

RESOLUTION NO. ____-16**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD AUTHORIZING DELIVERY AND SALE OF REFUNDING CERTIFICATES OF PARTICIPATION TO REFINANCE OUTSTANDING 2007 CERTIFICATES OF PARTICIPATION, AND APPROVING RELATED DOCUMENTS AND ACTIONS**

WHEREAS, the Hayward Public Financing Authority (the "Authority") and the City of Hayward (the "City") have previously entered into a Lease Agreement, dated as of August 1, 2007 (the "Prior Lease"), under which the City has agreed to pay semiannual lease payments which are evidenced by 2007 Refunding Certificates of Participation (Civic Center and Capital Projects) in the aggregate principal amount of \$31,820,000 (the "2007 Certificates"); and

WHEREAS, in order to take advantage of favorable interest rates prevailing in the municipal bond market, the City wishes at this time to provide for the refinancing of its obligations under the Prior Lease and the 2007 Certificates from the proceeds of (i) 2016 Refunding Certificates of Participation (Civic Center and Capital Projects - 2007 Refunding), Series A to be delivered in the maximum principal amount of \$22,000,000 and (ii) 2016 Federally Taxable Refunding Certificates of Participation (Civic Center and Capital Projects - 2007 Refunding), Series B to be delivered in the maximum principal amount of \$1,500,000 (collectively the "Refunding Certificates"); and

WHEREAS, the City Council wishes to authorize and direct staff, without further authorization or approval by this City Council, to determine whether the Refunding Certificates should be sold to an underwriter or privately placed with a financial institution to be identified by staff, with such determination to be based upon staff's conclusion, subject to compliance of the sale with the parameters set forth in this Resolution, that the method of sale selected by staff will be most beneficial to the City; and

WHEREAS, the City Council wishes at this time to authorize and approve all proceedings for the refinancing of the Prior Lease and the 2007 Certificates, the delivery and sale of Refunding Certificates for such purpose, and all related documents and actions, in furtherance of the public purposes of the City;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward as follows:

Section 1. Approval of Refinancing Plan and Related Documents. The City Council hereby approves the refinancing plan outlined above. To that end, the City Council hereby approves each of the following financing documents in substantially the respective forms on file with the City Clerk, together with any changes therein or additions thereto approved by the Mayor, the City Manager, the Assistant City Manager or the Director of Finance of the City (each, an "Authorized Officer"):

- Site Lease, between the City as lessor and the Authority as lessee, whereby the City leases certain real property consisting generally of

the land and improvements constituting the Civic Center located at 777 B Street (the "Leased Property") to the Authority.

- Lease Agreement, between the Authority as lessor and the City as lessee, whereby the Authority leases the Leased Property back to the City in consideration of the payment by the City of semiannual lease payments.
- Trust Agreement, between the City, the Authority and the Trustee, whereby the Trustee agrees to execute and deliver the Refunding Certificates.
- Escrow Deposit and Trust Agreement between the City and The Bank of New York Mellon Trust Company, N.A., as trustee for the 2007 Certificates and escrow agent, relating to refinancing of the 2007 Certificates.
- Termination Agreement, among the City, the Authority and The Bank of New York Mellon Trust Company, N.A, as trustee for the 2007 Certificates, whereby the City and the Authority terminate the documentation relating to the 2007 Certificates.

Each Authorized Officer is hereby authorized and directed on behalf of the City to execute the final form of each of the foregoing documents, and the City Clerk is hereby authorized and directed to attest to the final form of each of the foregoing documents. Execution of each of the foregoing documents by an Authorized Officer shall be conclusive evidence of the approval of any changes therein or additions thereto by an Authorized Officer. The schedule of lease payments attached to the Lease Agreement shall correspond to the payments of principal and interest represented by the Refunding Certificates, to be determined upon the sale thereof as set forth in Section 2.

Section 2. Sale of Refunding Certificates; Purchase Agreement. The City Council hereby authorizes and directs the Finance Director, following consultation with the City Attorney, municipal advisor and special counsel, to determine whether selling the Refunding Certificates to an underwriter in a negotiated underwriting, or selling the Refunding Certificates in a private placement to one or more financial institutions to be selected by the Finance Director will be more beneficial to the City. The City Council hereby approves Hilltop Securities to act as underwriter if the Refunding Certificates are sold in a negotiated underwriting and placement agent if the Refunding Certificates are privately placed; Hilltop Securities was selected following a competitive process.

The City Council hereby directs the Finance Director to work with the City Attorney, municipal advisor and special counsel to prepare a form of purchase agreement for execution by the City in connection with a negotiated underwriting or a private placement and to submit the agreement to the City Council for approval.

The Refunding Certificates shall be sold at such price and shall bear interest at such rates as shall produce a minimum net present value savings to the City of at least 5% of the principal component of the 2007 Certificates, as such savings shall be verified

and conclusively determined by the City's municipal advisor. The Underwriter's discount shall not exceed 0.50% if the Refunding Certificates are sold in a negotiated underwriting, and the private placement agent's fee shall not exceed \$30,000.

Section 3. Official Statement. The City Council hereby directs the Finance Director, if it is determined that the Refunding Certificates should be sold in a negotiated underwriting, to work with the City Attorney, municipal advisor and special counsel to prepare a form of Official Statement describing the Refunding Certificates and containing material information relating to the City and the Refunding Certificates, the preliminary form of which will be submitted to the City Council for approval for distribution by the underwriter of the Refunding Certificates to persons and institutions interested in purchasing the Refunding Certificates.

Section 4. Authorization to Obtain Municipal Bond Insurance. The City Council hereby authorizes an Authorized Officer to determine whether the Refunding Certificates are eligible for municipal bond insurance and reserve fund surety bond and, if so, whether it is in the best interests of the City to obtain such insurance or surety bond. An Authorized Officer is hereby authorized to execute a commitment for such insurance or surety bond and to take all actions required to implement the delivery of such municipal bond insurance policy or surety bond.

Section 5. Appointment of Professionals. The following professionals are hereby appointed to provide services relating to the Bonds: Jones Hall, A Professional Law Corporation, as special counsel and disclosure counsel; NHA Advisors, Inc., as municipal advisor; The Bank of New York Mellon Trust Company, N.A. as trustee and escrow agent; Grant Thornton, as verification agent; and MuniFinancial as dissemination agent. The Director of Finance, or an authorized representative or authorized designee of the Director of Finance, is hereby authorized to execute agreements for services with such professionals relating to the Bonds in substantially the forms presented at this meeting and on file with the Director of Finance.

Section 6. Official Actions. The Mayor, the City Manager, the Assistant City Manager or the Director of Finance, City Clerk, and all other officers of the City, are authorized and directed in the name and on behalf of the City 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 agreements and documents approved under this Resolution. Whenever in this resolution any officer of the City is directed 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 is absent or unavailable.

Section 7. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED and ADOPTED this 3rd day of May, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

[Seal]

ATTEST:

City Clerk