

## RESOLUTION 20-\_\_\_\_

### A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX APPROVING THE ISSUANCE AND SALE BY THE FAIRFAX FINANCING AUTHORITY TO FUND ALL OR A PORTION OF THE EXISTING UNFUNDED ACTUARIAL LIABILITY OF THE TOWN TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, REFINANCE THE TOWN'S OBLIGATIONS UNDER A 2017 LEASE AGREEMENT EXECUTED TO FUND A PORTION OF THE TOWN'S THEN EXISTING UNFUNDED ACTUARIAL LIABILITY AND TO FUND ALL OR A PORTION OF THE TOWN'S CURRENT UNFUNDED ACTUARIAL LIABILITY TO CALPERS, APPROVING THE FORM AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS AND APPROVING OFFICIAL ACTIONS

**RESOLVED**, by the Town Council (the "Council") of the Town of Fairfax (the "Town") as follows:

**WHEREAS**, the Town, working together with the Fairfax Financing Authority (the "Authority"), proposes to finance and refinance certain pension obligations of the Town to the California Public Employees' Retirement System ("CalPERS"), including to refinance the Town's Lease Agreement, dated as of January 1, 2017, by and between the Authority and the Town, assigned to Capital One Public Funding, LLC, executed to fund a portion of the Town's then existing unfunded actuarial liability to CalPERS (the "2017 Lease"), and to fund all or a portion of the Town's current unfunded actuarial liability to CalPERS;

**WHEREAS**, for the purpose of raising funds necessary to provide such financial assistance to the Town, the Authority proposes to authorize the issuance of its lease revenue bonds under the provisions of Article 4 (commencing with section 6584) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Bond Law"), designated as the "Fairfax Financing Authority (Marin County, California) Taxable Lease Revenue Bonds, Series 2020" (the "Bonds"), all pursuant to and secured by an indenture of trust (the "Indenture"), by and between the Authority and U.S. Bank National Association, as trustee;

**WHEREAS**, in order to provide for the repayment of the Bonds, the Town will lease to the Authority and will lease back from the Authority the Town's Town Hall, Corporation Yard, Pavilion, Fire Station and certain Town streets and roads (the "Property") pursuant to a lease agreement (the "Lease Agreement"), under which the Town will agree to make lease payments to the Authority payable from the Town's general fund which will be calculated to be sufficient, in time and amount, to enable the Authority to pay the principal of and interest on the Bonds when due and payable;

**WHEREAS**, Capital One Public Funding, LLC (the "Purchaser") has agreed to purchase the Bonds and a form of commitment agreement for the Bonds, to be entered into among the Authority, the Town and the Purchaser (the "Commitment Agreement") has been prepared; and

**WHEREAS**, as required pursuant to section 6586.5(a) of the Bond Law, a public hearing has been held by the Council in connection with the financing;

**WHEREAS**, the Council desires to make a finding of significant public benefit pursuant to section 6586.5(a)(2) of the Bond Law, and to approve the financing and the transactions contemplated by the Bonds; and

**WHEREAS**, the Council has duly considered such transactions and wishes at this time to approve said transactions in the public interests of the Town;

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

*Section 1. Findings and Consent.* The Council hereby finds that significant public benefits will arise from the financing, in accordance with section 6586 of the Bond Law.

*Section 2. Approval of Bonds.* The Council hereby approves the issuance of the Bonds by the Authority pursuant to the Indenture for the purpose of providing funds to finance and refinance certain pension obligations of the Town to CalPERS, including to refinance the 2017 Lease.

*Section 3. Approval of Site and Facility Lease and Right of Entry Agreement.* The Council hereby approves a lease and right of entry agreement, by and between the Town and the Authority (the "Site and Facility Lease and Right of Entry Agreement"), pursuant to which the Town will lease the Property to the Authority, to be leased back to the Town pursuant to the Lease Agreement, in the form on file with the Town Clerk, together with any changes therein or additions thereto deemed advisable by the Mayor, the Vice Mayor, the Town Manager or the Finance Director (the "Designated Officers"), whose execution thereof shall be conclusive evidence of such approval. Any Designated Officer is hereby authorized and directed for and in the name and on behalf of the Town to execute, and the Town Clerk is hereby authorized and directed to attest, the final form of the Site and Facility Lease and Right of Entry Agreement for and in the name of the Town. The Council hereby authorizes the delivery and performance of the Lease and Right of Entry Agreement.

*Section 4. Approval of Lease Agreement.* The Council hereby approves the Lease Agreement, in the form on file with the Town Clerk, together with any changes therein or additions thereto deemed advisable by any Designated Officer, whose execution thereof shall be conclusive evidence of the approval of any such changes or additions, so long as the principal amount of the Lease Agreement is not greater than \$10,600,000, the maximum annual lease payments to be paid under the Lease Agreement are not greater than \$1,025,000 and the term of Lease Agreement, including all renewals thereof, does not extend beyond August 1, 2037. Any Designated Officer is hereby authorized and directed for and in the name and on behalf of the Town to execute, and the Town Clerk is hereby authorized and directed to attest, the final form of the Lease Agreement for and in the name of the Town. The Council hereby authorizes the delivery and performance of the Lease Agreement.

*Section 5. Approval of Termination Agreement.* The Council hereby approves a termination agreement (the "Termination Agreement"), by and among the Authority, the Town and the Purchaser, as assignee of the 2017 Lease, to terminate the documents recorded in connection with the 2017 Lease financing, in the form on file with the Town Clerk, together with such additions thereto and changes therein as the Designated Officers shall deem necessary, desirable or appropriate, the execution of which by the Town shall be conclusive

evidence of the approval of any such additions and changes. Any of the Designated Officers is hereby authorized and directed to execute, and the Town Clerk is hereby authorized and directed to attest to, the final form of the Termination Agreement for and in the name and on behalf of the Town. The Council hereby authorizes the delivery and performance of the Termination Agreement.

*Section 6. Sale of Bonds.* The Council hereby approves the sale of the Bonds by the Authority by negotiation with the Purchaser pursuant to the Commitment Agreement, in the form on file with the Town Clerk, together with such additions thereto and changes therein as any Designated Officer shall deem necessary, desirable or appropriate, the execution of which by the Town shall be conclusive evidence of the approval of such additions and changes. Any of the Designated Officers is hereby authorized and directed to execute the final form of the Commitment Agreement for and in the name and on behalf of the Town pursuant to the provisions of a term sheet presented to the Town and the Authority by the Purchaser which has been agreed to by the Town, consistent with the requirements of this Resolution.

*Section 7. Official Actions.* The Mayor, the Vice Mayor, the Town Manager, the Finance Director, the Town Clerk and all other officers of the Town are each authorized and directed in the name and on behalf of the Town to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the documents approved pursuant to this Resolution. Whenever in this Resolution any officer of the Town is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

*Section 8. Effective Date.* The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

The Foregoing Resolution was adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on September 2, 2020, by the following vote, to wit:

AYES:  
NOES:  
ABSENT:

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RENEE GODDARD, Mayor

Attest: \_\_\_\_\_  
Michele Gardner, Town Clerk