



FAIRFAX FINANCING AUTHORITY

STAFF REPORT

November 2, 2016

TO: Chair & Board of Directors

FROM: Garrett Toy, Executive Director (Town Manager) GT
Michael Vivrette, Finance Director

SUBJECT: Adopt a resolution authorizing the approval of certain lease financing documents in connection with the sale of Town of Fairfax 2016 Certificates of Participation to refinance certain Town of Fairfax CalPERS Retirement obligations for the purpose of generating savings to the Town's General Fund

RECOMMENDATION

Adopt a resolution of the Board of Directors of the Fairfax Financing Authority (the "FFA") authorizing the approval, preparation, and execution of certain lease financing documents in connection with the sale of Town of Fairfax 2016 Certificates of Participation (the "COPs") to refinance certain Town of Fairfax CalPERS Retirement obligations (i.e., CalPERS side fund and pre-2013 UAL obligations).

BACKGROUND

The FFA is a Joint Powers Agreement ("JPA") between the Town of Fairfax ("Town") and the California Municipal Finance Authority. Its primary purpose is to assist with the financing or refinancing of certain public capital facilities within the Town. The FFA has the power to purchase bonds issued by any local agency at public or negotiated sale and may sell such bonds to public or private purchasers at public or negotiated sale. The FFA is controlled by the Town and has the same governing body as the Town (i.e., the Town Council "sits" as the FFA Board with the Mayor as the chair). The Town also performs all accounting and administrative functions for the FAA.

DISCUSSION

Please refer to the Town Council staff report (Agenda Item #12) regarding the issuance and sale of Certificates of Participation (the "COPs") to refinance certain Town of Fairfax CalPERS Retirement obligations (i.e., CalPERS side fund and pre-2013 UAL obligations). COPs is a lease financing structure used by many municipalities to finance capital improvements and facilities as well as retirement obligations. Mr. Pressman, the Town's Municipal Advisor, will provide more details on this commonly used public financing technique at the FFA/Council meeting

To proceed with the COPs, the FFA will need to approve a resolution authorizing the Executive Director to sign the following:

- Site and facility lease
- Lease agreement
- Trust agreement
- Assignment Agreement

The current schedule is to have the COPs close in December 2016. The Town is using the same financing team as was used for the refunding bonds in June 2016. The Town Municipal Advisor and Bond Counsel (Brian Quint of Quint & Thimmig) will be available at the meeting to answer any questions.

ATTACHMENTS

1. Resolution Approving the Form and Authorizing the Execution of Certain Lease Financing Documents Relating to the Refinancing of a Portion of the Town of Fairfax's Outstanding Obligations to the California Public Employees' Retirement System in Connection with the Offering and Sale of Certificates of Participation Relating thereto and Authorizing and Directing Certain Actions with Respect thereto
2. Assignment Agreement

Please refer to the Town Council agenda item #12 for copies of the Site and Facility Lease, Lease Agreement, and Trust Agreement.

FAIRFAX FINANCING AUTHORITY

RESOLUTION 16- _____

**RESOLUTION APPROVING THE FORM AND AUTHORIZING THE
EXECUTION OF CERTAIN LEASE FINANCING DOCUMENTS
RELATING TO THE REFINANCING OF A PORTION OF THE TOWN OF
FAIRFAX'S OUTSTANDING OBLIGATIONS TO THE CALIFORNIA
PUBLIC EMPLOYEES' RETIREMENT SYSTEM IN CONNECTION WITH
THE OFFERING AND SALE OF CERTIFICATES OF PARTICIPATION
RELATING THERETO AND AUTHORIZING AND DIRECTING
CERTAIN ACTIONS WITH RESPECT THERETO**

RESOLVED, by the Board of Directors (the "Board") of the Fairfax Financing Authority (the "Authority"), as follows:

WHEREAS, the Town of Fairfax (the "Town") is a contracting member of the California Public Employees' Retirement System ("PERS") and, under its contract with PERS, the Town is obligated to make certain payments to PERS for both active and retired Safety employees and Miscellaneous employees (the "PERS Obligations");

WHEREAS, the Town has determined at this time, due to prevailing interest rates in the municipal bond market and for other reasons, to refinance, in their entirety, the Town's Side Fund obligations and pre-2013 unfunded actuarial accrued liability with respect to the PERS Obligations, and thereby realize interest savings;

WHEREAS, it is in the public interest and for the public benefit that the Authority authorize and direct execution of certain financing documents in connection therewith; and

WHEREAS, the documents below specified shall be filed with the Authority and the members of the Board, with the aid of its staff, shall review said documents;

NOW, THEREFORE, it is hereby ORDERED and DETERMINED, as follows:

Section 1. Certificates of Participation (2016 Refinancing Project—Taxable) (the "Certificates") are hereby authorized to be executed and delivered pursuant to the provisions of the Trust Agreement (hereinafter defined) for the purpose of refunding a portion of the unfunded accrued actuarial liability represented by the PERS Obligations, as reported to the Town by PERS. The principal amount of the Certificates shall not exceed the amount required to refund such unfunded accrued actuarial liability plus an amount required to pay all costs of delivering the Certificates.

