

**RESOLUTION NO. 2017-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS APPROVING DOCUMENTS AND ACTIONS RELATING TO THE REFINANCING OF 2004 CERTIFICATES OF PARTICIPATION AND 2004 JUDGMENT OBLIGATION BONDS AND FINANCING ADDITIONAL CAPITAL IMPROVEMENTS**

**WHEREAS**, the City of Desert Hot Springs (the "City") has previously caused the execution and delivery of the City of Desert Hot Springs Certificates of Participation (Interim Cash Flow Financing) in the aggregate initial principal amount of \$3,060,000 in 2004 (the "2004 Certificates") for the purpose of financing certain obligations of the City; and

**WHEREAS**, the City has previously issued the City of Desert Hot Springs Judgment Obligation Bonds in the aggregate initial principal amount of \$9,725,000 in 2004 (the "2004 Bonds," and together with the 2004 Certificates, the "Prior Obligations") for the purpose of financing certain obligations of the City; and

**WHEREAS**, in order to take advantage of prevailing bond market conditions, the City Council wishes to authorize the refinancing of the Prior Obligations and to borrow additional funds to help to finance in whole or in part the acquisition, construction, renovation and remodeling of various public capital improvements on property owned by the City (collectively, the "Project"); and

**WHEREAS**, to that end, the City has proposed to lease certain real property owned by the City located at 65950 Pierson Boulevard in the City aggregating 4 acres, and comprising the City Hall, Fire Station, and certain unimproved land adjacent thereto (the "Leased Property") to the Desert Hot Springs Public Financing Authority (the "Authority") in consideration of the payment by the Authority of an upfront rental payment which is sufficient to provide funds to refinance the Prior Obligations and to finance all or a portion of the Project; and

**WHEREAS**, in order to raise funds for such purpose, the Authority proposes to issue and sell its Desert Hot Springs Public Financing Authority 2017 Lease Revenue Bonds in the aggregate principal amount of not to exceed \$15,000,000.00 (the "Bonds") under Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code (the "Bond Law"); and

**WHEREAS**, in order to secure the payments of principal of and interest on the Bonds, the Authority proposes to lease the Leased Property back to the City under a Lease Agreement (the "Lease Agreement"), under which the City is obligated to pay semiannual lease payments as rental for the Leased Property, and the Authority will assign substantially all of its rights under the Lease Agreement to Wells Fargo Bank, National Association, as trustee for the Bonds; and

**WHEREAS**, as required by Section 6586.5 of the California Government Code, the City has caused publication of a notice of a public hearing on the financing of the public capital improvements included within the Project once at least five (5) days prior to the hearing in a newspaper of general circulation in the City; and

**WHEREAS**, the City Council held a public hearing at which all interested persons were provided the opportunity to speak on the subject of financing such public capital improvements; and

**WHEREAS**, the City Council wishes at this time to approve all proceedings of the City relating to the issuance and sale of the Bonds and the refinancing of the Prior Obligations.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Desert Hot Springs as follows:

**Section 1.     ISSUANCE OF BONDS**

The City Council hereby approves the issuance of the Bonds by the Authority under the Bond Law in the maximum principal amount of not to exceed \$15,000,000.00, for the purpose of providing funds to refinance the Prior Obligations and to finance all or a portion of the Project, provided however in the event that financing the “new money” portion isn’t feasible in the marketplace, the Council alternatively approves, at the discretion of staff and without further approval, the elimination of the new money component. The City Council hereby finds that issuance of the Bonds for the purpose of financing and acquiring the public capital improvements included within the Project will result in significant public benefits of the type described in Section 6586 of the California Government Code, including, but not limited to, a more efficient delivery of City services to residential and commercial development and demonstrable savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs.

**Section 2.     APPROVAL OF RELATED FINANCING AGREEMENTS**

The City Council hereby approves each of the following agreements required for the issuance and sale of the Bonds and the refinancing of the Prior Obligations, in substantially the respective forms on file with the City Clerk together with any changes therein or additions thereto deemed advisable by the City Manager, Finance Director or Administrative Services Director or any of their designees (each, an “Authorized Officer”), whose execution thereof shall be conclusive evidence of the approval of any such changes or additions. Such changes or additions may include, but is not limited to, designating the City assets to be subject to the Lease Agreement and providing that payment of the Bonds be insured by a financial guaranty policy from a bond insurance company and/or secured by a reserve surety policy, if in the judgment of an Authorized Officer such insurance and/or reserve surety policy is in the best interest of the City. An Authorized Officer is hereby authorized and directed for and on behalf of the City to execute, and the City Clerk is hereby authorized and directed to attest, the final form of each such agreement, as follows:

