finds and determines that the estimated costs of the Improvements will require an expenditure by the Town greater than the amount allowed for it by the annual tax levy of the Town. The principal amount of the Bonds will not exceed the estimated cost of the Improvements.

Section 3. Issuance of the Bonds. This Resolution is adopted, and the Bonds, if approved by two-thirds (or 55% should Assembly Constitutional Amendment No. 1 or “ACA-1” be approved by the voters at the November 5, 2024 election) of all qualified voters voting on the issuance of the Bonds, are to be issued pursuant to the Bond Law.

Section 4. Appointment of Consultants. In connection with the proposed issuance of the Bonds and related election matters, the Town Council hereby authorizes and ratifies the appointment of Urban Futures, Inc., as municipal advisor to the Town, and Best Best & Krieger LLP, as Bond Counsel and Disclosure Counsel to the Town. The Town Manager is hereby authorized and directed to execute, on behalf of the Town, a professional services agreement with each such firm.

Section 5. Effective Date. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Fairfax this 17th day of July 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

BARBARA COLER
MAYOR

CHRISTINE FOSTER
DEPUTY TOWN CLERK

CERTIFICATION

I, Christine Foster, Deputy Town Clerk of the Town of Fairfax, California, do hereby certify that the foregoing is a full, true and correct copy of Resolution No.24- passed and adopted by said Town Council at a meeting held on the 17th day of July 2024.

CHRISTINE FOSTER
DEPUTY TOWN CLERK

ORDINANCE NO. 890

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX ORDERING THE SUBMISSION OF A PROPOSITION INCURRING BONDED INDEBTEDNESS TO THE QUALIFIED VOTERS OF THE TOWN OF FAIRFAX AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, FOR THE PURPOSE OF FINANCING THE COST OF THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF CERTAIN MUNICIPAL IMPROVEMENT PROJECTS

The Town Council (the "Town Council") of the Town of Fairfax (the "Town") hereby ordains as follows:

Section 1. Purpose And Intent

Pursuant to the authority provided by California Government Code Sections 43600 *et seq.* and 53410 *et seq.*, California Elections Code Sections 10000 *et seq.*, 9200 *et seq.*, and 9400 *et seq.*, and certain other provisions of the California Government Code and California Elections Code, the Town Council proposes to order the submission of a proposition authorizing the Town to issue general obligation bonds (the "Bonds") to the qualified voters of the Town at the general municipal election to be held on November 5, 2024.

Section 2. Findings

The Town Council hereby makes the following findings with respect to the proposed measure for the Bonds:

- A. The Town's roads and other existing municipal infrastructure are in need of repair and/or replacement.
- B. On July 17, 2024, the Town Council adopted, by a two-thirds vote of all its members, a resolution entitled "A Resolution of the Town Council of the Town of Fairfax Determining that the Public Interest and Necessity Demand the Acquisition, Construction and Improvement of Certain Municipal Improvement Projects, and Their Financing Through the Issuance of General Obligation Bonds," pursuant to which the Town Council has found and determined that the public interest and necessity demand the issuance of general obligation bonds to finance the cost of municipal improvement projects (the "Resolution of Necessity").
- C. In order to provide for the issuance by the Town of general obligation bonds to provide financing for the municipal improvement projects, it is necessary for the Town Council to adopt an ordinance ordering the submission of the proposition of incurring bonded indebtedness for such purpose to the qualified voters of the Town at a municipal election.
- D. The Town Council desires to submit said ballot measure to the qualified voters of the Town at the regular election to be held in the Town on November 5, 2024, and to consolidate the bond election with other elections held within the Town on that date.
- E. The Town Council hereby certifies that the Town has evaluated alternative funding sources.

Section 3. Call For Election

The Town Council hereby orders that there be submitted to the qualified voters of the Town a proposition on incurring bonded indebtedness for the purposes set forth in this Ordinance and as set forth in the Resolution of Necessity, at the regular election to be held on November 5, 2024. This Ordinance constitutes the order of the Town to call such election.

