



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** August 28, 2012

From: Marc Puckett, Director of Finance **Item No:** 13
Finance

Subject: CONDUIT FINANCING FOR THE HIGH DESERT “PARTNERSHIP FOR ACADEMIC EXCELLENCE” FOUNDATION TO FINANCE OR REFINANCE THE ACQUISITION, CONSTRUCTION REHABILITATION, IMPROVEMENT AND EQUIPPING OF CERTAIN REAL PROPERTY AND IMPROVEMENTS.

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

That the Town Council:

- 1) Conduct the public hearing under the requirements of TEFRA and the Internal Revenue Code of 1986, as amended (the “Code”).
- 2) Adopt the Resolution Number 2012-47 and Resolution Number 2012-48 approving the issuance of the Bonds by the CMFA for the benefit of High Desert “Partnership in Academic Excellence” Foundation, Incorporated, a California non-profit corporation, or a subsidiary or affiliate thereof (the “Borrower”), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Code and the California Government Code Section 6500 (and following). The resolution will also authorize the Mayor or designee thereof to execute the Joint Exercise of Powers Agreement with the CMFA.

SUMMARY:

Conduct a public hearing under the Tax and Equity Fiscal Responsibility Act (“TEFRA”) on August 14, 2012 in connection with the proposed issuance by the California Municipal Finance Authority (“CMFA”), a joint exercise of powers authority and public entity of the State of California, in an amount not to exceed \$6,000,000 of tax-exempt revenue bonds, (the “bonds”) for the purpose, of financing or refinancing the acquisition, construction rehabilitation, improvement and equipping of certain real property and improvements thereon (consisting of consisting of certain buildings, a gymnasium and an athletic field located within the Town at 17500 Mana Road, Apple Valley, California 92307) and to pay certain expenses incurred in connection with the issuance of the Bonds (collectively, the “Project”).

BACKGROUND:

The Borrower requested that the CMFA serve as the municipal issuer of the Bonds in an aggregate principal amount not to exceed \$6,000,000 tax-exempt revenue bonds. The proceeds of the Bonds will be used by the Borrower to finance or refinance the acquisition, construction rehabilitation, improvement and equipping of certain real property and improvements thereon (consisting of consisting of certain buildings, a gymnasium and an athletic field located within the Town at 17500 Mana Road, Apple Valley, California 92307) and to pay certain expenses incurred in connection with the issuance of the Bonds (collectively, the "Project"); (b) paying capitalized interest on the Bonds; and (c) paying certain costs of issuance for the Bonds (collectively, the "Project"). The Borrower is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code").

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the town of Apple Valley must conduct a public hearing (the "TEFRA Hearing") providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. Prior to such TEFRA Hearing, reasonable notice must be provided to the members of the community. Following the close of the TEFRA Hearing, an "applicable elected representative" of the governmental unit hosting the Project must provide its approval of the issuance of the Bonds for the financing of the Project.

CALIFORNIA MUNICIPAL FINANCE AUTHORITY:

The CMFA was created on January 1, 2004 pursuant to a joint exercise of powers agreement to promote economic, cultural and community development, through the financing of economic development and charitable activities throughout California. To date, over 100 municipalities, including the County of San Bernardino have become members of CMFA.

The CMFA was formed to assist local governments, non-profit organizations and businesses with the issuance of taxable and tax-exempt bonds aimed at improving the standard of living in California. The CMFA's representatives and its Board of Directors have considerable experience in bond financings

FISCAL IMPACT:

The Board of Directors of the California Foundation for Stronger Communities, a California non-profit public benefit corporation (the "Foundation"), acts as the Board of Directors for the CMFA. Through its conduit issuance activities, the CMFA shares a portion of the issuance fees it receives with its member communities and donates a portion of these issuance fees to the Foundation for the support of local charities. With respect to the Town of Apple Valley, it is expected that 25% of the issuance fee will be granted by the CMFA to the Town. Currently, that reimbursement is estimated to be \$4,000. The borrower will be the beneficiary of our charitable donation through a 25% reduction in issuance fees.

SUMMARY:

In light of the foregoing, the lower fees of the CMFA and in order to support the High Desert "Partnership for Academic Excellence" Foundation, staff recommends that the Town conduct the TEFRA Hearing, and adopt the resolution in favor of the issuance of the Bonds by the CMFA.