- Site Lease, between the City as lessor and the Authority as lessee, under which the City leases the Leased Property to the Authority in consideration of the payment of an upfront amount which will be applied by the City to refinance the Prior Obligations;
- Lease Agreement, between the Authority as lessor and the City as lessee, under which the Authority leases the Leased Property back to the City and the City agrees to pay semiannual lease payments to provide revenues with which to pay principal of and interest on the Bonds when due;
- Termination Agreement, among the City, the City of Desert Hot Springs Financing Corporation, and Wells Fargo Bank, National Association as trustee for the 2004 Certificates, pursuant to which certain agreements entered into in connection with the execution and delivery of the 2004 Certificate will be terminated; and

- Continuing Disclosure Certificate, to be executed by the City, for and on behalf of itself and the Authority, for the purpose of providing annual financial information and notice of certain enumerated events to holders and beneficial owners of the Bonds.

### **Section 3.      NEGOTIATED SALE OF BONDS**

The City Council hereby approves the negotiated sale of the Bonds by the Authority to Stifel, Nicolaus & Company, Incorporated (the "Underwriter"). The Bonds shall be sold pursuant to the terms and provisions of a Bond Purchase Agreement among the Authority, the City and the Underwriter in substantially the form on file with the City Clerk together with any changes therein or additions thereto deemed advisable by an Authorized Officer. The true interest cost of the Bonds shall not exceed 5.5% and the Underwriter's discount shall not exceed 1.25%.

### **Section 4.      OFFICIAL STATEMENT**

The City Council hereby approves the preliminary Official Statement describing the Bonds in substantially the form on file with the City Clerk. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to said preliminary Official Statement, and to execute an appropriate certificate stating the City's determination that the preliminary Official Statement (together with any changes therein or additions thereto) has been deemed nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934. Distribution of the preliminary Official Statement by the Underwriter is hereby approved. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to a final form of said Official Statement, and the execution thereof by an Authorized Officer shall be conclusive evidence of approval of any such changes and additions. The City Council hereby authorizes the distribution of the final Official Statement by the Underwriter. The final Official Statement shall be executed on behalf of the City by the Mayor or an Authorized Officer.

### **Section 5.      ENGAGEMENT OF BOND AND DISCLOSURE COUNSEL**

The firm of Jones Hall, A Professional Law Corporation, is hereby retained as bond counsel to the City and the Authority in connection with the issuance and sale of the Bonds by the Authority. An Authorized Officer is authorized and directed on behalf of the City to execute an agreement with said firm in the form on file with the City Clerk.

### **Section 6      ENGAGEMENT OF MUNICIPAL ADVISOR**

The firm of Urban Futures, Inc. is hereby retained as municipal advisor to the City in connection with the issuance and sale of the Bonds by the Authority. An Authorized Officer is authorized and directed on behalf of the City to execute an agreement with said firm in the form on file with the City Clerk.

### **Section 7.      OFFICIAL ACTIONS**

The Authorized Officers, the City Attorney, the City Clerk and all other officers of the City are each authorized and directed on behalf of the City to make any and all leases, assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance or termination, warrants and other documents, including an escrow agreement and/or refunding instructions related to the Prior Obligations, which they or any of them deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements

and documents approved under this Resolution. An Authorized Officer may revise the identity of the Leased Property (including by adding thereto) as necessary in order to accomplish the purposes of this Resolution. Whenever in this Resolution any officer of the City 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 is absent or unavailable.

**Section 8.     EFFECTIVE DATE**

This Resolution shall take effect immediately upon its passage and adoption.

**Section 9.     CERTIFICATION**

The undersigned City Clerk of the City of Desert Hot Springs, hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the City Council of the City at a meeting thereof on the 21st day of February, 2017, by the following vote of the members thereof:

**AYES:**        4 – McKee; Parks; Zavala; and Mayor Matas.

**NOES:**        None.

**RECUSED:** 1 – Betts

**ABSENT:**     None.

[SIGNATURES FOLLOW ON THE NEXT PAGE]

**ATTEST:**

\_\_\_\_\_  
Jerryl Soriano, City Clerk

**APPROVED:**

\_\_\_\_\_  
Scott Matas, Mayor

**APPROVED AS TO FORM:**

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Jennifer Mizrahi, City Attorney