

(Companion to Pubic Financing Authority Item 4A)

Honorable Mayor and Members
Of the City Council
City Hall
Torrance, California

Members of the Council:

Subject: **Finance** – 2009 Certificates of Participation**RECOMMENDATION**

Recommendation of the Finance Director that the City Council approve the preliminary official statement and adopt a **RESOLUTION** authorizing and directing the issuance of 2009 Certificates of Participation (the “2009 COP”) in the amount not to exceed \$28,000,000. (Companion to Pubic Financing Authority Item 4A)

BACKGROUND/ANALYSIS

The City of Torrance (the “City”) is currently in escrow to purchase approximately 15 acres from PPG Industries, Inc. for a future regional transit center as well as other public uses. The property is located at 465 Crenshaw Boulevard in Torrance. The City Council approved the property purchase agreement, on September 1, 2009 and is currently in the due diligence period, which will close on November 25, 2009.

On September 22, 2009, Council approved in concept the use of 2009 COPs to finance the purchase of the land. On October 20, Council authorized staff to explore refunding the City’s 1998 Certificates of Participation (the “1998 COP”) as part of the land acquisition financing. The current outstanding principal balance on the 1998 COP is \$6,770,000.

The City has issued Certificates of Participation in the past to fund projects such as police, fire, and other community facility improvements. Certificates of Participation are structured as a lease obligation of the City with its financing authority (Torrance Public Financing Authority - TPFPA). The lease payments are assigned to the purchaser of the Certificates of Participation and are used to repay the COPs. The City is obligated to make lease payments as long as it uses the buildings and this is why there are “high essential” use requirements for the underlying asset for COPs. The Lease Agreement does not create a mortgage, and the investor does not have the ability to foreclose on the asset. In the event the City does not make the lease payment, the trustee for the 2009 COPs, after exhausting the reserve fund, will bring an action against the City to compel the City to make the lease payment, or to re-let the property.

The asset being recommended to be used to secure the 2009 COP is the main City Hall building, which includes the main City Hall, the east and west annexes as well as the building that currently houses fire prevention and the employee break room. The value of City Hall is estimated at over \$37 million, which will be more than sufficient to cover the \$28 million (not to exceed) needed for the financing.

Based on current market conditions, it is expected that the term of the 2009 COP will be thirty (30) years, with an average annual debt service between \$1.2 to \$1.3 million for the land acquisition piece and approximately \$530,000 annually for the refunding of the 1998 COP. Staff has set a threshold of at least \$200,000 in savings for the 1998 COP to be refunded.

The pricing of the 2009 COP will be done immediately after the City is ready to release all contingencies, which will be prior to November 25, 2009. Funds will be available prior to the anticipated December 15, 2009 close of escrow.

The financing program related to the acquisition of the PPG Industries site has been developing for over one year. City staff has spent extensive time with legal and financial consultants developing a financing plan that will provide the City with a cost effective method for purchasing the land. As part of any Certificates of Participation issue, the City requires the services of bond counsel, disclosure counsel, financial advisor, trustee and underwriter. The City proposes to engage the services of Jones Hall (bond and disclosure counsel), Northcross, Hill & Ach (financial advisor), and Bank of New York (trustee). Each of these firms has worked with the City over the last 10 years on various projects that required financing.

Given the market conditions and who's investing (institutional vs. retail), timing constraints of the land acquisition purchase agreement and the short window for providing funds necessary to close escrow. Staff, based on advice provided by the City's financial advisor, Northcross, Hill & Ach, is recommending using Morgan Stanley as the underwriter to negotiate the pricing of the 2009 COP. This deal will most likely have heavy retail investor participation, which Morgan Stanley has one of the largest retail operations. Morgan Stanley has provided similar services to the City over the last 15 years and has proposed an underwriting fee that is very competitive with the market. The RESOLUTION authorizes staff to negotiate and execute the appropriate professional services agreements with each of the above mentioned firms.