- Attachment: 1) Resolution Number 2012-47 - Joining Resolution
2) Resolution Number 2012-48 - High Desert Foundation TEFRA Resolution
3) CMFA Membership List

RESOLUTION NO. 2012-47

**RESOLUTION APPROVING, AUTHORIZING, AND DIRECTING
EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT
RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY**

WHEREAS, pursuant Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies (the "Members") have entered into a Joint Exercise of Powers Agreement, effective on January 1, 2004 (the "Agreement") in order to form the California Municipal Finance Authority (the "Authority"), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes or other evidences of indebtedness; and

WHEREAS, the Town of Apple Valley (the "Town"), has determined that it is in the public interest and for the public benefit that the Town become a Member of the Authority in order to facilitate the promotion of economic, cultural and community development activities in the Town including the financing of projects therefor by the Authority; and

WHEREAS, there is now before this Town Council the form of the Agreement; and

WHEREAS, the Agreement has been filed with the Town, and the members of the Town Council, with the assistance of its staff, have reviewed said document;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN AS FOLLOWS:

Section 1. The Agreement is hereby approved and the Mayor, Town Manager or designee thereof is hereby authorized and directed to execute said document, with such changes, insertions and omissions as may be approved by said Mayor or Town Manager, and the Town Clerk or such Clerk's designee is hereby authorized and directed to attest thereto.

Section 2. The Mayor, Town Manager or designee thereof, the Clerk and all other proper officers and officials of the Town are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

Section 3. The Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Authority in care of its counsel:

Harriet M. Welch, Esq.
Squire, Sanders & Dempsey LLP.
555 South Flower St., Suite 3100
Los Angeles, CA 90071

Section 4. This resolution shall take effect immediately upon its passage.

APPROVED and **ADOPTED** this 28th day of August 2012 by the Town Council of the Town of Apple Valley.

Barb Stanton, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

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Council Meeting Date: 08/28/12

13-5

RESOLUTION NO. 2012-48

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY AND APPROVING THE ISSUANCE OF THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY VARIABLE RATE REVENUE BONDS (THE HIGH DESERT “PARTNERSHIP IN ACADEMIC EXCELLENCE” FOUNDATION PROJECT), SERIES 2012 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,000,000 BY THE AUTHORITY FOR THE PURPOSE OF FINANCING AND/OR REFINANCING THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF CERTAIN FACILITIES FOR THE BENEFIT OF THE HIGH DESERT “PARTNERSHIP IN ACADEMIC EXCELLENCE” FOUNDATION, INCORPORATED AND CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, pursuant Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “Act”), certain public agencies (the “Members”) have entered into a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the “Agreement”) in order to form the California Municipal Finance Authority (the “Authority”), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes or other evidences of indebtedness; and

WHEREAS, the Town of Apple Valley (the “Town”), has determined that it is in the public interest and for the public benefit that the Town become a Member of the Authority in order to facilitate the promotion of economic, cultural and community development activities in the Town, including the financing of projects therefore by the Authority; and

WHEREAS, there is now before this Town Council (the “Town Council”) the form of the Agreement; and

WHEREAS, the Agreement has been filed with the Town Council, and the members of the Town Council, with the assistance of its staff, have reviewed said document; and

WHEREAS, the Authority is authorized to issue and sell revenue bonds for the purpose, among others, of financing or refinancing the construction of capital projects; and

WHEREAS, The High Desert “Partnership in Academic Excellence” Foundation, Incorporated, a California nonprofit public benefit corporation (the “Borrower”), has requested that the Authority issue and sell revenue bonds in one or more series, on one or more occasions, in the maximum principal amount of \$6,000,000 (the “Bonds”) for the purpose of making a loan to the Borrower, to enable the Borrower to finance or refinance the acquisition, construction rehabilitation, improvement and equipping of certain real property and improvements thereon (consisting of consisting of certain buildings, a gymnasium and an athletic field located within the Town at 17500 Mana Road, Apple Valley, California 92307) and to pay certain expenses incurred in connection with the issuance of the Bonds (collectively, the “Project”). The Borrower owns and operates the Project as the Academy for Academic Excellence, primarily in the furtherance of its purpose of providing educational services; and

WHEREAS, in order for the interest on the Bonds to be tax-exempt, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), requires that an “applicable elected representative”

of the governmental unit on behalf of which the Authority will issue the Bonds, and also an “applicable elected representative” of the governmental unit the geographic jurisdiction of which contains the site of facilities to be financed with the proceeds of the Bonds, approve the issuance of the Bonds following public hearing on the issuance of the Bonds held upon reasonable notice; and

WHEREAS, the Authority has determined that the Town Council is an “applicable elected representative” for purposes of holding such hearing and approving the Bonds both as the issuer jurisdiction and the host jurisdiction; and

WHEREAS, the Authority has requested that the Town Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and, the requirements of Section 4 of the Agreement; and

WHEREAS, notice of such public hearing has been duly given as required by the Code and applicable Treasury Regulations, and this Town Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the financing or refinancing of the Project and the Authority’s issuance of the Bonds therefore; and

WHEREAS, it is in the public interest and for the public benefit that the Town Council approve the issuance of the Bonds by the Authority for the aforesaid purposes;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL, AS FOLLOWS:

Section 1. The foregoing resolutions are true and correct.

