File No. 101125

Committee Item No. 3
Board Item No. 17

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee   Date: December 1, 2010

Board of Supervisors Meeting   Date 12/14/10

Cmte	Board	
[ ]	[ ]	Motion
[X]	[X]	Resolution
[ ]	[ ]	Ordinance
[ ]	[ ]	Legislative Digest
[X]	[X]	Budget Analyst Report
[ ]	[ ]	Legislative Analyst Report
[ ]	[ ]	Ethics Form 126
[ ]	[ ]	Introduction Form (for hearings)
[X]	[X]	Department/Agency Cover Letter and/or Report
[ ]	[ ]	MOU
[ ]	[ ]	Grant Information Form
[ ]	[ ]	Grant Budget
[ ]	[ ]	Subcontract Budget
[ ]	[ ]	Contract/Agreement
[ ]	[ ]	Award Letter
[ ]	[ ]	Application
[ ]	[ ]	Public Correspondence

OTHER (Use back side if additional space is needed)

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[ ]	[ ]	
[ ]	[ ]	
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Completed by: Victor Young   Date: November 23, 2010
Completed by: Victor Young   Date: 12-2-10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

Amendment of the Whole
in Committee. 12/01/10

FILE NO. 101125 RESOLUTION NO.

[Golden Gate Park Music Concourse Garage Refinance]

Resolution concurring in the recommendation of the Controller and the Director of the Office of Public Finance that the issuance of not to exceed $30,000,000 Tax Exempt Bank Qualified Bonds ("Bonds") with First Republic Bank for and on behalf of the Music Concourse Community Partnership, a California nonprofit public benefit corporation, is reasonably prudent; directing the Controller and the Director of the Office of Public Finance to do everything necessary and desirable to provide for the issuance of such Bonds; and providing public approval for the Bonds and the project financed and refinanced thereby for the purposes of Section 147(f) of the internal Revenue Code.

WHEREAS, At the June 2, 1998, special election the voters of the City and County of San Francisco (the "City") approved Proposition J, now codified in Appendix 41 of the City's Administrative Code ("Proposition J"); and

WHEREAS, Proposition J is an initiative measure which, among other things, authorized the creation of the Golden Gate Park Concourse Authority (the "Authority") and the construction, by or on behalf of the Authority, of an underground parking facility (the "Facility") in Golden Gate Park located between the M.H. de Young Museum and the California of Academy of Sciences in the City containing approximately 800 parking spaces (the "Project"); and

WHEREAS, Proposition J also authorized the City's Board of Supervisors (the "Board of Supervisors") to grant administrative jurisdiction over certain lands in or near the area of the Golden Gate Park Music Concourse (the "Concourse") to the Authority to facilitate the Project; and

WHEREAS, Music Concourse Community Partnership ("MCCP"), is a nonprofit public benefit corporation organized and existing under the laws of the State of California, formed and existing for the primary purpose of funding, designing, constructing and operating the Facility; and

WHEREAS, By Resolution No. 737-03, the Board of Supervisors approved a ground lease (the "Lease") between MCCP, as tenant, and the City, acting through the Authority and the Recreation and Park Commission (the "Commission"), as landlord, which governs the relationship between the parties with respect to the construction and operation of the Facility; and

WHEREAS, Under the terms of the Lease, MCCP was granted a long-term leasehold interest in lands beneath the Concourse and the right to construct the Facility at its own expense, and as such shall be deemed the owner of the physical improvements constituting the Facility until expiration or termination of the Lease, at which time title to such improvements shall be transferred to the City at no cost; and

WHEREAS, Under the terms of the Lease, MCCP is permitted to apply the revenues of the Facility to help finance the costs of constructing the Facility; and

WHEREAS, In June 2005, California Statewide Communities Development Authority (the "CSCDA") issued $26,500,000 in Revenue Bond Anticipation Notes (the "Notes") on behalf of the MCCP to finance a portion of the costs of construction of the Project; and