Respectfully submitted,



Eric E. Tsao
Finance Director

CONCUR:

for 
LeRoy J. Jackson
City Manager

Attachments:

- A. Resolution (Refunding)
- B. Trust Agreement (Limited Distribution)
- C. Property Lease (Limited Distribution)
- D. Lease Agreement (Limited Distribution)
- E. Preliminary Official Statement (Limited Distribution)
- F. Certificate Purchase Agreement (Limited Distribution)
- G. Financing Timetable

CITY OF TORRANCE
RESOLUTION NO. _____

**A RESOLUTION APPROVING, AUTHORIZING AND DIRECTING
EXECUTION OF CERTAIN LEASE FINANCING DOCUMENTS,
APPROVING SALE OF CERTIFICATES, APPROVING A PRELIMINARY
OFFICIAL STATEMENT, AND AUTHORIZING AND DIRECTING CERTAIN
ACTIONS WITH RESPECT THERETO**

The Council of the City of Torrance (the "City") does hereby resolve as follows:

WHEREAS, the City has made an offer to purchase that certain property consisting of approximately 15 acres, located at 465 Crenshaw Boulevard in the City, being APN 7352-002-008 and APN 7352-002-010 (the "Land"), which offer has been accepted, subject to certain conditions, including close of escrow on the purchase of the Land by December 17, 2009; and

WHEREAS, the City wishes to finance the purchase price of the Land, together with related costs, using a lease financing structure and certificates of participation, utilizing the City's civic center complex, located at 3031 Torrance Boulevard in the City (the "Leased Property") as the subject of the lease financing; and

WHEREAS, the City, working together with the Torrance Public Financing Authority (the "Authority"), has previously caused the execution and delivery of 1998 Refunding Certificates of Participation, dated December 17, 1998 and executed and delivered in the original principal amount of \$10,300,000 (the "Prior Certificates"); and

WHEREAS, interest rate savings will be achieved if the Prior Certificates are refunded; and

WHEREAS, the City has determined that it is in the interests of the City at this time to provide for the financing of the costs of: the acquisition of the Land, the funding of a reserve for the lease payments to be paid by the City, and the costs of issuance incurred in connection with the proposed financing (together, the "Project"), and the cost of refunding the Prior Certificates, by leasing the Leased Property to the Authority (the "Authority"), pursuant to that certain Property Lease, dated as of December 1, 2009, by and between the City, as lessor, and the Authority, as lessee (the "Property Lease"), and subleasing the Leased Property pursuant to a Lease Agreement, dated as of December 1, 2009, between the Authority, as lessor, and the City, as lessee (the "Lease Agreement"); and

WHEREAS, for the purpose of obtaining the moneys required to finance the Project and refund the Prior Certificates, the Authority proposes to assign and transfer certain of its rights under the Lease Agreement to the Trustee, and in consideration of such assignment and the execution of a Trust Agreement, dated as of December 1, 2009, among The Bank of New York

Mellon Trust Company, N.A. (the "Trustee"), the City and the Authority (the "Trust Agreement"), the Trustee has agreed to execute and deliver City of Torrance Certificates of Participation (Land Acquisition Project), Series 2009, each evidencing an undivided fractional interest in the Lease Payments made by the City under the Lease Agreement;

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

WHEREAS, pursuant to the City's authorization, Jones Hall, A Professional Law Corporation, as disclosure counsel to the City, has prepared and presented to the City a form of preliminary official statement containing information material to the offering and sale of the certificates of participation described below (the "Preliminary Official Statement"); and

WHEREAS, the documents below specified have been filed with the City, and the members of the City Council, with the aid of its staff, have reviewed said documents;

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

Section 1. (a) The below-enumerated documents are hereby approved, and the Mayor, the City Manager, the Finance Director or a designee appointed by any such officer (in each case, an "Authorized Officer") are hereby separately authorized and directed to execute said documents, with such changes, insertions and omissions as may be approved by such official, and the City Clerk is hereby authorized and directed to attest to such Authorized Officer's signature:

(a) a Property Lease, relating to the lease of the Leased Property by the City to the Authority, between the Authority and the City (the "Property Lease");

(b) a Lease Agreement, relating to the lease of the Leased Property by the Authority back to the City, between the Authority, as lessor, and the City, as lessee (the "Lease Agreement"), so long as the stated term of the Lease Agreement does not extend beyond September 1, 2039 (except in the case of default), so long as the principal amount of the Lease Agreement does not exceed \$28,000,000, and so long as the principal component of the lease payments payable by the City under the Lease Agreement bear a weighted average interest rate of not-to-exceed 5.25%;

(c) a Trust Agreement, by and among the Authority, the City and the Trustee, relating to the execution and delivery of certificates of participation evidencing the fractional interests of the owners thereof in lease payments to be made by the City under the Lease Agreement (the "Certificates of Participation");

(d) a Continuing Disclosure Certificate, relating to the City's obligation to provide continuing disclosure with respect to the Certificates of Participation.

(b) the inclusion of the refunding of the Prior Certificates in the financing herein approved is conditioned upon the refunding achieving total debt service savings of no less than \$200,000.

