



## Agenda Item 12

DATE: February 24, 2015

TO: Board of Directors of the Fresno County Financing Authority

FROM: John Navarrette, County Administrative Officer *Cathleen Donsore for*  
Vicki Crow, Auditor-Controller/Treasurer-Tax Collector as Treasurer of the Fresno County Financing Authority *Vicki Crow*

SUBJECT: Substitution of Collateral for Existing Juvenile Justice Campus Courthouse Bond Financing.

### RECOMMENDED ACTION:

**Approve and authorize Chairperson to execute a Resolution of the Board of Directors of the Fresno County Financing Authority authorizing the substitution of the Bond Financed Project for the Existing Leased Facility with respect to the Fresno County Financing Authority Lease Revenue Bonds (\$55,350,000), Series 2007 (Shared Use Juvenile Court Project) and approving the forms of and authorizing the approval, execution and delivery of an Amendment to a Site Lease, an Amendment to a Lease Agreement, and an Amendment to an Assignment Agreement relating to a Lease in connection with such substitution; and authorizing and approving related documents and other actions and matters relating thereto.**

The recommended Resolution will approve and authorize the Chairperson to execute a Resolution authorizing the substitution of collateral (also called "leased property") for the existing Juvenile Justice Campus (JJC) Courthouse bond financing (the 2007 Bonds). The bond-financed JJC Courthouse would be substituted for the Main Jail, its Central Plant, and the JJC Central Plant, which are the collateral for the 2007 Bonds. These proposed substitution documents, which are on file with the Secretary to the Board of Directors of the Fresno County Financing Authority (FCFA), presently are in draft form; once they are finalized, and certain conditions are met in the existing 2007 Bond documents, this Resolution would authorize the Chairperson to approve the substitution and execute the final substitution documents for the FCFA.

### ALTERNATIVE ACTION(s):

Your Board may choose not to authorize the substitution of collateral for the financing of the JJC Courthouse.

ADMINISTRATIVE OFFICE REVIEW

*Jeanne Z. Dixon*

Page 1 of 4



Official Action of  
Board of Supervisors  
*[Signature]*  
Deputy

APPROVED AS RECOMMENDED

UNANIMOUS ☒ BORGEAS \_\_\_\_\_ MENDES \_\_\_\_\_ PACHECO \_\_\_\_\_ PEREA \_\_\_\_\_ POOCHIGIAN \_\_\_\_\_

FISCAL IMPACT:

The recommended actions do not have any fiscal impact on the Fresno County Financing Authority (FCFA), and do not change the County's obligation to repay the Bonds.

DISCUSSION:

Background:

The Fresno County Financing Authority (the "FCFA"), a joint powers agency separate from its members, was originally formed in 1994 to issue 1995 Solid Waste Revenue Bonds (\$19.7 million) for the County's American Avenue Landfill Project. The FCFA is composed of the County and the Industrial and Development Finance Authority of the County of Fresno (the "Industrial Development Authority"). The County Board of Supervisors is the governing board of the Industrial Development Authority.

The members of the County Board of Supervisors are the Board of Directors of the FCFA. The County Administrative Officer is a representative of the FCFA. The County Auditor-Controller/Treasurer-Tax Collector is the Treasurer of the FCFA. The Clerk to the Board of Supervisors is the Secretary to your Board.

The FCFA also was the agency that the County used for the following bond issuances: (a) the 2004 Juvenile Justice Campus Lease Revenue Bonds totaling \$26,000,000 with the proceeds of the bonds used to complete the financing of the Juvenile Justice Campus; and (b) the 2004 Series B bonds to finance Energy Savings Projects in County facilities in downtown Fresno. Both of those bond issuances were refinanced as a single bond "refunding" issuance in 2012.

Necessary County Board Actions:

In an earlier action today, the County Board of Supervisors was asked to approve a resolution that would enable the County to approve and enter into amendments to the 2007 Bond documents that would allow the FCFA to take the recommended actions, above. The recommended actions, above, presumes that the County Board of Supervisors will approve those actions.

