City Council Chambers
3300 Capitol Avenue
Fremont, CA

Agenda
Fremont Public Financing Authority Meeting
April 11, 2017
7:00 PM

1. CALL TO ORDER

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the Public Financing Authority and will be enacted by one motion and one vote. There will be no separate discussion of these items unless an Authority Member or citizen so requests, in which event the item will be removed from the Consent Calendar and considered in its normal sequence on the agenda. Additionally, other items without a "Request to Address the Public Financing Authority" card in opposition may be added to the consent calendar. (In the report section of the agenda, consent items are indicated by an asterisk.)

A. Approval of Minutes - None.

B. PROPOSED REFUNDING OF VARIABLE RATE CERTIFICATES OF PARTICIPATION - Consider Proposed Refunding of City of Fremont Series 1998, 2008, 2010, and 2012B Variable Rate Certificates of Participation (COPs)

Contact Persons:

Name:	*David Persselin*
Title:	*Finance Director*
Dept:	*Finance Department*
Phone:	*510-494-4631*
E-Mail:	*dpersselin@fremont.gov*

RECOMMENDATION:

1. *Approve the issuance of the 2017A Lease Revenue Bonds with a principal amount not to exceed $86,000,000, and approve the refunding of the existing 1998, 2008, 2010, and 2012 Variable Rate Demand Certificates of Participation.*
2. *Adopt a resolution:*
   - *(a) authorizing the preparation and execution by the PFA officers and staff identified in the resolution of all documents required to complete the 2017A Lease Revenue Bonds transaction, including the following documents (which are and have been on file with the Office of the City Clerk):*
     - *a. Continuing Covenant Agreement with U.S. Bank*
     - *b. Site and Facilities Lease*

c. *Project Lease*

d. *Indenture of Trust with MUFG Union Bank*

e. *Other administrative documents incidental to the transaction*

(b) *authorizing the PFA officers and staff identified in the resolution to enter into one or more future extensions, for a period of up to 180 days, of the Continuing Covenant Agreement on substantially the same terms and conditions provided that the Applicable Spread for each extension does not exceed 1%.*

3. PUBLIC COMMUNICATIONS

A. Oral and Written Communications

4. PUBLIC HEARINGS - None.

5. OTHER BUSINESS - None.

6. ADJOURNMENT

Fremont Public Financing Authority

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SCHEDULED

STAFF REPORT (ID # 3031)

Meeting: 04/11/17 07:00 PM
Div/Dept: Finance Department
Category: Debt Financing

Sponsors:
DOC ID: 3031

PROPOSED REFUNDING OF VARIABLE RATE CERTIFICATES OF PARTICIPATION - Consider Proposed Refunding of City of Fremont Series 1998, 2008, 2010, and 2012B Variable Rate Certificates of Participation (COPs)

Contact Persons:

Name: David Persselin
Title: Finance Director
Div/Dept: Finance Department
Phone: 510-494-4631
E-Mail: dpersselin@fremont.gov

Note: A companion item appears on tonight's City Council agenda.

Executive Summary: The City of Fremont, through the Fremont Public Financing Authority, caused execution and delivery of variable rate demand certificates of participation (COPs) in 1998, 2008, 2010, and 2012. Anticipating the expiration on June 30, 2017 of the bank letters of credit securing the COPs, City staff conducted a request for proposals in January/February 2017 to identify the most cost-effective replacement.

Staff recommends that the Fremont Public Financing Authority Board approve the refunding of the COPs through the issuance of lease revenue bonds bearing interest at an indexed monthly rate to be directly purchased by U.S. Bank for a three and one-half year period. Using the current all-in cost of funds for the outstanding COPs as a reference, the recommended refunding structure is expected to result in annual savings of approximately $190,000 over the three and one-half year term of the direct purchase.

Staff also recommends that the Fremont Public Financing Authority Board authorize the Executive Director or designees to enter into one or more future extensions of the direct purchase Continuing Covenant Agreement (CCA) with U.S. Bank, for a period of up to 180 days, on substantially the same terms and conditions contained in the CCA.