Section 4. Ballot Proposition

The Town Council hereby submits to the qualified voters of the Town, at the regular election to be held on November 5, 2024, a proposition on issuing the Bonds. The abbreviated statement of the measure to appear on the ballot shall be in substantially the form set forth below:

<p>“To repair roads/infrastructure; fix potholes; repave streets; repair retaining walls/bridges; address flooding of roads/buildings; improve bike/pedestrian circulation, safe routes to schools, disabled access; and qualify for federal matching funds/grants, shall the Town of Fairfax’s measure authorizing \$18,000,000 of bonds for up to 30 years for each series, at legal interest rates, levying approximately \$30/\$100,000 of assessed value, raising on average approximately \$1,200,000 annually, requiring audits/citizen oversight, be adopted?”</p>	<p>BONDS - YES <input type="checkbox"/></p>
	<p>BONDS - NO <input type="checkbox"/></p>

Section 5. Object And Purpose Of Bonds

The object and purpose of the Bonds is to finance the costs of municipal improvement projects of the Town to improve public safety (the “Improvements”), which Improvements are anticipated to consist generally of the acquisition, construction and/or improvement of roads, bridges, retaining walls, street work, and Town infrastructure.

The authorized Improvements also include all work, facilities, and expenditures necessary and incidental to the project described above. Examples of such work, facilities, and expenditures include, but are not limited to the costs of design, engineering, architect and other professional services, inspections, site preparation, utilities (including improvements to plumbing, sewer and electrical systems to preserve energy and water), landscaping, construction management and other planning and permitting, road lighting, legal, accounting and similar costs, a customary construction contingency, demolition and disposal of existing structures, rental or construction of storage facilities and other space on an interim basis for materials and other equipment and furnishings displaced during construction, interim facilities for municipal functions, including modular facilities, addressing unforeseen conditions revealed by construction or renovation, and other necessary improvements required to comply with existing building codes, environmental improvements to preserve energy and water, access requirements of the Americans with Disabilities Act, costs of the election, bond issuance costs, financing and interest costs on the Bonds, and project administration during the duration of such projects, as permitted by law.

The final costs, locations, designs, layouts and other details of the Improvements will be determined as plans are finalized, construction bids are awarded, and projects are completed. Therefore, the Town Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements.

The full text of the ballot measure shall be in substantially the form as in Exhibit A, attached hereto and incorporated herein.

Section 6. Estimated Cost of Improvements

The estimated cost of the Improvements is \$20,531,616. The estimated cost includes legal or other fees, the costs of printing the Bonds, and other costs and expenses incidental to or connected with the authorization, issuance and sale of the Bonds.

Section 7. Principal Amount of Bonds

The aggregate principal amount of the Bonds shall not exceed \$18,000,000.

Section 8. Maximum Interest Rate

The maximum rate of interest to be paid on the Bonds shall be the statutory maximum of 8% per annum. Said interest shall be payable semiannually, except that interest for the first year after the date of the Bonds may be made payable at the end of said year.

Section 9. Issuance And Sale of Bonds

The Town proposes to issue and sell the Bonds pursuant to Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 of the California Government Code, or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, in one or more series, in the maximum amount and for the objects and purposes set forth above if two-thirds (or 55% should Assembly Constitutional Amendment No. 1 or “ACA-1” be approved by the voters at the November 5, 2024 election) of all qualified voters voting on the proposition set forth above vote in favor thereof. The Bonds will be general obligations of the Town payable from and secured by *ad valorem* taxes levied and collected in the manner prescribed by laws of the State of California. The revenue generated from the *ad valorem* tax levied and collected will be used for the payment of debt service on the Bonds. All of the Bonds shall be equally and ratably secured, without priority, by the taxing power of the Town.

Section 10. Manner Of Conducting Election

The election on the Bonds held on November 5, 2024 shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted, and returned, returns canvassed, results declared, and all other proceedings incidental to and connected with the election shall be regulated and done in accordance with the provisions of law regulating the election with which it is consolidated.

Section 11. Procedure For Voting on Proposition

Ballots for the election shall be provided in the form and in the number provided by law. Voters shall be provided an opportunity to vote for or against the proposition on the ballot in accordance with procedures to be adopted by the authorized officers of the County of Marin (the “County”) charged with conducting the election.

Section 12. Accountability Requirements

In accordance with Sections 53410 and 53411 of the California Government Code and the California Constitution, the Town Council hereby adopts the following accountability requirements relating to the Bonds:

- (a) A separate account shall be created and held by the Town, into which the proceeds of the Bonds are deposited and applied solely for the purpose of financing the Improvements.
- (b) The Finance Director of the Town shall file a report with the Town Council at least annually showing the amount of Bond proceeds collected and expended, and the status of the Improvements, as required by Government Code Section 53410.
- (c) Use the bond proceeds only for the purposes authorized under Article XIII A of the California Constitution and only on projects that serve the jurisdiction of the Town, including the construction, reconstruction, rehabilitation, or replacement of public infrastructure, and not for any other purpose including salaries and other operating expenses.
- (d) Conduct an annual, independent performance audit to ensure that the bond proceeds have been expended only on the projects and uses listed in this Measure.
- (e) Conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for projects and uses listed in this Measure.
- (f) The Town shall post the audits listed in (d) and (e), above, in a manner that is easily accessible to the public, and which shall be submitted to the California State Auditor for review.
- (g) Establish and appoint members to an independent citizens' oversight committee to ensure the bonds are used only for the projects and uses listed in this Measure.
- (h) An entity owned or controlled by a local official that votes on whether to put the Measure on the ballot is prohibited from bidding on any work funded by this Measure.

