



**REPORT TO THE CITY COUNCIL OF THE CITY OF CONCORD/
CITY COUNCIL SITTING AS THE JOINT POWERS FINANCING
AUTHORITY**

TO THE HONORABLE MAYOR AND COUNCIL:

DATE: March 3, 2015

SUBJECT: APPROVAL BY THE CITY COUNCIL OF THE FORM AND AUTHORIZING THE EXECUTION OF CERTAIN LEASE FINANCING DOCUMENTS IN CONNECTION WITH THE FINANCING OF STREET AND OTHER INFRASTRUCTURE IMPROVEMENTS IN THE CITY AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO AND APPROVAL BY THE CITY OF CONCORD JOINT POWERS AUTHORITY OF THE FORM AND AUTHORIZING THE EXECUTION OF A TERMINATION AGREEMENT RELATED TO A PREVIOUSLY FINANCED FACILITY AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO

Report in Brief

The City Council and the Board of Directors of the City of Concord Joint Powers Authority (“Authority”) are requested to consider actions relating to a lease financing plan in connection with the financing of street and other infrastructure improvements in the City.

With the passage of an extension of Measure Q for an additional nine years to March 2025, the City has the opportunity to prioritize repair and maintenance of roadways and other City infrastructure in the near term if the City employs a debt financing model to make money available quickly for investment in the City’s infrastructure. Doing so benefits the City because the longer projects are delayed the more expensive they are to address. Additionally, the City is currently experiencing a stable construction market. Consequently, staff recommends authorizing a financing plan to annually allocate \$2.5 million of the Measure Q receipts to fund street rehabilitation and other infrastructure improvements to City owned facilities. It is anticipated that the City will be able to generate approximately \$21 million in the current market conditions through this model. Total Measure Q revenue is projected to be between \$12 million to \$15 million annually.

Staff presented a report to the City Council at their study session on January 13, 2015 on potential debt financing to fund street improvements and other infrastructure improvements throughout the City. The Council provided feedback to staff and supported staff returning to the Council/Authority at a public meeting to consider this approach.

Staff recommends that the City Council and the Authority adopt the attached resolutions which will authorize the execution of lease financing documents to fund street and other infrastructure projects within the City, authorize execution of a termination agreement related to a previously financed facility and approve related documents and actions.

APPROVAL OF LEASE FINANCING TO FUND STREET AND OTHER INFRASTRUCTURE PROJECTS

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Background

In November 2014, the voters of Concord approved an extension of Measure Q allowing for the City to extend a ½ cent use and transactions tax levy for 9 additional years, through March 2025. One of Council's goals with placing the Measure Q extension measure on the ballot was to fund maintenance and repairs to the City's infrastructure. On January 13, 2015, staff presented a report to the City Council on a potential debt financing plan to annually allocate \$2.5 million of the Measure Q receipts to fund construction of street and other infrastructure improvements within the City. The approach staff is recommending is anticipated to generate approximately \$21 million of proceeds to fund street rehabilitation and other infrastructure improvements, allowing the City to invest in these City needs in the near term.

The Council provided feedback to staff on the proposed financing plan and supported staff returning to the Council/ Authority at a public meeting to consider this approach.

Discussion

With the extension of Measure Q, there is an opportunity to leverage a portion of Measure Q revenues to begin to address some of the City's deferred infrastructure maintenance needs quickly, focusing primarily on streets and roads. The proposed borrowing will provide funds immediately in order to escalate street and other infrastructure projects over the next 3-5 years compared to what the City would be able to accomplish on a pay as you go basis.

The financial markets continue to offer very favorable interest rates and the short, ten-year term of the proposed borrowing is very attractive to investors, especially banks. City staff, in consultation with its Financial Advisor, Fieldman Rolapp, recommend a private placement lease financing structure. The security for the borrowing is a lease agreement of City assets where the City agrees to make semi-annual lease payments payable from its general fund directly to a private investor. Under this arrangement, costs of issuance are minimized as no trustee services or credit rating is required. Proposals from potential purchasers are due on February 27 and staff anticipates the interest rate will be in the range of 3.0-3.5%. It should be noted that there is an IRS tax requirement for all tax exempt financings to have a reasonable expectation of spending 85% of the proceeds within five years. This requirement will hold the City accountable for investing the revenues in infrastructure repair and maintenance projects quickly.