Section 2. The below-enumerated documents, substantially in the forms on file with the Secretary, be and are hereby approved, and the Chairman, the Executive Director or the Treasurer, or any designee thereof, is hereby authorized and directed to execute said documents,

with such changes, insertions and omissions as may be approved by such official, and the Seretary is hereby authorized and directed to attest to such official's signature:

(a) a site and facility lease, between the Town, as lessor, and the Authority, as lessee, pursuant to which the Town will lease certain existing, unencumbered property to the Authority (the "Property");

(b) a lease agreement, by and between the Authority, as lessor, and the Town, as lessee (the "Lease Agreement"), pursuant to which the Authority will lease the Property back to the Town;

(c) an assignment agreement, by and between the Authority and U.S. Bank National Association, as trustee (the "Trustee"), pursuant to which the Authority will assign certain of its rights under the Lease Agreement, including its right to receive lease payments thereunder, to the Trustee; and

(d) a trust agreement, by and among the Authority, the Town and the Trustee (the "Trust Agreement"), relating to the financing and the execution and delivery of certificates of participation evidencing the direct, undivided fractional interests of the owners thereof in lease payments to be made by the Town under the Lease Agreement.

Section 3. The Chairman, the Executive Director, the Treasurer and other officials of the Authority are hereby authorized and directed to execute such other agreements, documents and certificates as may be necessary to effect the purposes of this resolution and the lease financing herein authorized.

Section 4. This Resolution shall take effect upon its adoption by the Board.

The foregoing Resolution was duly passed and adopted at a special meeting of the Board of Directors of the Fairfax Financing Authority held in the Town of Fairfax on the 2nd day of November, 2016 by the following vote to wit:

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

Chair, Fairfax Financing Authority

ATTEST:

Secretary, Fairfax Financing Authority

AFTER RECORDATION RETURN TO:

Quint & Thimmig LLP
900 Larkspur Landing Circle, Suite 270
Larkspur, CA 94939-1726
Attention: Brian D. Quint, Esq.

THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

ASSIGNMENT AGREEMENT

Dated as of December 1, 2016

by and between the

FAIRFAX FINANCING AUTHORITY, as Assignor

and

U.S. BANK NATIONAL ASSOCIATION, as Trustee

(2016 Refinancing Project—Taxable)

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT, dated as of December 1, 2016, by and between the FAIRFAX FINANCING AUTHORITY, a joint exercise of powers entity organized and existing under the laws of the State of California (the "Authority"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under and by virtue of the laws of the United States of America, as trustee (the "Trustee");

WITNESSETH:

In the joint and mutual exercise of their powers, in consideration of the mutual covenants herein contained, and for other valuable consideration, the parties hereto recite and agree as follows:

Section 1. Recitals.

(a) The Authority and the Town of Fairfax (the "Town") have entered into a lease agreement, dated as of December 1, 2016, a memorandum of which is recorded concurrently herewith (the "Lease Agreement"), whereby the Authority has agreed to lease to the Town, and the Town has agreed to lease from the Authority, those certain parcels of real property situated in Marin County, State of California, more particularly described in Exhibit A hereto (the "Site"), and those certain improvements thereon, more particularly described in Exhibit B hereto (the "Facility" and, with the Site, the "Property"), in the manner and on the terms set forth in the Lease Agreement, which terms include, without limitation, the obligation of the Town to pay lease payments (the "Lease Payments") to the Authority in consideration of the Town's use and enjoyment of the Property.

(b) Under the Lease Agreement, the Authority is required to cause to be deposited with the Trustee certain sums of money to be credited, held and applied in accordance with the Lease Agreement and with a trust agreement, dated as of December 1, 2016 (the "Trust Agreement"), by and among the Authority, the Town and the Trustee.