Section 13. Identification Of Tax

The tax imposed by this measure is an *ad valorem* tax levied upon taxable real property in the Town and will be used to pay the principal and interest on the Bonds.

Section 14. Establishment Of Oversight Committee

In the event the ballot proposition is passed by two-thirds (or 55% should ACA-1 be approved by the voters at the November 5, 2024 election) of all qualified voters voting on the proposition, the Town Council shall establish and appoint members to a five-member independent oversight committee, which shall have responsibility for reviewing and reporting on the expenditure of the proceeds of the Bonds, subject to those terms and conditions as set forth by the Town Council.

Section 15. Official Actions

The Mayor, the Town Manager, the Finance Director, the Town Clerk, and any of their designees, are hereby authorized to execute any documents and to perform all acts necessary to place the bond measure on the ballot.

Section 16. Interpretation

The provisions of this Ordinance, being necessary for the health, welfare, and safety of the Town and its residents, is to be liberally interpreted to carry out its purposes. No error, irregularity or informality, and no neglect or omission of any officer, in any proceeding taken related to the submission of the proposition incurring bonded indebtedness to the qualified voters of the Town shall void or invalidate any such proceeding, any Bonds issued by the Town, or any levy of *ad valorem* taxes to pay principal of and interest on the Bonds.

Section 17. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications, and to this end the provisions of this Ordinance are declared to be severable.

Section 18. Publication Of Ordinance

This Ordinance shall be published once a day for at least seven days in a newspaper published at least six days a week in the Town, or once a week for two weeks in a newspaper published less than six days a week in the Town. The first of said publications shall, in either event, be within 15 days after the adoption of this Ordinance. If there are no such newspapers, it shall be posted in three public places in the Town for two succeeding weeks. No other notice need be given.

Section 19. Delivery of Documents

The Town Clerk is hereby authorized and directed to send, or hand deliver a copy of this Ordinance and all other necessary documents to the County Board of Supervisors and the County Registrar of Voters by no later than August 9, 2024.

Section 20. Effective Date

In accordance with Section 36937(a) of the California Government Code, this Ordinance shall become effective immediately, as an ordinance relating to an election, upon its adoption by two-thirds vote of all the members of this Town Council.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the Town Council of the Town of Fairfax on July 17, 2024, and was adopted at a regular meeting of Town Council of the Town of Fairfax on August 7, 2024, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

ATTEST:

BARBARA COLER
MAYOR

CHRISTINE FOSTER
DEPUTY TOWN CLERK

CERTIFICATION

I, Christine Foster, Deputy Town Clerk of the Town of Fairfax, California, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 890 which was regularly introduced and placed upon its first reading at a regular meeting of the Town Council on the 17th day of July, 2024. That thereafter, said Ordinance was duly adopted and passed at a regular meeting of the Town Council on the 7th day of August 2024, by the following vote:

AYES
NOES
ABSENT
ABSTAIN

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Fairfax, California, on Wednesday, August 7, 2024.

CHRISTINE FOSTER
DEPUTY TOWN CLERK

EXHIBIT A

FULL TEXT OF BOND MEASURE

Introduction

The Town of Fairfax (the “Town”) has aging roads and infrastructure which are in need of repair and/or replacement. Addressing these issues requires that the Town ask its voters to approve a general obligation bond measure. The Town has certified that it has evaluated alternative funding sources.

The federal government requires a local match, funded at times through local general obligation bonds, for the Town to qualify for certain federal grants. The millions of dollars potentially available through federal grants allows local taxpayers to benefit from the tax dollars already paid to the federal government.

It is imperative that the Town makes repairs to roads and other public infrastructure to increase public safety for residents of the Town.