WHEREAS, The Notes have a final maturity of December 1, 2011; and

WHEREAS, MCCP expected on or prior to the maturity of the Notes to secure long-term financing for the Project, including the retirement of the Notes, from the sale of refunding revenue bonds or other evidences of indebtedness as permitted by law; and

WHEREAS, The Project was partially completed in October 2005, and finally completed in 2007; and

WHEREAS, Approximately $1,540,000 of the cost of the Project is still owing to Swinerton Builders and that amount has been accruing interest at 3% per annum from September 1, 2006 (the "Contract Amount"); and

WHEREAS, In December 2007 and June 2008 MCCP borrowed $1,450,000 from First Republic Bank in order to make interest payments on the Notes (the "Loan") due to cash flow deficits; and

WHEREAS, The Loan and the Contract Amount, together with the principal amount of the Notes, did not exceed the amount reasonably necessary to facilitate the Project; and

WHEREAS, MCCP now proposes to secure long-term private placement financing with First Republic Bank through the issuance of bonds by the California Enterprise Development Authority ("CEDA") in an amount not to exceed $30,000,000 (the "Bonds") to refund or refinance the Notes and the Loan and to pay the Contract Amount, under provisions of the American Recovery and Reinvestment Act of 2009 (ARRA), specifically, Section 265(b)(3)(G) of the Code (hereinafter, the "ARRA Bank Qualified Tax Exempt Bond Program"); and,

WHEREAS, The ARRA Bank Qualified Tax Exempt Bond Program, which expires December 31, 2010, offers advantageous terms including but not limited attractive interest rates and lower costs of issuance; and,

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code, as amended (the "Code"), CEDA approval must come from approval of a governmental unit on behalf of which CEDA issues its obligations, and CEDA has thus requested that the City provide its approval of the Bonds and the financing/refinancing of the Project with the proceeds thereof; and

WHEREAS, pursuant to Section 147(f) of the Code, the issuance of the Bonds by CEDA and the financing and refinancing of the Project with the proceeds thereof must be approved by the City because the Project is located within the territorial limits of the City; and

WHEREAS, the Board of Supervisors of the City is the elected legislative body of the City and is therefore an applicable elected representative eligible to approve the issuance of the Bonds and the financing and refinancing of the Project with the proceeds thereof pursuant to Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the Board of Supervisors has, following notice duly given, held a public hearing regarding the issuance of the Bonds and the financing/refinancing of the Project with the proceeds thereof, and now desires to approve the issuance of the Bonds and the financing/refinancing of the Project with the proceeds thereof;

WHEREAS, In accordance with the Ground Lease and the First Amendment to the Ground Lease, MCCP is not required to obtain approval by the Board of Supervisors for a refunding of the Notes and the Loan and the payment of the Contract Amount, if such a refunding is reasonably prudent in the light of MCCP's financial situation; and,

WHEREAS, notwithstanding that MCCP is not required to obtain approval by the Board of Supervisors for a refunding of the Notes and the Loan and the payment of the Contract Amount, approval of the Bonds and the Project is required for purposes of Section 147(f) of the Code; and

WHEREAS, The Controller and the Director of the Office of Public Finance have determined to proceed with a refunding of the Notes and the Loan, and the payment of the Contract Amount through the issuance and placement of the Bonds with First Republic Bank, and believes such financing is reasonably prudent; now, therefore, be it

RESOLVED, The Board of Supervisors hereby approves the issuance of the Bonds, and the financing and refinancing of the Project (through the refunding of the Notes and the Loan and the payment of the Contract Amount) with the proceeds thereof, by CEDA. It is the purpose and intent of the Board of Supervisors that this Resolution constitute approval of the issuance of the Bonds for the purposes of (a) Section 147(f) of the Code by the applicable elected representative of the governmental unit on behalf of which CEDA issues its obligations and having jurisdiction over the area in which the Project is located, in accordance with said Section 147(f).