While the City anticipates providing subsequent funding towards its deferred infrastructure needs in addition to this proposed debt issuance, this initial infusion will help slow the deterioration of the City's streets. On January 13, 2015, staff presented a report to the City Council at a study session on the negative impacts of differing funding levels to the City's streets and roads.

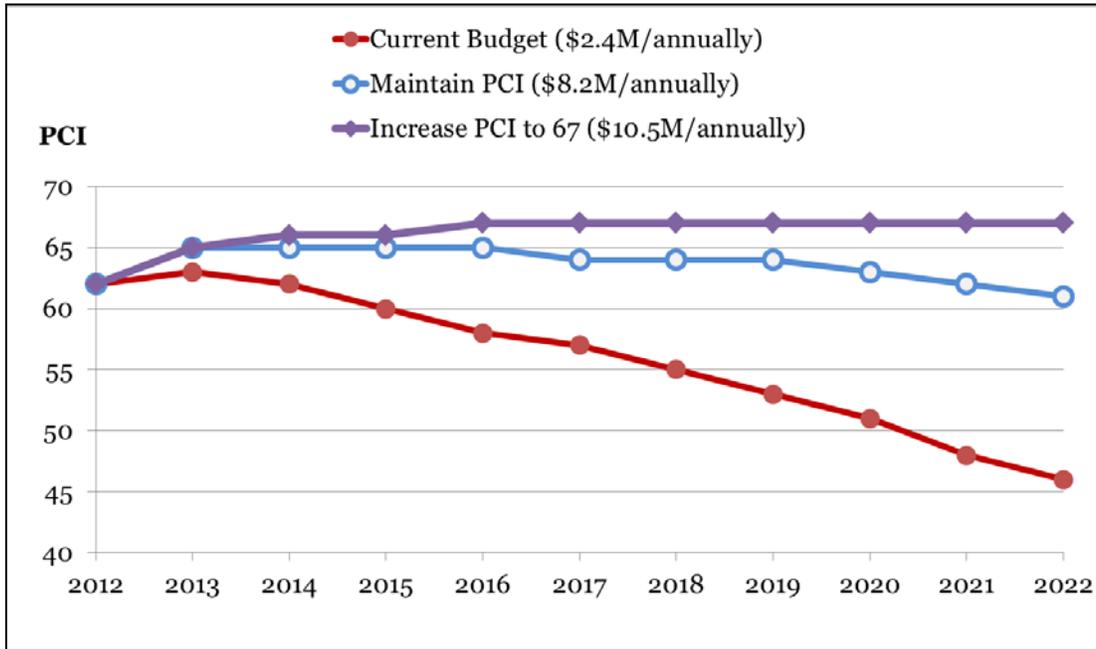
The following chart demonstrates that the City would need to fund approximately \$8.2 million per year to maintain current pavement conditions. With the current budgeted levels averaging \$2.4 million per year, including grants, pavement conditions as measured by the Pavement Condition Index (PCI) would drop from the current level of 61 to 45 at the end of seven years. PCI is a numeric index between 0 and 100 used to indicate the general condition of pavement. A rating of 61 is considered to fall into the "good" category of street maintenance and a rating of 45 falls into the "poor" category.

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Impact of Funding Levels



Staff next presented the effects of differing funding levels, including debt funding, on the City's streets and roads. The following chart shows that the effects of escalating expenditures over the next three-five years will result in a higher pavement condition at the end of five years than continuing current funding levels or using a pay as you go strategy by adding the debt service equivalent to the street maintenance budget.