Section 2. The Agreement is hereby approved and the Mayor, Town Manager or designee thereof is hereby authorized and directed to execute said document, and the Town Clerk or such Clerk’s designee is hereby authorized and directed to attest thereto.

Section 3. The Town Council hereby approves the issuance of the Bonds by the Authority in one or more series at a single time or from time to time in accordance with a plan of financing. It is the purpose and intent of the Town Council that this resolution constitute approval of the issuance of the Bonds by the Authority, for purposes of: (a) section 147(f) of the Code by the “applicable elected representative” of the governmental unit on behalf of whom the Bonds will be issued and of the governmental unit having jurisdiction over the area in which the Project is located in accordance with Section 147(f) of the Code; (b) Section 4 of the Agreement.

Section 4. The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The Town shall have no responsibility or liability whatsoever with respect to the Bonds.

Section 5. The adoption of this Resolution shall not obligate the Town or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, rehabilitation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 6. The Mayor, the Town Manager, the Clerk and all other proper officers and officials of the Town are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to affect the purposes of this Resolution and the transactions herein authorized.

Section 7. The Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Authority in care of its counsel:

Harriet M. Welch, Esq.

Squire Sanders (US) LLP

555 South Flower St., Suite 3100

Los Angeles, CA 90071-2300

Section 8. This resolution shall take effect immediately upon its adoption.

APPROVED and ADOPTED this 28th day of August 2012 by the Town Council of the Town of Apple Valley.

Barb Stanton, Mayor

ATTEST:

La Vonda M. Pearson, Town Clerk



2111 Palomar Airport Road, Suite 320 • Carlsbad, CA 92011 • (760) 930-1221 • Fax (760) 683-3390

MEMBERSHIP LIST

CITIES & TOWNS

Alameda	La Quinta	San Luis Obispo
Aliso Viejo	La Verne	Santa Ana
Anaheim	Lakeport	Santa Barbara
Anderson	Lancaster	Santa Clarita
Arvin	Long Beach	Santa Monica
Auburn	Los Angeles	Santa Paula
Azusa	Marina	Santa Rosa
Bakersfield	Menlo Park	Santee
Blythe	Merced	Saratoga
Burbank	Mendota	Shafter
Calexico	Menifee	South San Francisco
California City	Mill Valley	Stockton
Calipatria	Milpitas	Torrance
Calistoga	Modesto	Tustin
Carlsbad	Montclair	Ukiah
Claremont	Napa	Union City
Clovis	Newport Beach	Vacaville
Colton	Oakdale	Vallejo
Commerce	Oakland	Vernon
Corona	Oxnard	Victorville
Culver City	Palm Springs	Vista
Daly City	Palmdale	Wasco
Dublin	Palo Alto	Watsonville
El Cajon	Paradise	West Hollywood
El Centro	Pasadena	Windsor
El Cerrito	Parlier	Winters
El Monte	Petaluma	Woodland
El Segundo	Pittsburg	Yountville
Fairfax	Pomona	Yuba City
Fairfield	Poway	
Fillmore	Rancho Cordova	
Folsom	Rancho Cucamonga	
Fresno	Rancho Santa Margarita	
Garden Grove	Red Bluff	
Grass Valley	Redding	
Huntington Beach	Riverside	
Huntington Park	Roseville	
Imperial Beach	Salinas	
Indio	San Buenaventura	
Industry	San Francisco	
Inglewood	San Jacinto	
Irvine	San Joaquin	
Kerman	San Jose	
La Mirada	San Leandro	

7/25/2012



MEMBERSHIP LIST

COUNTIES

Alameda
Contra Costa
Fresno
Imperial
Kern
Kings
Marin
Monterey
Orange
Placer
Riverside
Sacramento
San Bernardino
San Diego
San Francisco
San Joaquin
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Shasta
Solano
Sonoma
Tulare
Ventura
Yolo
Yuba

SPECIAL DISTRICTS

Camrosa Water
East Valley Water
Marin Municipal Water
Mayers Memorial Hospital
Nevada Irrigation
Northern Inyo County Local Hospital
Otay Water
Pittsburg Unified School
Sacramento Municipal Fire
San Diego County Water Authority
San Ramon Valley Unified School
Sanitary No. 5 of Marin County
Sierra Kings Health Care
South Coast Water
Tracy Joint Unified School
Trinity Public Utilities
Tulare Local Health Care
Washington Township Healthcare

7/25/2012