


Memo

To: Board of Harbor Commissioners

From: Peter Grenell, General Manager 

cc: Scott Grindy, Harbor Master
Jean Savaree, District Counsel

Date: August 15, 2012

Re: Resolution 17-12 Regarding Board's Intention to Issue Tax-Exempt Obligations for Financing of Pillar Point Harbor Projects

BACKGROUND

The Board has identified critical harbor improvement projects which are expected to be initiated during the next fiscal year. The Board is considering funding these improvements (the "Projects") through the sales tax-exempt obligations. The obligations may take the form of bonds, notes, loan agreements, lease agreements and the like. The District may elect to advance certain of its own funds toward the start of a Project. The District would advance funds on the knowledge that it could be reimbursed for amounts expended on such improvements from the subsequent sale of any tax-exempt obligations. The Internal Revenue Code has certain requirements that need to be satisfied in order for a local agency to reimburse itself for costs incurred for capital projects in advance of the sale of tax-exempt obligations. In order to qualify for reimbursement of such costs from the proceeds of a debt issue, the Board must adopt a resolution which satisfies all the requirements of the Internal Revenue Code within 60 days of the date on which the expenditures had been made.

The District's bond counsel has prepared the attached resolution which complies with applicable requirements of the Internal Revenue Code and would allow the District to reimburse itself for such advanced capital Project costs from the proceeds of a prospectively sold revenue bond. The adoption of this resolution does not obligate the District to ever advance its own funds toward the Project. Nor does the resolution obligate the District to even issue any debt obligations. The adoption of this resolution only preserves the option for the Board to decide at a subsequent date whether or not it would be in the best interest of the District to issue debt and to allocate a portion of any proceeds of such debt towards the reimbursement of the monies the District might spend in getting started on the Projects. The District will be able to be reimbursed for all "soft" costs advanced on the Project, without regards to the limitations of the Resolution.

There is a reference in this resolution to \$25,000,000. The Internal Revenue Code obligates this resolution to include an estimated size of the borrowing from which the reimbursement will occur. The District is not required to maintain this \$25,000,000 amount. It is included to satisfy a legal requirement and constitutes only a rough estimate of the likely size of a debt issue that the Board may consider. If the Board were to sell a larger or a smaller obligation, such decision would not have adversely affected its ability to use a portion of the proceeds of such obligation to reimburse the District for these costs.

FISCAL IMPACT

Not applicable.

RECOMMENDATION

Staff recommends approval of Resolution 17-12 Regarding its Intention to Issue Tax-Exempt Obligations.

REIMBURSEMENT RESOLUTION

RESOLUTION NO. 17-12

RESOLUTION OF THE BOARD OF HARBOR COMMISSIONERS OF THE SAN MATEO COUNTY HARBOR DISTRICT REGARDING ITS INTENTION TO ISSUE HARBOR DISTRICT REVENUE BONDS

WHEREAS, the Board of Commissioners of the San Mateo County Harbor District (the "District") desires to finance the costs of acquiring, constructing, repairing, expanding, modernizing, and/or equipping of District facilities, as provided in Exhibit A attached hereto and incorporated herein (the "Project");

WHEREAS, the District intends to finance the acquisition, construction, repairing, expanding, modernizing, and/or equipping of the Project or portions of the Project with the proceeds of the sale of revenue bonds or other forms of debt, the interest upon which is excluded from gross income for federal income tax purposes (the "Bonds"); and

WHEREAS, prior to the issuance of the Bonds the District desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the District;

WHEREAS, the Board of Commissioners has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the District for the Expenditures from the proceeds of the Bonds; and

NOW, THEREFORE, THE BOARD OF HARBOR COMMISSIONERS OF THE SAN MATEO COUNTY HARBOR DISTRICT DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The District hereby states its intention and reasonably expects to reimburse Project costs incurred prior to the issuance of the Bonds with proceeds of the Bonds. Exhibit A describes either the general character, type, purpose, and function of the Project, or the fund or account from which Project costs are to be paid and the general functional purpose of the fund or account.

SECTION 2. The reasonably expected maximum principal amount of the Bonds is \$25,000,000.

SECTION 3. This resolution is being adopted not later than 60 days after the payment of the original Expenditures (the "Expenditures Date or Dates").

SECTION 4. The District will make a reimbursement allocation, which is a written allocation that evidences the District's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the

Expenditure is paid. If both the District and a licensed architect or engineer certify that at least 5 years is necessary to complete construction of the Project, the maximum reimbursement period is changed from 3 years to 5 years.

SECTION 5. Each Expenditure will be either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Obligations, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the District so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the District.

SECTION 6. This resolution is consistent with the budgetary and financial circumstances of the District, as of the date hereof. No moneys from sources other than the Obligations are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the District (or any related party) pursuant to their budget or financial policies with respect to the Project costs. To the best of our knowledge, this Board is not aware of the previous adoption of official intents by the District that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 7. This resolution is adopted as official action of the District in order to comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of District expenditures incurred prior to the date of issue of the Obligations.

SECTION 8. The limitations described in Section 3 and Section 4 do not apply to (a) costs of issuance of the Obligations, (b) an amount not in excess of the lesser of \$100,000 or five percent (5%) of the proceeds of the Obligations, or (c) any preliminary expenditures, such as architectural, engineering, surveying, soil testing, and similar costs other than land acquisition, site preparation, and similar costs incident to commencement of construction, not in excess of twenty percent (20%) of the aggregate issue price of the Obligations that finances the Project for which the preliminary expenditures were incurred.

SECTION 9. All the recitals in this resolution are true and correct and this Board so finds, determines and represents.

APPROVED AND ADOPTED this 15th day of August, 2012.

I, Peter Grenell, do hereby certify that the foregoing is a true and correct copy of Resolution No. 17-12, which was duly adopted by the Board of Commissioners of the San Mateo County Harbor District at a meeting thereof held on the 15th day of August, 2012, and that it was so adopted by the following vote:

AYES COMMISSIONERS:

NOES COMMISSIONERS:

ABSENT COMMISSIONERS:

ABSTENTIONS COMMISSIONERS:

Debbie Nixon
Deputy Secretary

James Tucker
President

EXHIBIT A

DESCRIPTION OF PROJECT

The Project to be financed is located at Pillar Point Harbor and includes improvements at Perched Beach consisting of construction of a protective sheetpile bulkhead, raising the elevation behind the bulkhead and other site preparation for development with vehicle parking, an extension of the Coastal Trail along the bulkhead and connecting to other segments, relocation of an existing commercial kayak rental business elsewhere on site, extending the existing beach area to expand public access to beach and water, and at adjacent parking lot B, construction of a multi-use building containing the Harbor District Administration Office, multi-use Harbor Commission meeting room, the Gulf of the Farallones National Marine Sanctuary's San Mateo Coast Visitor Center, vehicle parking, and to pay all necessary legal, financial, architectural, environmental, engineering, planning and contingent costs in connection therewith.