

BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA

In the Matter of:

A Resolution Approving the Execution)
and Delivery on Behalf of the Town of not)
to Exceed \$1,650,000 of 2010)
Certificates of Participation (Town Hall)
Improvement Project); Approving the)
Forms of and Authorizing and Directing)
the Execution and Delivery of a Site)
Lease, a Facility Lease, a Continuing)
Disclosure Certificate, and a Certificate)
Purchase Contract; Authorizing a Lease)
Financing with ABAG Finance Authority)
for Nonprofit Corporations and the)
Taking of all Necessary Actions in)
Connection Therewith; and Approving)
the Forms of a Trust Agreement and a)
Preliminary Official Statement)
_____)

Resolution No. ____-2010

WHEREAS, the Town of Moraga (the “**Town**”), a municipal corporation and general law city duly organized and existing under and by virtue of the Constitution and laws of the State of California (the “**State**”), proposes to arrange for the execution and delivery of certificates of participation in an amount not to exceed One Million Six Hundred Fifty Thousand Dollars (\$1,650,000) (the “**Certificates of Participation**”) for the purposes of financing (a) a portion of the cost of acquiring improved real property located at 331 Rheem Boulevard, to be occupied and used by the Town for its public purposes, and (b) the cost to construct seismic upgrades and remodeling improvements to the Town Hall building located at 329 Rheem Boulevard (together, the “**Project**”), and

WHEREAS, in support of the proposed Certificates of Participation, the Town, as a “Member Jurisdiction” of the Association of Bay Area Governments (ABAG), proposes to enter into a financing program with the ABAG Finance Authority for Nonprofit Corporations, a joint exercise of powers authority duly organized and existing under and by virtue of the laws of the State of California (the “**Authority**”); and

WHEREAS, to implement the foregoing, the Town proposes to convey the Town Hall property in its present condition (the “**Site**”) to the Authority by entering into a site lease (the “**Site Lease**”), dated as of February 1, 2010, whereby the Authority will lease the Site from the Town for a nominal consideration; and

WHEREAS, to further implement the foregoing, the Authority and the Town propose to enter into a facility lease (the “**Facility Lease**”), dated as of February 1,

2010, whereby (a) the Authority will agree to implement the Project and to lease to the Town the Site as improved by the portion of the Project pertaining to improvements to the Town Hall building (together, the "**Leased Facilities**"), (b) the Town will lease the Leased Facilities from the Authority by the payment of a prescribed schedule of lease payments, and (c) the Town will implement the Project as agent for the Authority; and

WHEREAS, to further implement the foregoing, the Town, the Authority and U.S. Bank, National Association, as Trustee (the "**Trustee**"), propose to enter into a Trust Agreement (the "**Trust Agreement**"), dated as of February 1, 2010, pursuant to which the Authority will irrevocably assign and transfer to the Trustee certain rights and entitlements under the Facility Lease, including but not limited to the entitlement to receive specified lease payments from the Town, and the Trustee upon written instructions of the Town, will apply available proceeds of the sale of the Certificates of Participation toward the payment of a portion of specified transaction costs; and

WHEREAS, the Town has determined that all things necessary to make the Facility Lease (fractional undivided interests in certain lease payments thereunder to be evidenced by the Certificates of Participation), when executed and delivered by the Town (and when executed and delivered by the Trustee in exchange for payment to the Trustee of the purchase price therefore by Stone & Youngberg LLC (the "**Underwriter**")), the valid, binding and legal obligation of the Town, have been done and performed; and

WHEREAS, the Town, will execute and deliver a Continuing Disclosure Certificate (the "**Continuing Disclosure Certificate**") in connection with this proposed financing under the prevailing requirements of Securities and Exchange Commission Rule 15c2-12, as amended (the "**Rule**"); and

WHEREAS, the Town will enter into a Certificate Purchase Contract (the "**Certificate Purchase Contract**") with the Underwriter with respect to the sale and purchase of the Certificates of Participation; and

WHEREAS, there has been filed with the Town Clerk a form of the Preliminary Official Statement (the "**Preliminary Official Statement**") for this proposed financing; and

WHEREAS, the Town Clerk of the Town has been presented with the form of each document referred to herein, and the members of this Town Council of the Town (this "**Town Council**") have examined and by this Resolution wish to approve the form of each document and to authorize and direct the execution of those documents to which the Town is a party;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Moraga that:

Section 1. All of the findings, determinations and recitals herein are true and correct, and this Town Council so finds and determines.

Section 2. This Town Council hereby finds and declares that the sale, execution and delivery of the Certificates of Participation on behalf of the Town to provide financing for the Project and the actions authorized hereby constitute, and are in furtherance of, authorized public purposes of the Town and will result in public benefits to the Town and its residents.

Section 3. This Town Council hereby approves the execution and delivery by the Trustee of the Certificates of Participation and the offering and sale of the Certificates of Participation to the Underwriter in an aggregate principal amount of not to exceed \$1,650,000, so long as the average interest cost does not exceed 6.5% and the Underwriter's discount does not exceed 2.5%, to finance the prescribed portion of the Project. The Mayor, Vice Mayor, Town Manager, Administrative Services Director, Town Clerk and Town Attorney (each an "**Authorized Town Representative**") are hereby authorized and directed to perform the duties, if any, imposed upon or delegated to each of them by the provisions of the documents approved herein.

Section 4. The forms of the following documents on file with the Town Clerk and submitted to this Town Council, and the terms and conditions thereof, are hereby approved:

- (a) Site Lease;
- (b) Facility Lease;
- (c) Trust Agreement;
- (d) Certificate Purchase Contract; and
- (e) Continuing Disclosure Certificate.

The Town Clerk is directed to file a copy of each of the foregoing documents with the minutes of this meeting, and any Authorized Town Representative is authorized and directed to execute and deliver each document in substantially said form with such changes as the Authorized Town Representative approves in the interest of the Town, after such consultation with the Town Attorney and bond counsel as they may consider appropriate, such approval to be conclusively evidenced by such execution and delivery.

Section 5. The form of the Preliminary Official Statement, as presented to the Town Council, is approved; provided, however, that the effectiveness of the approval of the form of Preliminary Official Statement shall be concurrent with a certification of any Authorized Town Representative that such form is "deemed final" for the purposes of and subject to the exclusions permitted by the Rule.

Section 6. The officers of the Town and the members of this Town Council are hereby authorized and directed, jointly or severally, to do any and all things and to execute and deliver any and all documents and certificates which they deem necessary or advisable in order to consummate the execution and delivery of the

documents mentioned herein and otherwise to effectuate the purposes of this Resolution and the transactions contemplated hereby.

Section 7. All actions heretofore taken by the officers and agents of this Town Council with respect to the Project and the financing thereof are hereby ratified, confirmed and approved.

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

PASSED AND ADOPTED by the Town Council of the Town of Moraga at a regular meeting held on February 10, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Ken Chew, Mayor

Attest:

Marty C. McInturf, Town Clerk