RESOLVED, That the Board of Supervisors hereby concurs with the Controller and the Director of the Office of Public Finance that such financing is reasonably prudent, and directs the Controller and the Director of the Office Public Finance, and all other appropriate officers, employees, representatives and agents of the City, to do everything necessary and desirable to provide for the issuance of not more than $30,000,000 of Tax Exempt Bank Qualified Bonds on a private placement basis with First Republic Bank on such terms and conditions as the Controller and the Director of the Office Public Finance, in consultation with MCCP and the City Attorney, believe are reasonably prudent and in accordance with the provisions of this Resolution. Provided, however, that no funds of the City shall be made available or shall otherwise secure repayment of the Bonds.

Item 3 File 10-1125	Department: Recreation and Park (RPD) Office of Public Finance Controller's Office

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would concur with the recommendation of the Controller and the Director of the Office of Public Finance that the refunding of not-to-exceed $30,000,000 of Tax Exempt Bank Qualified Revenue Bonds with First Republic Bank, for and on behalf of the Music Concourse Community Partnership (MCCP), would be reasonably prudent.

- The proposed resolution would direct the Controller, the Director of the Office of Public Finance, and all other appropriate officers, employees, representatives and agents of the City to do everything necessary and desirable to provide for the refunding of such bonds.

Key Points

- MCCP's existing long term debt extends until December 1, 2011. However, in order to take advantage of the lower interest rates under the American Recovery and Reinvestment Act of 2009 (ARRA), which will expire on December 31, 2010, MCCP wishes to refinance $30,000,000 of existing Revenue Bond Anticipation Notes at this time. The ARRA made temporary changes to the Federal Tax Code, including widening the eligibility of tax exempt bonds for nonprofit organizations, at lower interest rates.

Fiscal Impacts

- The pending financing is solely the responsibility of the MCCP, does not create any debt or liability for the City, and will not require any funds of the City to be pledged to repay the not-to-exceed $30,000,000 of revenue bonds.

- For Fiscal Year 2010-2011, MCCP anticipates total income, including parking revenues less Parking Taxes and interest income on cash reserves to be $4,357,512. MCCP anticipates total expenses, including (a) operating expenses, (b) rent, and (c) debt service to be $4,187,145. MCCP therefore anticipates a net operating cash flow of $170,367 in Fiscal Year 2010-2011 from the underground parking garage. MCCP projections anticipate increasingly larger future year net operating cash flows for the garage. All unexpended funds from the garage will be transferred to the City at the termination of the ground lease between the City and MCCP in 2039.

Recommendations

- Amend the proposed resolution to notice that the City has scheduled a public hearing to be held on December 1, 2010 to provide an opportunity for persons to comment on the issuance and sale of the subject bonds, and approve the proposed resolution, as amended.

MANDATE STATEMENT

According to the existing Ground Lease between the City and the Music Concourse Community Partnership (MCCP), the MCCP is not required to obtain approval, for the refunding of existing debt, from the Board of Supervisors, if the Controller and the Director of the Office of Public Finance determine that the refunding or refinancing of the MCCP's outstanding debt would be reasonably prudent given the MCCP's financial situation.

As evidenced in the Attachment, a November 9, 2010 memo from Ms. Nadia Sesay, Director of the Office of Public Finance under the Controller, the Director of the Office of Public Finance advises that the pending financing structure is prudent given MCCP's financial situation. However, because the pending refinancing will have direct impacts on the City[1], the Controller and the Director of the Office of Public Finance are seeking the concurrence of the Board of Supervisors to proceed.

BACKGROUND

In November 2003 the Board of Supervisors approved the execution and delivery of a ground lease (File 03-1319) between the City (through the Golden Gate Park Concourse Authority[2]), as lessor, and the MCCP, a non profit public benefit organization, as lessee, for the Golden Gate Park Music Concourse underground parking garage project.[3] Under this ground lease, which commenced in March 2004, MCCP pays the City $100,000 annually, or $8,333 monthly, in rent in addition to Parking Taxes charged at the rate of 25 percent for vehicles which park in the underground parking garage. In accordance with the ground lease, MCCP is also required to transfer 100 percent of net surplus revenues to the City upon termination of the ground lease in 2039. In November 2003, the MCCP planned to issue, through a conduit issuer, an estimated $53,375,000 in revenue bonds to be repaid from parking revenues generated from the parking garage, and to raise $7,338,463 in private donations to fund the underground parking facility project's total estimated cost of $60,713,463.