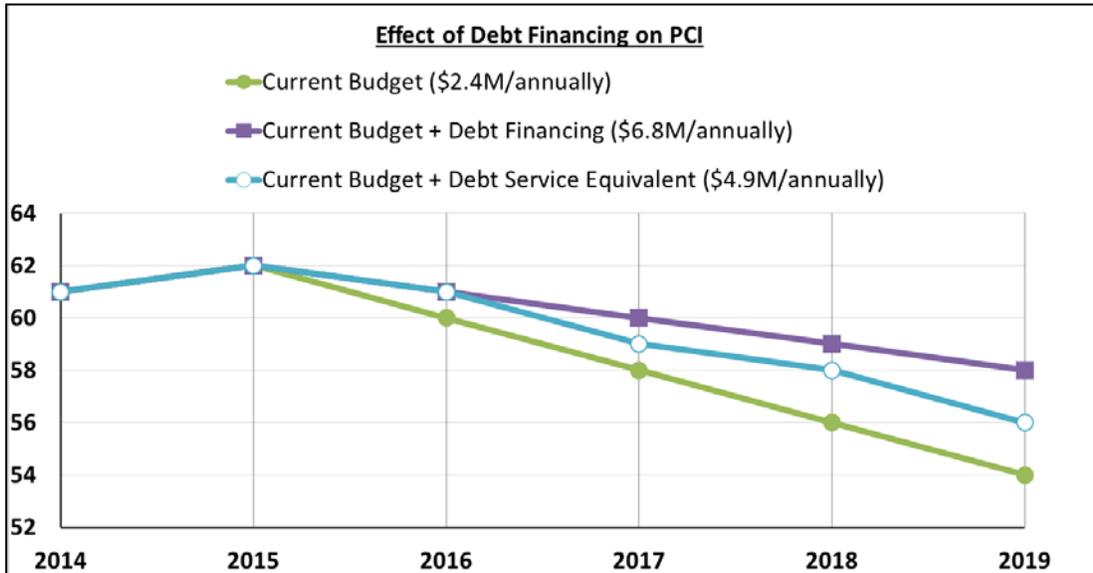
It is important to note that while the following chart shows that escalating expenditures will result in a higher PCI than the current budget, the overall PCI of the City's roads will continue to decline. This is due to the fact that, while debt financing will provide the ability to spend \$6.8 million annual on roadway improvements over the short term, this amount is less than the \$8.2 million that is needed annually to maintain current pavement conditions (as discussed above).

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Impact of Debt Funding



Projects will be selected by reviewing recommendations from the City's Pavement Management System, visual street assessments, with consideration of geographic distribution, addressing City priority needs, and the potential for leveraging funds. Staff will develop a programmatic outline based on available funding for review by the Council Infrastructure and Franchise Committee and approval by the City Council.

Tonight's Actions:

Tonight's actions will approve all required lease documents and related documents. It is anticipated that the financing will take approximately two months to complete. The key milestones to complete the financing are identified below:

- Retain Consultants (**Completed**)
- Preparation and approval of all required legal documents (**Tonight's action**)
- Selection of Purchaser to provide the funding. Proposals are due on February 27th (**Underway**)
- Secure Title Insurance for the properties to be encumbered and serve as security for the Lease financing. It is anticipated that the City will pledge the Civic Center complex, the Senior Center and the Concord Avenue Parking Structure (**Underway**)
- Negotiate terms with Purchaser
- Lease Closes and funds wired to City on March 18th

Approval of tonight's resolutions will approve all required documents related to the lease financing to fund street and other infrastructure improvements. Additionally, the Authority resolution will terminate existing encumbrances related to the Concord Avenue Parking Structure used as a pledged asset for the 2001 Bonds that have been paid off.

**APPROVAL OF LEASE FINANCING TO FUND STREET AND OTHER
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Fiscal Impact

The proposed lease financing will annually allocate \$2.5 Million of Measure Q Sales Tax revenue to be used to pay lease payments to the Purchaser starting on September 1, 2015 through March 1, 2025. No other general fund revenues or other funds of the City will support this borrowing. It is anticipated that the City will be able to generate approximately \$21 million of proceeds to fund street improvements and other infrastructure improvements that will be invested back into the community over the next three to five years.

Legal Considerations

The City Attorney and Bond Counsel, Quint & Thimmig LLP, have drafted and reviewed tonight's resolutions and legal documents.

Public Contact

Notice of the meeting has been posted.

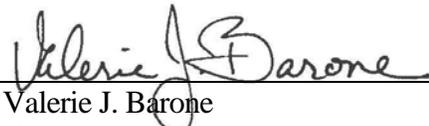
Recommendation for Action

Staff recommends approval of the following resolutions authorizing the lease financing documents in connection with the financing of street and other infrastructure improvements in the City and approving related documents and actions.

- 1) **Authorizing** - the execution of certain lease financing documents in connection with the financing of street and other infrastructure improvements in the City and authorizing and directing certain actions with respect thereto. City Council Resolution No. 15-14 for adoption.

- 2) **Authorizing** - the execution of termination agreement related to a previously financed facility and authorizing and directing certain actions with respect thereto. Joint Powers Financing Authority Resolution No. 15-1 for adoption.

Prepared by: Karan Reid
Finance Director
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Valerie J. Barone
City Manager

Valerie.Barone@cityofconcord.org

Attachment 1: City Council Resolution No. 15-14

Attachment 2: Joint Powers Financing Resolution No. 15-1

All other legal documents are on file with the City Clerk.