FCFA Bond Documents:

On March 13, 2007, the Board of Supervisors approved a complex development, construction, and financing arrangement with the Judicial Council of California (through the Administrative Office of the Courts) to enable the County to provide for the development, construction, operation, and the parties' shared use of the JJC Courthouse. Under a lease-purchase agreement (LPA) between the County (as lessor) and the Judicial Council (as lessee), the County and (through the Judicial Council) the Fresno Superior Court have shared use of the completed project (generally: County - 41.5%; Fresno Superior Court - 58.5%).

Shortly after the foregoing transactions were consummated, the FCFA sold and issued its tax-exempt Lease Revenue Bonds (\$55,350,000), Series 2007 (Shared Use Juvenile Court Project) to finance the project for the County (the 2007 Bonds). The 2007 Bonds were issued April 16, 2007, and will mature, upon their full payment, April 1, 2030.

As is typical for FCFA lease revenue bond financing for County capital projects, the County leases an existing County asset to the FCFA (under a Site Lease) for nominal consideration, and simultaneously leases it back from the FCFA (under a Lease Agreement). The County makes periodic rental payments under the Lease Agreement (which also would be the term of the

bonds) to a trustee for the benefit of the bondholders (i.e. the County pays the FCFA, which in turn under an Assignment Agreement, pays the trustee). Although the FCFA issues the Bonds, the County's rental payments are a County general obligation, secured by the leased property, which is the collateral for the FCFA's bonds. The FCFA's bonds may, as is the case here, provide for the County's substitution of the bond-financed project for the existing collateral upon the County's compliance with certain conditions, thereby freeing up the initial collateral.

As part of the 2007 Bond financing, the County pledged the Main Jail, including its Jail Central Plant, together with the JJC Central Plant as collateral for the 2007 Bonds. Staff recommends that the JJC Courthouse be substituted for all of the existing leased property, as the collateral for the 2007 Bonds, subject to the County complying with the 2007 Bonds.

The proposed bond property substitution is in the public benefit, as it assists the County in meeting the public purpose of matching bond-financed property with the bonds issued for such property, and achieving efficiency in the administration of such bond-financed property; upon the County's compliance with the conditions for the bond property substitution, discussed below, the bond property substitution would not adversely impact the FCFA.

The recommended Resolution would authorize the Chairperson to approve the substitution of collateral and execute the following final substitution documents for the FCFA:

- A First Amendment to Site Lease by and between the County and the FCFA;
- A First Amendment to Lease Agreement by and between the County and the FCFA;
- A First Amendment to the Assignment Agreement by and between the FCFA and trustee; and
- An Assignment Agreement relating to the LPA by and among the County, the FCFA and the trustee.

The recommended Resolution also will authorize the Chairperson, the Vice Chairperson, the Treasurer, the Secretary and/or the County Administrative Officer, acting as a representative of the FCFA, to take such actions, and to execute such documents and certificates as may be necessary to effectuate the purposes of the Resolution.

Before consummating the bond property substitution, the County needs to satisfy certain conditions in the 2007 Bond documents. The key conditions include the County: (a) obtaining an appraisal of the JJC Courthouse evidencing that it has sufficient value for the 2007 Bonds; (b) obtaining opinions of bond counsel, including an opinion that the substitution does not affect the tax exempt status of the 2007 Bonds; (c) obtaining a title insurance policy for the JJC Courthouse; and (d) providing written notice of the substitution to the rating agencies. The 2007 Bonds are insured by Ambac, but, the 2007 Bond documents provide that the written consent of the insurer shall not be required to substitute the bond-financed JJC Courthouse for the original leased property.

Upon the substitution of the bond-financed project for the existing leased property, the LPA shall automatically become a sublease of the Lease Agreement under the 2007 Bonds, and shall be subordinate and subject to the Site Lease and the Lease Agreement. In the unlikely event that the County would default on its obligation to pay the amounts due on the 2007 Bonds, and the Judicial Council remains current in its payments toward its obligations under the LPA for its leased area of the JJC Courthouse, the 2007 Bond documents and the County-Judicial Council agreements include a Subordination, Non-Disturbance and Attornment (SNDA) agreement that will allow the Judicial Council, subject to complying with the Lease Agreement, the LPA and the SNDA, to remain in its portion of the JJC Courthouse.

The proposed bond property substitution does not constitute a "project" under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15378(b)(4), because the Board's action is limited to a governmental funding mechanism, or other governmental fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

REFERENCE MATERIAL:

BAI #10 – March 13, 2007