Summary

“To repair roads/infrastructure; fix potholes; repave streets; repair retaining walls/bridges; address flooding of roads/buildings; improve bike/pedestrian circulation, safe routes to schools, disabled access; and qualify for federal matching funds/grants, shall the Town of Fairfax’s measure authorizing \$18,000,000 of bonds for up to 30 years for each series, at legal interest rates, levying approximately \$30/\$100,000 of assessed value, raising on average approximately \$1,200,000 annually, requiring audits/citizen oversight, be adopted?”

Measure

As required by the California Constitution, the proceeds from the sale of the bonds will be used only for the purposes authorized under Article XIII A of the California Constitution, including the acquisition or improvement of real property and public infrastructure specifically set forth in this Measure and costs incident thereto, and not for any other purposes, including salaries and other operating expenses.

The following describes the specific projects the Town proposes to finance with proceeds of the bonds. The scope of specific projects, the order of construction, and their completion is contingent on final project costs and the availability of needed funds. This Measure authorizes bond projects to be undertaken at all Town-owned property.

The following list includes both projects that can be completed using the bond proceeds, along with federal matching funds and other building funds, and projects that are planned and needed but those whose construction is contingent on the amount of bond proceeds available. Bond proceeds will be expended on the costs of municipal improvement projects of the Town to improve public safety (the “Improvements”), which Improvements consist of the acquisition, construction and/or improvement of roads, bridges, retaining walls, street work, and related Town infrastructure.

The authorized Improvements also include all work, facilities, and expenditures necessary and incidental to the projects described above. Examples of such work, facilities, and expenditures include, but are not limited to, the costs of design, engineering, architect and other professional services, inspections, site preparation, utilities (including improvements to plumbing, sewer and electrical systems to preserve energy and water), trees and landscaping, construction management and other planning and permitting, road lighting, legal, accounting and similar costs, a customary construction contingency, demolition and disposal of existing structures, rental or construction of storage facilities and other space on an interim basis for materials and other equipment and furnishings displaced during construction, interim facilities for municipal functions, including modular facilities, addressing unforeseen conditions revealed by construction or renovation, and other necessary improvements required to comply with existing building codes, site acquisition and any necessary easements, licenses or rights of way, environmental improvements to preserve energy and water, access requirements of the Americans with Disabilities Act, costs of the election, bond issuance costs, financing and interest costs on the Bonds, and project administration during the duration of such projects, as permitted by law.

The final costs, locations, designs, layouts and other details of the Improvements will be determined as plans are finalized, construction bids are awarded, and projects are completed. Therefore, the Town Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements. The scope and nature of any of the projects described above may be altered by the Town as required by unforeseen conditions. In the event that a modernization or renovation project is more economical for the Town to be undertaken as new construction, this Measure authorizes land acquisition, relocation, and construction and/or reconstruction for such purpose, and all costs relating thereto.

Approval of the bond measure does not guarantee that all of the projects above will be funded beyond what can be completed with local funds generated by this Measure. The order in which projects are listed in the foregoing does not suggest an order of priority. Project priorities will be determined by the Town Council.

Accountability Measures

If the bonds are approved, the Town will implement the following accountability measures:

- (a) A separate account shall be created and held by the Town, into which the proceeds of the Bonds are deposited and applied solely for the purpose of financing the Improvements.
- (b) The Finance Director of the Town shall file a report with the Town Council at least annually showing the amount of Bond proceeds collected and expended, and the status of the Improvements, as required by Government Code Section 53410.
- (c) Use the bond proceeds only for the purposes authorized under Article XIII A of the California Constitution and only on projects that serve the jurisdiction of the Town, including the construction, reconstruction, rehabilitation, or replacement of public infrastructure, and not for any other purpose including salaries and other operating expenses.
- (d) Conduct an annual, independent performance audit to ensure that the bond proceeds have been expended only on the projects and uses listed in this Measure.

- (e) Conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for projects and uses listed in this Measure.
- (f) The Town shall post the audits listed in (d) and (e), above, in a manner that is easily accessible to the public, and which shall be submitted to the California State Auditor for review.
- (g) Establish and appoint members to an independent citizens' oversight committee to ensure the bonds are used only for the projects and uses listed in this Measure.
- (h) An entity owned or controlled by a local official that votes on whether to put the Measure on the ballot is prohibited from bidding on any work funded by this Measure.

Tax Amount, Rate, and Duration

The bonds shall bear interest at an annual rate not exceeding the statutory maximum. The maturity of the bonds shall not exceed the maximum term allowed by law at the time of issuance. As further set forth in the Tax Rate Statement, the *ad valorem* tax will be levied at such rates and for so long as may be required to meet the debt service needs of the bonds proposed to be issued, including such bonds that may be issued to refund any approved bonds.