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Approving the Form and Authorizing
the Execution of Certain Lease Financing Documents
in Connection with the Financing of Street and other
Infrastructure Improvements in the City and
Authorizing and Directing Certain Actions with
Respect Thereto**

Resolution No. 15-14

WHEREAS, the City, working with the Public Property Financing Corporation of California (the “Corporation”), has determined at this time, due to prevailing interest rates in the municipal bond market and for other reasons, to provide for the construction of street and other infrastructure improvements in the geographic boundaries of the City and to implement a lease financing for such purposes (the “Project”); and

WHEREAS, it is in the public interest and for the public benefit that the City authorizes and directs execution of the Lease Agreement (hereinafter defined) and certain other financing documents in connection therewith; and

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

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES
RESOLVE AS FOLLOWS:**

Section 1. The Council hereby approves the financing of the Project.

Section 2. The below-enumerated documents, in the forms on file with the City Clerk, be and are hereby approved, and the Mayor, the City Manager or the Finance Director, or the designee thereof (each, a “Designated Officer”), are hereby authorized and directed to execute said documents, with such changes, insertions and omissions as may be approved by such officials, the execution thereof to be conclusive evidence of such approval, and the City Clerk is hereby authorized and directed to attest to such official’s signature:

(a) a letter agreement for purchase and rate lock, by and among an institutional purchaser selected following a competitive process (the “Purchaser”), the City and the Corporation, whereby the Purchaser agrees to acquire certain rights of the Corporation, including but not limited to the lease

1 payments to be made by the City under the Lease Agreement and the rights of the Corporation under
2 the Site and Facility Lease (hereinafter defined);

3 (b) a site and facility lease, by and between the City, as lessor, and the Corporation, as lessee
4 (the "Site and Facility Lease"), pursuant to which the City will lease certain existing real property and
5 the improvements thereon (the "Property") to the Corporation;

6 (c) a lease agreement, by and between the Corporation, as lessor, and the City, as lessee (the
7 "Lease Agreement"), pursuant to which the Corporation will lease the Property back to the City and
8 pursuant to which the City will agree to make semi-annual lease payments (the "Lease Payments"), so
9 long as the principal amount of the Lease Agreement is not greater than \$25,000,000, the interest rate
10 payable with respect to the Lease Agreement does not exceed 4.00% and the term of the Lease
11 Agreement does not extend beyond March 1, 2025; and

12 (d) a termination agreement, by and among the City, the City of Concord Joint Powers
13 Financing Authority and MUFG Union Bank, as trustee, providing for the termination of the recorded
14 documents relating to the a portion of the property to be leased under the Lease Agreement which had
15 previously been the subject bonds that have been fully redeemed.

16 **Section 3.** Fieldman, Rolapp & Associates, Irvine, California, is hereby designated as
17 municipal advisor to the City in connection with the financing. Any Designated Officer is authorized
18 and directed in the name and on behalf of the City to execute a municipal advisory agreement with
19 such firm, in the form on file with the City Clerk, together with any changes therein or additions
20 thereto deemed advisable by such Designated Officer whose execution thereof shall be conclusive
21 evidence of such approval.

22 Quint & Thimmig LLP, Larkspur, California, is hereby designated as special legal counsel to
23 the City in connection with the financing. Any Designated Officer is authorized and directed in the
24 name and on behalf of the City to execute a legal services agreement with such firm, in the form on
25 file with the City Clerk , together with any changes therein or additions thereto deemed advisable by
26 such Designated Officer whose execution thereof shall be conclusive evidence of such approval.

27 Stifel, Nicolaus & Company, Incorporated, San Francisco, California, is hereby designated as
28 special placement agent to the City in connection with the financing. Any Designated Officer is

1 authorized and directed in the name and on behalf of the City to execute a placement agent agreement
2 with such firm, in the form on file with the City Clerk , together with any changes therein or additions
3 thereto deemed advisable by such Designated Officer whose execution thereof shall be conclusive
4 evidence of such approval.

5 **Section 4.** The Mayor, the City Manager, the Finance Director, the City Clerk, any deputy to
6 the City Clerk and all other appropriate officials of the City are hereby authorized and directed to
7 execute such other agreements, documents and certificates as may be necessary to effect the purposes
8 of this resolution and the financing herein authorized.

9 **Section 5.** This resolution shall become effective immediately upon its passage and adoption.