BACKGROUND: The City of Fremont, through the Fremont Public Financing Authority (PFA), caused execution and delivery of variable rate demand COPs in 1998, 2008, 2010, and 2012. The COPs represent the right of investors to receive shares of lease payments made by the City. The 1998 COPs financed acquisition and construction of the Fremont Family Resource Center, while the 2008, 2010, and 2012 COPs financed or refinanced a variety of City facilities and capital equipment. The principal amount of the outstanding COPs is $86,355,000.

The COPs are remarketed to investors every seven days, and those investors who no longer desire to hold their COPs may sell them back to the remarketing agent, U.S. Bank Municipal Products Group (the "Remarketing Agent"). To provide liquidity and protect the Remarketing Agent in the event that new investors can't be found to purchase any outstanding COPs, the City is required to purchase direct pay letters of credit (LOCs). LOCs typically have terms ranging from one to three years, and must either be extended or replaced before they expire. The banks providing the LOCs (U.S. Bank and Wells Fargo

Bank) essentially act as investors of last resort for the Remarketing Agent. The LOCs are governed by reimbursement agreements between the City and the providers of the LOCs. In addition to the weekly interest paid to investors, the City also pays fees to the Remarketing Agent and to the LOC banks. In Fiscal Year 2015/16 the City spent $521,296 on remarketing and LOC fees.

Anticipating the expiration on June 30, 2017 of the current LOCs, City staff conducted a request for proposals (RFP) in January/February 2017 to identify the most cost-effective replacement. Rather than limit respondents to proposing only LOC terms, the RFP contemplated the broader category of bank facilities, which includes structures under which a bank purchases and holds the City's lease payment obligation, and the City pays the bank an interest rate based on a market index rather than a remarketing process. Under the direct purchase structure, the City does not pay remarketing or LOC fees.

The RFP resulted in proposals from seven banks which include both the LOC and direct purchase index rate structures. Proposals were evaluated for all-in cost to the City, financing terms and conditions, and timeliness. Based on that evaluation, staff recommends that the PFA Board approve the refunding of the COPs through the issuance of lease revenue bonds bearing interest at an indexed monthly rate to be directly purchased by U.S. Bank for a three and one-half year period. The direct purchase relationship will be governed by a CCA among the City, the PFA and U.S. Bank.

Further, staff also recommends that the City Manager or designees be authorized to enter into one or more future extensions, for a period of up to 180 days, of the CCA on substantially the same terms and conditions provided that the Applicable Spread (defined below) for each extension does not exceed 1%. This authorization will provide flexibility at the end of the initial three and one-half year direct purchase period in the event that negotiations for a direct purchase extension with U.S. Bank or implementation of a refunding take longer than anticipated.

DISCUSSION/ANALYSIS: The 1998, 2008, 2010, and 2012 COPs will be refunded with one series of lease revenue bonds in an amount not to exceed $86,000,000 (the 2017A Lease Revenue Bonds or the "Bonds"). Lease revenue bonds have the same underlying lease/leaseback legal structure as COPs, but may have some marketability advantages over COPs primarily due to wider acceptance on the part of non-institutional investors. The principal repayment schedule for the Bonds will be similar to that of the outstanding COPs, with the final maturity on August 1, 2038.

The key documents which staff is requesting authorization to execute include the CCA, the Site and Facilities Lease, the Project Lease, and the Indenture of Trust. These documents and the basic financing terms of the Bonds are discussed in more detail below.

Direct Purchase: U.S. Bank has agreed to a direct purchase of the 2017A Lease Revenue Bonds for a 3 and one-half year period under the terms of a Continuing Covenant Agreement (the "CCA"). The CCA includes the financial terms and conditions related to U.S. Bank's purchase of the Bonds, many of which are similar to the terms and conditions specified in the City's current reimbursement agreements for its LOCs.

The CCA describes the terms under which U.S. Bank will purchase the Bonds, including the interest rate that will accrue and the term of the agreement. Pursuant to the CCA, the

Bonds will be subject to mandatory tender at the end of the three and one-half year initial period, at which time the City has the obligation to purchase the Bonds unless the City and U.S. Bank negotiate an extension. If an extension is not negotiated, the City must take action to remarket or refund the Bonds. If the City fails to remarket or refund the Bonds at the mandatory tender date, and assuming no events of default have occurred, the CCA provides for a "term-out" loan, discussed in more detail below, similar to that provided for under the City's current LOC reimbursement agreements.