Section 2. The form of Contract of Purchase, between the City and Morgan Stanley & Co. Incorporated (the "Underwriter"), to be dated the date of sale of the Certificates of Participation, on file with the City Clerk, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Contract of Purchase in substantially said form, with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the underwriter's discount (not including any original issue discount) for the sale of such Certificates shall not exceed 1.5% of the aggregate principal amount of such Certificates.

Section 3. The Authorized Officer, the City Clerk and other officials of the City 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 and refinancing herein authorized.

Section 4. To the best of the City's knowledge, information and belief, the Preliminary Official Statement contains no untrue statement of a material fact with respect to the City or omits to state a material fact with respect to the City required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made.

Section 5. The City hereby approves, and hereby deems final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, the preliminary Official Statement describing the Certificates of Participation, in the form on file with the Finance Director. The Underwriter, is hereby authorized to distribute the Official Statement in connection with the sale of the Certificates of Participation. The Authorized Officer is hereby authorized and directed to (a) execute and deliver to the Underwriter a certificate deeming the preliminary Official Statement to be final as of its date, (b) approve any changes in or additions to cause such Official Statement to be put in final form, and (c) execute said final Official Statement for and in the name and on behalf of the City.

The Preliminary Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Certificates of Participation.

Section 6. The Authorized Officers are separately authorized to approve corrections and additions to the Preliminary Official Statement by supplement or amendment thereto, or otherwise as appropriate, provided that any such corrections or additions shall be necessary to cause the information contained therein to conform with facts material to the Certificates of Participation, or to the proceedings of the City or such corrections or additions are in form rather than in substance.

Section 7. The Mayor, the City Manager and the Finance Director are separately authorized and directed to cause the Preliminary Official Statement to be brought into the form of a final official statement (the "Final Official Statement") and to execute said Final Official

Statement, dated as of the date of the sale of the Certificates of Participation, and the City Manager and Finance Director are separately authorized and directed to execute a statement that the facts contained in the Final Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Certificates of Participation, true and correct in all material respects and that the Final Official Statement did not, on the date of sale of the Certificates of Participation, and does not, as of the date of delivery of the Certificates of Participation, contain any untrue statement of a material fact with respect to the City or omit to state material facts with respect to the City required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. The Mayor, the City Manager or the Finance Director shall take such further actions prior to the signing of the Final Official Statement as are deemed necessary or appropriate to verify the accuracy thereof.

Section 8. The Final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Certificates of Participation.

Section 9. The firm of Northcross, Hill & Ach, Inc. is hereby appointed to serve as Financial Advisor to the City. The firm of Jones Hall, A Professional Law Corporation, is hereby designated to serve as Special Counsel and Disclosure Counsel to the City in connection with the financing transaction described in this Resolution. Compensation to said firms shall be paid from a portion of the proceeds of the Certificates.

An agreement for financial services between Northcross, Hill & Ach, Inc. and the City, a copy of which is on file with the City Clerk, is hereby approved, and the City Manager is hereby authorized and directed for and in the name and on behalf of the City to execute said agreement. The Agreement for Legal Services between Jones Hall, A Professional Law Corporation, and the City, a copy of which is on file with the City Clerk, is hereby approved, and the City Manager is hereby authorized and directed for and in the name and on behalf of the City to execute said agreement.

Section 10. The Mayor, the Authorized Officers, the City Clerk, and any other officer of the City, or any of such officers, are each hereby separately authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution.

* * * * *

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Mayor

City Manager

Finance Director

**CITY OF TORRANCE
2009 Certificates of Participation
(Land Acquisition Project)**

FINANCING TIMETABLE

Date	Task to be Accomplished
August 6	City submits offer for property
September 1	City offer is accepted (90-day clock starts)
Week of September 14	Distribute draft legal documents and Preliminary Official Statement (POS)
September 22	City Council Financing Plan – approve in concept
September 28	Distribute revised draft of legal documents and POS
October 5	Final comments due on legal documents and POS
October 8	Distribute documents to rating agencies
October 13	Submit electronic documents to City by noon
Week of October 19	Rating agency meetings or calls
October 27	City Council approval of financing documents and legal documents
October 29	Receive ratings
Week of November 9	Finalize POS and post electronically
November 25	Complete contingency release (90 th day)
Week of November 30	Price COP
December 4	Distribute draft of final Official Statement; closing documents
December 7	Comments due on final Official Statement
December 9	Submit final Official Statement to printer
December 10	Print and mail final Official Statement
December 14	Pre-closing
December 15	Closing; fund escrow
December 15	Land Purchase Escrow – Required Closing (120 th day)