However, MCCP was unable to access capital markets due to litigation[4] filed shortly after the approval of the ground lease. As a result, the revenue bond issuance was delayed until June 2005

[1] The Music Concourse Community Partnership (MCCP) will not be able to manage the garage and therefore pay rent, Parking Taxes, and surplus revenues to the City without the issuance of long debt financing to replace its current financing.

[2] Proposition J (June 1998) authorized the creation of the Golden Gate Park Concourse Authority to have administrative jurisdiction over certain lands in or near the Golden Gate Park Music Concourse in order to facilitate the construction of an underground parking garage.

[3] The Music Concourse Community Partnership (MCCP) is a nonprofit corporation formed and existing for the primary purpose of funding, designing, constructing, and operating the underground parking garage under the Golden Gate Park Music Concourse on behalf of the Golden Gate Park Concourse Authority.

[4] In December 2003, Save Golden Gate Park, et al filed a lawsuit against the City challenging (1) the environmental review prepared for the garage; (2) the ability of MCCP to make debt payments from garage revenues; and (3) the proposal to have two garage entrances outside of the park boundaries. The Superior Court issued a Statement of Decision in June 2005 in favor of the City on all issues raised in the lawsuit.

when the California Statewide Communities Development Authority (CSCDA) (a) issued $26,500,000 in Revenue Bond Anticipation Notes on behalf of the MCCP to finance a portion of the underground parking garage project, (b) set up a $2,650,000 reserve fund, and (c) paid for the cost of bond issuance. The existing $26,500,000 of Revenue Bond Anticipation Notes are for a term of 5.5 years, with a final maturity date of December 1, 2011. The estimated total cost of the underground parking garage project in 2005 was reduced to $55,112,000,[5] such that the remainder of the costs of $28,612,000 ($55,112,000 total cost less $26,500,000 in Revenue Bond Anticipation Notes), was to be funded by private donations.

In October 2005 the north side of the garage was completed and the garage began collecting revenues. In February 2006 the south side, the second and final portion of the garage, was completed. In July 2007, MCCP borrowed an additional $1,350,000 in private loans arranged directly with the Fine Arts Museum Foundation and the California Academy of Sciences to make construction payments to the contractor. According to Mr. Robert Valdez, a financial consultant for MCCP, this $1,350,000 loan was necessary due to the parking garage's limited cash flow that was later determined to be, in part, the result of embezzlement by MCCP's former Chief Financial Officer.[6] Later, MCCP drew a total of $1,540,000 on a line of credit with First Republic Bank to make two interest payments, in December 2007 and June 2008, on the existing Revenue Bond Anticipation Notes. In July 2009, this line of credit was replaced by a term loan with a fixed interest rate of 5.0 percent and a maturity date of July 31, 2010. This maturity date has been verbally extended to accommodate the pending long term financing.

According to Ms. Sesay, when the existing $26,500,000 in outstanding Revenue Bond Anticipation Notes is combined with the existing $2,890,000 in private loans ($1,350,000 loan through the Fine Arts Museum Foundation and the Academy of Sciences plus a $1,540,000 term loan), and including remaining construction costs of $1,540,233, the total MCCP indebtedness is $30,930,233. This $30,930,233 total indebtedness is $22,444,767 less than the original $53,375,000 estimated debt financing when the Board of Supervisors approved the ground lease in 2003.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would concur with the finding of the Controller and the Director of the Office of Public Finance that the issuance of up to $30,000,000 of Tax-Exempt Bank Qualified Revenue Bonds on behalf of the MCCP, a California nonprofit public benefit corporation, would be reasonably prudent. The proposed resolution would also direct the Controller, the Director of the Office of Public Finance, and all other appropriate officers, employees, representatives and agents of the City to do everything necessary and desirable to provide for the issuance of such bonds.