Interest Rates: The Bonds will bear interest at a rate equal to 70% of the one-month London Interbank Offered Rate (LIBOR) plus the Applicable Spread, initially 0.36%. LIBOR is the average interest rate charged on borrowings among each of the leading banks in the City of London. It is the primary global benchmark for short-term interest rates and is published each business day by Thomson Reuters.

The index interest rate charged to the City will be reset on a monthly basis. As an example, the one-month LIBOR rate was 0.98% at the end of March 2017. The index interest rate in effect for the month of April 2017 would be 70% of 0.98%, or 0.67%, plus the Applicable Spread of 0.36%, for a total of 1.03%. An estimate of the annual interest cost is used for budgeting purposes, and actual debt service payments may be lower or higher than the budgeted amounts.

Any change in the maximum federal corporate tax rate will trigger a corresponding adjustment to the index rate, with a decrease in the tax rate resulting in an increase in the index rate. As with an LOC, the Applicable Spread increases if the credit ratings on the PFA's rated COPs or lease revenue bonds are downgraded, as set forth in the following table:

Credit Ratings (S&P/Fitch/Moody's)	**Increase to Applicable Spread (Initially 0.36%)**
Equal to or above AA/AA/Aa2	0.000%
Equal to AA-/AA-/Aa3	0.075%
Equal to A+/A+/A1	0.150%
Equal to A/A/A2	0.200%
Equal to A-/A-/A3	0.250%
Equal to BBB+/BBB+/Baa1	1.000%

The currently outstanding PFA COPs are rated AA by Standard & Poor's.

Staff anticipates that, based on historical performance, the monthly index interest rate will provide a lower cost of funds to the City than if the COPs were to be refunded at fixed interest rates.

As noted in the previous section, if the City fails to either extend the direct purchase with U.S. Bank or refinance the Bonds at the end of the three and one-half year direct purchase term, then the City is obligated to use its best efforts to refinance the Bonds during a three-year amortization or "term-out" period. During the amortization period, the City will be required to make semi-annual debt service payments at an annual interest rate that could range between 7% and 12%. Additionally, the CCA identifies a number of events of default which would require the City to pay an annual interest rate that could range between 10%

and 12%. These punitive “term-out” and default provisions are similar to those in the City’s current LOC reimbursement agreements.

Lease Financing: The lease/leaseback structure of the proposed financing is similar to the structure of the COPs that the PFA has previously issued but, because shares in the stream of lease payments will not be offered to the public, the required documentation is less extensive and the costs of issuance are significantly reduced.

The City will lease the pool of capital assets described below to the PFA under a Site and Facilities Lease; the PFA’s lease payment obligation will be satisfied when the Bond Trustee, MUFG Union Bank, receives the financing proceeds from U.S. Bank. The PFA will lease the assets back to the City for a series of monthly lease payments under a Project Lease. During the term of these leases, the City will retain use and occupancy of the leased assets, but has the obligation to pay the fair rental value as long as there is beneficial and substantial use of the leased property. After the final lease payment, the Site and Facilities Lease and the Project Lease Agreements expire.

The assets to be leased include the Police Administration Building, the Main Library, the Family Resource Center, the Fire Tactical Training Center, and five of the City’s fire stations (Fire Stations 2, 3, 6, 8, and 9). This is the same set of assets that were leased under the COPs.

Because the City’s obligation to make the lease payments is subject to interruption in the event that the leased assets are not available for the City’s use, the City will be required to maintain rental interruption insurance on those assets during the term of the Project Lease.

Under an Indenture of Trust, the PFA assigns its rights to the City lease payments to the Bond Trustee, to be used to pay debt service on the Bonds. More generally, the Indenture of Trust sets forth the obligations of the Authority with respect to payment of the debt service on the bonds, the rights of the bondholders, and the duties of the Trustee. The Indenture of Trust also specifies the mechanics of converting the Bonds from the index interest rate to another interest rate mode at the conclusion of the initial three and one-half year period.