(c) Upon delivery of the Lease Agreement, the Authority is required to deposit with Trustee, moneys to refinance, in their entirety, the Town's Side Fund obligations and pre-2013 unfunded actuarial accrued liability with respect to the Town's obligation to make certain payments to the California Public Employees' Retirement System for both active and retired Safety employees and Miscellaneous employees and thereby realize interest savings (the "PERS Obligations"). For the purpose of obtaining such moneys, the Authority is willing to convey to certain persons (the "Owners") direct, undivided fractional interests in the Lease Payments, such direct, undivided fractional interests to be evidenced by certificates of participation therein (the "Certificates"). In order to make such fractional interests marketable on terms acceptable to the Authority, the Authority is willing to assign and transfer its rights under the Lease Agreement to the Trustee for the benefit of the Owners. Concurrently with the delivery of this Assignment Agreement, the Trustee is executing and delivering Certificates in an aggregate principal amount of _____ dollars (\$_____). The proceeds of such sale are anticipated to be sufficient to permit the Authority to make the deposits required under the Lease Agreement and the Trust Agreement and to permit the Town to refinance the PERS Obligations.

(d) Each of the parties has authority to enter into this Assignment Agreement and has taken all actions necessary to authorize its officers to execute it.

Section 2. Assignment. The Authority, for good and valuable consideration, hereby transfers, assigns and sets over to the Trustee, for the benefit of the Owners of the Certificates (as defined in the Trust Agreement), all of the Authority's rights and interests under the Lease Agreement (excepting only the Authority's rights to give approvals and consents and its rights under Sections 5.8, 7.3 and 9.4 but none of its obligations, including, without limitation, its obligations under Section 4.7 of the Lease Agreement), including without limitation (i) the right to receive and collect all of the Lease Payments from the Town, (ii) the right to receive and collect any proceeds of any insurance maintained thereunder and of any condemnation award rendered with respect to the Property, and (iii) the right to exercise such rights and remedies conferred on the Authority pursuant to the Lease Agreement as may be necessary or convenient (A) to enforce payment of the Lease Payments and any other amounts required to be deposited in the Lease Payment Fund or the Insurance and Condemnation Fund established under the Trust Agreement, or (B) otherwise to protect the interests of the Owners in the event of a default by the Town under the Lease Agreement. All rights assigned by the Authority shall be administered by the Trustee in accordance with the provisions of the Trust Agreement and for the equal and fractional benefit of the Owners of the Certificates.

Section 3. Acceptance. The Trustee hereby accepts the assignments made herein for the purpose of securing, equally and fractionally, the payments due pursuant to the Lease Agreement and the Trust Agreement to, and the rights under the Lease Agreement and Trust Agreement of, the Owners of the Certificates delivered pursuant to the Trust Agreement, all subject to the provisions of the Trust Agreement.

Section 4. Conditions. This Assignment Agreement shall neither confer rights nor impose duties upon the Trustee beyond those expressly provided in the Trust Agreement. The Trustee assumes no responsibility for the accuracy of the recitals herein.

Section 5. Amendment. This Assignment Agreement may not be amended except as permitted under Section 10.01 of the Trust Agreement.

Section 6. Governing Law. This Assignment Agreement shall be governed by the laws of the State of California.

Section 8. Execution in Counterparts. This Assignment Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement by their officers thereunto duly authorized as of the day and year first written above.

FAIRFAX FINANCING AUTHORITY

By _____
Garrett Toy
Executive Director

Attest:

Michele Gardner
Secretary

U.S. BANK NATIONAL ASSOCIATION,
as 2011 Trustee and as Assignee of the
Authority

By _____
Francine Rockett
Vice President

[NOTARY ACKNOWLEDGMENTS TO BE ATTACHED]

EXHIBIT A
DESCRIPTION OF THE SITE

All that certain real property situated in Marin County, State of California, described as follows:

EXHIBIT B

DESCRIPTION OF THE FACILITY

The Facility consists of the following:

Town Hall/Police Department, located at 142 Bolinas Road, Fairfax, CA. The Town Hall/Police Department {SHORT NARRATIVE DESCRIPTION TO COME}. The 2016 insured value of the Town Hall/Police Department is \$831,981, excluding land value.

Maintenance Shop, located at 142 Bolinas Road, Fairfax, CA. The Maintenance Shop {SHORT NARRATIVE DESCRIPTION TO COME}. The 2016 insured value of the Maintenance Shop is \$271,840, excluding land value.

Pavilion/Gymnasium, located at 142 Bolinas Road, Fairfax, CA. The Pavilion/Gymnasium {SHORT NARRATIVE DESCRIPTION TO COME}. The 2016 insured value of the Pavilion/Gymnasium is \$1,805,604, excluding land value.

Fire Station, located at 10 Park Road, Fairfax, CA. The Fire Station {SHORT NARRATIVE DESCRIPTION TO COME}. The 2016 insured value of the Fire Station is \$1,684,088, excluding land value.