10 **PASSED AND ADOPTED** by the City Council of the City of Concord on March 3, 2015, by
11 the following vote:

12 **AYES:** Councilmembers -

13 **NOES:** Councilmembers -

14 **ABSTAIN:** Councilmembers -

15 **ABSENT:** Councilmembers -

16 **I HEREBY CERTIFY** that the foregoing Resolution No. 15-14 was duly and regularly
17 adopted at a regular meeting of the City Council of the City of Concord on March 3, 2015.

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Joelle Fockler, CMC
City Clerk

20 **APPROVED AS TO FORM:**

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Mark S. Coon
23 City Attorney

**BEFORE THE CITY OF CONCORD JOINT POWERS FINANCING AUTHORITY
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution of the City of Concord Joint Powers
Financing Authority Approving the Form and
Authorizing the Execution of Termination Agreement
Related to a Previously Financed Facility and
Authorizing and Directing Certain Actions with
Respect Thereto**

Resolution No. 15-1

WHEREAS, the Authority has heretofore issued its \$9,580,000 City of Concord Joint Powers Financing Authority Lease Revenue Bonds (Concord Avenue Parking Structure), Series 2001 (the “2001 Bonds”), the proceeds of which were used to finance the costs of the acquisition, construction, installation and equipping of certain public capital improvements (the “2001 Project”); and

WHEREAS, the 2001 Bonds were issued pursuant to the terms of a trust indenture, dated as September 1, 2001, by and between the Authority and MUFG Union Bank, N.A., previously known as Union Bank of California, N.A., as trustee; and

WHEREAS, in order to provide for the repayment of the 2001 Bonds, the City of Concord (the “City”) and the Authority have heretofore entered into a site lease, dated as of September 1, 2001 (the “2001 Site Lease”), and a lease agreement, dated as of September 1, 2001 (the “2001 Lease”), pursuant to which the Authority and the City entered into a transaction for the lease financing of the 2001 Project and the City agreed to make certain lease payments (the “2001 Lease Payments”) to the Authority; and

WHEREAS, the 2001 Lease Agreement provides that in the event that the City deposits, or causes the deposit on its behalf of moneys for the prepayment of the 2001 Lease Payments, then all of the obligations of the City under the 2001 Lease Agreement and all of the security provided by the City for such obligations, excepting only the obligation of the City to make the 2001 Lease Payments from said deposit, shall cease and terminate, and unencumbered title to the 2001 Project shall be vested in the City without further action by the City or the Authority; and

WHEREAS, the City has fully paid all 2001 Lease Payments and other amounts required under the 2001 Lease and the 2001 Bonds have been fully redeemed; and

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1 **WHEREAS**, the Board now desires to provide for the termination of all documents relating to
2 the 2001 Bonds as provided herein.

3 **NOW, THEREFORE, THE GOVERNING BOARD (THE “BOARD”) OF THE CITY**
4 **OF CONCORD JONT POWERS FINANCING AUTHORITY DOES RESOLVE AS**
5 **FOLLOWS:**

6 **Section 1.** The termination agreement, in the form on file with the Secretary, be and are
7 hereby approved, and the Chair, the Executive Director or the Treasurer, or the designee thereof, are
8 hereby authorized and directed to execute said document, with such changes, insertions and omissions
9 as may be approved by such officials, the execution thereof to be conclusive evidence of such
10 approval, and the Secretary is hereby authorized and directed to attest to such official’s signature.

11 **Section 2.** The Chair, the Executive Director, the Treasurer, the Secretary, any deputy to the
12 Secretary and all other appropriate officials of the Authority are hereby authorized and directed to
13 execute such other agreements, documents and certificates as may be necessary to effect the purposes
14 of this resolution and the financing herein authorized.

15 **Section 3.** This resolution shall become effective immediately upon its passage and adoption.

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PASSED AND ADOPTED by the City Council of the City of Concord on March 3, 2015, by the following vote:

AYES: Authority members -

NOES: Authority members -

ABSTAIN: Authority members -

ABSENT: Authority members -

I HEREBY CERTIFY that the foregoing Resolution No. 15-14 was duly and regularly adopted at a regular meeting of the City Council of the City of Concord on March 3, 2015.

Timothy S. Grayson, Chair
City of Concord
Joint Powers Financing Agency

APPROVED AS TO FORM:

Mark S. Coon
Authority Counsel

Joelle Fockler, CMC
Authority Secretary