If after the end of the initial period the City and the Authority do not extend the private placement with U.S. Bank, or enter into a private placement with another bank, the City and the Authority would have the option of converting the Bonds to a fixed rate mode or a variable rate mode remarketed to the public. To convert the Bonds to a variable rate mode, the Authority would need to obtain an LOC or other form of liquidity support.

Application of Community Development Block Grant (CDBG) Funds: When the Fremont Family Resource Center (FRC) was first established, the City received authorization from the U.S. Department of Housing and Urban Development to use CDBG funds to pay costs associated with establishing and running the facility. The City has drawn down those CDBG funds over time, with approximately $1.1 million remaining.

The recommended financing structure contemplates applying that remaining balance of CDBG funds to reduce the amount of 1998 COP principal to be refunded. Reducing the borrowed principal will benefit the FRC in two ways: first, by lowering the annual debt service payments attributable to the FRC; and second, by expanding the amount of space at the facility not subject to Internal Revenue Service restrictions on use by non-governmental entities such as non-profit organizations.

Sources and Uses of Funds: The following table, using the latest scenario provided by the City's financial advisor, shows the estimated sources and uses of funds for the 2017A Lease Revenue Bonds:

	1998 COPs	**2008 COPs**	**2010 COPs**	**2012 COPs**	**Total**
Sources of Funds					
Bond Proceeds	$6,210,000	$40,975,000	$13,640,000	$24,680,000	$85,505,000
CDGB Funds	1,100,000				1,100,000
Total Sources	$7,310,000	40,975,000	$13,640,000	$24,680,000	$86,605,000
Uses of Funds					
Refunding Escrow	$7,290,000	$40,855,000	$13,600,000	$24,610,000	$86,355,000
Costs of Issuance	20,000	120,000	40,000	70,000	250,000
Total Uses	$7,310,000	$40,975,000	$13,640,000	$24,680,000	$86,605,000

Compliance with the City's Debt Management Policy: The proposed issuance is consistent with the City Council's adopted Debt Management Policy. Using modest budget growth assumptions, annual General Fund debt service after issuance of the Bonds is expected to remain well below the maximum 7% of General Fund expenditures and transfers out specified in the Debt Management Policy.

FISCAL IMPACT: After the direct purchase by U.S. Bank, the City will no longer be paying remarketing or LOC fees, and the interest paid on the Bonds will be tied to the monthly LIBOR index. Using the current all-in cost of funds for the outstanding COPs as a reference, the recommended refunding structure is expected to result in annual savings of approximately $190,000 over the three and one-half year term of the direct purchase.

Debt service for the portion of the Bonds attributable to the 1998 COPs will be budgeted in the Family Resource Center Fund and paid from tenant leases. Debt service for the remaining portion of the Bonds will be budgeted in the General Fund and will be paid from a combination of general revenues and facilities impact fee revenue.

The estimated costs of issuing the 2017A Lease Revenue Bonds are as follows:

Jones Hall, Bond Counsel	$ 82,500
Hawkins Delafield & Wood LLP, Bank Counsel	59,650
Public Resources Advisory Group, City's Financial Advisor	35,000
Union Bank, Trustee	5,000
Stewart Title, Title Insurance Policy	67,850
California Municipal Finance Authority Issuance Fee	30,000
California Debt and Investment Advisory Commission Filing Fee	5,000
Estimated total out-of-pocket costs to the City	$285,000

Except for the costs of the City's Financial Advisor, which were included in the FY 2016/17 Adopted Operating Budget, the costs of issuing the 2017A Lease Revenue Bonds will be paid from bond proceeds.

ENVIRONMENTAL REVIEW: None Required.

