



Midpeninsula Regional
Open Space District

R-14-92
Meeting 14-16
July 9, 2014

AGENDA ITEM 5

AGENDA ITEM

Resolution Declaring Intention to Reimburse Expenditures from the Proceeds of General Obligation Bonds

CONTROLLER'S RECOMMENDATION

Adopt a Resolution Declaring Intention to Reimburse Expenditures from the Proceeds of General Obligation Bonds.

SUMMARY

Adoption of the proposed resolution will permit the District to be reimbursed, from the proceeds of future issuances of general obligation bonds, for expenditures on Top 25 Projects made no earlier than 60 days from the date of adoption of this resolution and not later than 18 months after the date the expenditures are paid.

DISCUSSION

Because of concerns over arbitrage abuses, the IRS has promulgated regulations regarding when the use of bond proceeds to reimburse expenditures paid prior to the date of issue of bonds will be treated as an expenditure of the bond proceeds. Such expenditures paid after the date of issue of the bonds are not subject to these rules and may be reimbursed without limitation.

There are three basic requirements under the reimbursement rules: (i) the official intent requirement, (ii) the reimbursement period requirement and (iii) the capital expenditure requirement.

Official Intent Requirement

The official intent requirement provides that, no later than 60 days after payment of the project expenditures, the issuer must adopt official intent that (i) declares the issuer's intent to reimburse expenditures for the project, (ii) generally describes the project, and (iii) states the maximum principal amount of obligations expected to be issued for the project. On the date of the declaration, there must be a reasonable expectation to reimburse the project expenditures with bond proceeds.

Reimbursement Period Requirement

Expenditures must be reimbursed not later than 18 months after the date the expenditures were paid.

Capital Expenditure Requirement

The project expenditures to be reimbursed must be a capital expenditure, a cost of issuance, or a specified type of extraordinary working capital expenditure.

Bond counsel has drafted the proposed resolution which meets the requirements of the U.S. Treasury regulations and will allow the District to obtain maximum reimbursement for expenditures on Top 25 Projects prior to receiving the proceeds from future sales of GO bonds.

FISCAL IMPACT

There are no immediate fiscal impacts from the adoption of the proposed resolution. The failure to adopt the proposed resolution, however, would mean the District would not be able to obtain reimbursement for substantial project expenditures.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

The adoption of the proposed Resolution is not a “project” under CEQA.

NEXT STEPS

After adoption of this resolution, there is no further board action required.

Attachment:

1. Resolution Declaring Intention to Reimburse Expenditures from the Proceeds of General Obligation Bonds

Responsible Department Head:
Steve Abbors



Prepared by:
Mike Foster and Sheryl Schaffner

RESOLUTION 14-__

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT DECLARING INTENTION TO REIMBURSE EXPENDITURES FROM THE PROCEEDS OF GENERAL OBLIGATION BONDS

WHEREAS, Section 5568 of the Public Resources Code of the State of California authorizes districts to issue general obligation bonds to finance regional and local park, recreational and open space land and improvements upon full compliance with the provisions of Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 of the Government Code of the State of California (the "Act");

WHEREAS, at an election held on June 3, 2014, at least two-thirds of the registered voters in the boundaries of the Midpeninsula Regional Open Space District (the "District") voting on the question authorized the District to issue up to \$300 million of general obligation bonds to finance the costs of providing public access and acquiring, restoring and preserving open space throughout the District;

WHEREAS, the District proposes to undertake the projects described in its Ordinance No. 14-02, adopted by the District on February 26, 2014, entitled "An Ordinance of the Board of Directors of the Midpeninsula Regional Open Space District Calling an Election and Ordering the Submission of a Proposition for Incurring Bonded Indebtedness Not to Exceed \$300 million for the Purpose of Providing Public Access and Acquiring, Restoring and Preserving Open Space Throughout the District, to the Qualified Voters of the Midpeninsula Regional Open Space District at the General Municipal Election to be held on June 3, 2014" (the "Ordinance"), to issue general obligation bonds ("General Obligation Bonds") for such projects and to use a portion of the proceeds of such General Obligation Bonds to reimburse expenditures made for the projects prior to the issuance of the General Obligation Bonds;

WHEREAS, United States Income Tax Regulations section 1.150-2 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, one of which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer declares an intention to reimburse such expenditure; and

WHEREAS, it is in the public interest and for the public benefit that the District declares its official intent to reimburse the expenditures referenced herein.

NOW, THEREFORE, BE IT RESOLVED that:

1. The District intends to issue General Obligation Bonds for the purpose of paying the costs of the projects described in the Ordinance (the "Projects").
2. The District hereby declares that it reasonably expects (i) to pay certain costs of the Projects prior to the date of issuance of the General Obligation Bonds and (ii) to use a portion of

the proceeds of the General Obligation Bonds for reimbursement of expenditures for the Projects that are paid before the date of issuance of the General Obligation Bonds.

3. The maximum principal amount of the Obligations is \$300 million.

4. This Resolution shall take effect immediately upon its adoption by the Board of Directors of the District.

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2014, at a Regular Meeting thereof, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Secretary
Board of Directors

President
Board of Directors

APPROVED AS TO FORM:

General Counsel

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

District Clerk