ATTACHMENTS:

- Draft Resolution- Approval of 2017A Lease Revenue Bonds

RECOMMENDATION:

1. Approve the issuance of the 2017A Lease Revenue Bonds with a principal amount not to exceed $86,000,000, and approve the refunding of the existing 1998, 2008, 2010, and 2012 Variable Rate Demand Certificates of Participation.
2. Adopt a resolution:
   (a) authorizing the preparation and execution by the PFA officers and staff identified in the resolution of all documents required to complete the 2017A Lease Revenue Bonds transaction, including the following documents (which are and have been on file with the Office of the City Clerk):
      a. Continuing Covenant Agreement with U.S. Bank
      b. Site and Facilities Lease
      c. Project Lease
      d. Indenture of Trust with MUFG Union Bank
      e. Other administrative documents incidental to the transaction

   (b) authorizing the PFA officers and staff identified in the resolution to enter into one or more future extensions, for a period of up to 180 days, of the Continuing Covenant Agreement on substantially the same terms and conditions provided that the Applicable Spread for each extension does not exceed 1%.

DRAFT

FREMONT PUBLIC FINANCING AUTHORITY

RESOLUTION NO. 17-X

A RESOLUTION OF THE FREMONT PUBLIC FINANCING AUTHORITY AUTHORIZING THE ISSUANCE OF THE FREMONT PUBLIC FINANCING AUTHORITY LEASE REVENUE BONDS, SERIES 2017A (2017 VARIABLE RATE REFINANCING PROJECT), APPROVING AND AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A CONTINUING COVENANT AGREEMENT RELATING TO THE SERIES 2017A BONDS, APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, PROJECT LEASE AND SITE LEASE RELATING THERETO, AND AUTHORIZING OTHER RELATED ACTIONS

WHEREAS, the City of Fremont (the “City”) and the California Municipal Finance Authority have entered into an Amended and Restated Joint Exercise of Powers Agreement related to the Fremont Public Financing Authority (the “Authority”) under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"); and

WHEREAS, the Authority has determined to adopt and implement a program under which the Authority will provide financing and refinancing for certain public capital improvements; and

WHEREAS, the Authority is authorized pursuant to Article 4 of the Act (the "Bond Law") to borrow money for the purpose, among other things, of financing and refinancing public capital improvements for the City and the Authority; and

WHEREAS, the City previously caused execution and delivery of the following series of certificates of participation (collectively, the “Prior Certificates”):

- City of Fremont Variable Rate Demand Certificates of Participation (1998 Family Resource Center Financing Project) in the initial amount of $12,500,000 (the “1998 Certificates”);

- City of Fremont Variable Rate Demand Certificates of Participation (2008 Financing Project) in the initial amount of $48,685,000 (the “2008 Certificates”);

- City of Fremont Variable Rate Demand Certificates of Participation (2010 Financing Project) in the initial amount of $15,000,000 (the “2010 Certificates”); and

- City of Fremont Variable Rate Demand Certificates of Participation (2012 Refinancing Project, Series B) in the initial amount of $32,125,000 (the “2012 Certificates”); and

WHEREAS**,** in order to provide support for the payment of the principal of and interest with respect to the Prior Certificates, and the purchase price of the Certificates upon the optional or mandatory tender thereof, the City caused to be delivered letters of credit issued by U.S. Bank National Association (with respect to the 1998 Certificates, the 2008 Certificates and the 2010 Certificates) and Wells Fargo Bank, National Association (with respect to the 2012 Certificates) (collectively, the “Letters of Credit); and

WHEREAS, the Letters of Credit are scheduled to expire; and

WHEREAS, the City has asked the Authority to issue lease revenue bonds, to be designated "Fremont Public Financing Authority Lease Revenue Bonds, Series 2017A (2017 Variable Rate Refinancing Project)" (the “Series 2017 Bonds”) in order to cause the Prior Certificates to be refunded in full; and

WHEREAS, pursuant to a Site and Facilities Lease between the Authority and the City (the “Site Lease”), dated as of April 1, 2017, the City will lease to the Authority certain real property and the improvements thereon (the “Project”); and

WHEREAS, pursuant to a Project Lease between the City and the Authority (the “Project Lease”), dated as of April 1, 2017, the Authority will lease back the Project to the City, and the City will pay to the Authority lease payments (the "Lease Payments") for the use and occupancy of the Project sufficient to pay the principal of and interest and premium, if any, on the Bonds; and

WHEREAS, the Authority and the City have determined that it is in the best interest of the Authority and the City to issue the Bonds for direct purchase by U.S. Bank National Association (the “Bond Purchaser”); and

WHEREAS, in connection with the sale of the Series 2017 Bonds to the Bond Purchaser, the Authority and the City will enter into a Continuing Covenant Agreement (the “Continuing Covenant Agreement”) with the Bond Purchaser; and

WHEREAS, the Bonds will be issued pursuant to an Indenture of Trust (the “Indenture”), dated as of April 1, 2017, between the Authority and MUFG Union Bank, N.A., as trustee; and

WHEREAS, the Board of Directors (the “Board”) of the Authority has duly considered such transactions, has concluded that the transactions are in the public interests of the Authority, and wishes at this time to approve such transactions;

NOW, THEREFORE, IT IS HEREBY ORDERED AND DETERMINED AS FOLLOWS:

SECTION 1. Approval of Indenture, Site Lease and Project Lease**.** The Board hereby approves the Site Lease, the Project Lease and the Indenture in the forms on file with the Secretary, together with such additions thereto and changes therein as the Chairman, Executive Director and Treasurer or the authorized designees of the Executive Director or Treasurer (each, a "Designated Officer"), each acting alone, shall deem necessary, desirable or appropriate upon consultation with the City Attorney, as counsel to the Authority, the execution of which by the Authority shall be conclusive evidence of the approval of any such additions and changes.

The Designated Officers, each acting alone, are hereby authorized to execute and deliver the final forms of the Indenture, the Site Lease and the Project Lease for and in the name and on behalf of the Authority.

The Authority hereby authorizes the performance by the Authority of its obligations under the Indenture, the Site Lease and the Project Lease.

SECTION 2. Approval of Continuing Covenant Agreement**.** The Board hereby approves the sale of the Series 2017 Bonds to the Bond Purchaser and authorizes the Designated Officers, each acting alone, to take all actions as they deem necessary to ensure the delivery of the Series 2017 Bonds to the Bond Purchaser. The Board hereby approves the Continuing Covenant Agreement in the form on file with the Secretary, together with such additions thereto and changes therein as the Designated Officers shall deem necessary, desirable or appropriate upon consultation with the City Attorney, as counsel to the Authority, the execution of which by the Authority shall be conclusive evidence of the approval of any such additions and changes. The Designated Officers, each acting alone, are hereby authorized to execute and deliver the final form of the Continuing Covenant Agreement, in the name of and on behalf of the Authority. The Authority hereby authorizes the performance by the Authority of its obligations under the Continuing Covenant Agreement.

The Board hereby authorizes the Designated Officers, each acting alone, to execute and deliver such documentation as is necessary to extend the period that the Series 2017 Bonds are held by the Bond Purchaser by up to 180 days, but only if the Series 2017 Bonds are, during any such period of extension, subject to the same terms and conditions as are contained in the Continuing Covenant Agreement, as executed as provided in Section 2 above.

SECTION 3. Approval of Debt Management Policy. The Authority hereby approves and incorporates the City's Debt Management Policy and confirms that the issuance of the Bonds is consistent with the Debt Management Policy.

SECTION 4. Issuance of Bonds. The Board hereby authorizes the issuance of the Series 2017 Bonds in the maximum principal amount of not to exceed $86,000,000.

SECTION 5. Official Actions**.** The Designated Officers, the Secretary of the Authority and any and all other officers of the Authority are hereby authorized and directed, for and in the name of and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all documents (including amendments to the documents related to the Prior Certificates), assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and documents, which they, or any of them, may deem necessary or advisable in connection with the execution and delivery of the Indenture, Site Lease, Project Lease and Continuing Covenant Agreement, and the private placement of the Series 2017 Bonds with the Bond Purchaser.

SECTION 6. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

SECTION 7. Effectiveness. This Resolution shall take effect upon its adoption.

ADOPTED, __________, 2017, by the Board of Directors of the Fremont Public Financing Authority by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

____
Chair

ATTEST:

____
Secretary

APPROVED AS TO FORM:

____
Authority Counsel