[5] According to Ms. Jan Berckefeldt, Managing Director of MCCP, the total estimated cost of the project was lower in 2005 than in 2003 due to an initial conservative estimate and a quicker than expected construction phase.

[6] The former Chief Financial Officer of the MCCP pleaded guilty to embezzlement, money laundering, identity theft, and other charges in December 2008 and is currently in State prison. The former officer embezzled approximately $3.6 million from MCCP's donation fund, construction contingency fund, and from private loans. MCCP has been able to offset some of these losses from the liquidation of the former officer's assets, but MCCP has had to absorb most of the losses.

Under the proposed resolution, as summarized in Table 1 below, the MCCP would secure long-term Tax Exempt Bank Qualified Revenue Bond financing from First Republic Bank in an amount not to exceed $30,000,000 plus the original $2,650,000 Bond Reserve Fund from the existing Revenue Bond Anticipation Notes, for a total of $32,650,000. These sources would be used to refinance a total of $32,650,000, including the existing $26,500,000 of Revenue Bond Anticipation Notes, fund a $2,500,000 reserve fund, pay $2,835,000 for other project-related costs[7], and finance $815,000 of repayment penalties, fees and refinancing expenses.

Table 1: Sources and Uses

Sources	**Amount**
Tax Exempt Bank Qualified Revenue Bonds	$30,000,000
Bond Reserve Fund from the RBANs[8]	2,650,000
Total Sources	**$32,650,000**
Uses	**Amount**
Pay off Revenue Bond Anticipation Notes	$26,500,000
Bond Reserve Fund[9]	2,500,000
Other Project Related Costs	2,835,000
Early repayment penalty of BANs (1%)	265,000*
First Republic Loan Fee (1%)	300,000*
Estimated Other Refinancing Expenses	250,000*
Total Uses	**$32,650,000**

* Total of $815,000.

As detailed above in Table 1, $2,500,000 of the total funding would be set aside as a Bond Reserve Fund in a four year Certificate of Deposit (CD) account at First Republic Bank, as required by the lender. In addition, $2,835,000 of Other Project Related costs would include (a) $1,540,000 to repay the term loan issued by First Republic Bank to make previous interest payments on the current Notes, and (b) $1,295,000 to partially repay the outstanding $1,540,233 to Swinerton Incorporated, the contractor who constructed the underground parking garage and for related transaction expenses. Other fees totaling $815,000 associated with the proposed refinancing include (a) a one percent, or $265,000, penalty from repaying the existing $26,500,000 Note before final maturity, (b) a one percent, or $300,000 loan fee to First Republic Bank for the proposed $30,000,000 bond, and (c) $250,000 in other refinancing expenses such as bond counsel fees.

Mr. Valdez advises that the $1,350,000 in loans made through the Fine Arts Foundation and the Academy of Sciences are not included in the above refinancing and would be paid back with separate operating funds beginning in 2017, with the last payment scheduled to be made in 2021.

[7] Other project related costs would include partial repayments to the construction contractor and repayments of other outstanding debt.
[8] The Revenue Bond Anticipatory Notes (RBAN) that were issued in June 2005 by CSCDA.
[9] The CD would serve as a cash reserve, as required by First Republic Bank.

The $30,000,000 in Tax Exempt Bank Qualified Revenue Bonds are anticipated to have a fixed interest rate of 5.5 percent over a term of 28 years, or until February 2039.
The proposed transaction would be a tri-party agreement between (1) MCCP (borrower); (2) First Republic Bank (lender); and (3) the California Enterprise Development Authority (CEDA), a joint powers authority that would serve as the conduit issuer.[10]

The not-to-exceed $30,000,000 of Tax Exempt Bank Qualified Revenue Bonds are anticipated to be issued under the provisions of the American Recovery and Reinvestment Action of 2009 (ARRA), which expires on December 31, 2010. According to Ms. Sesay, Bank Qualified Tax Exempt Revenue Bonds were historically limited to $10,000,000 annually. However, under ARRA, the $10,000,000 limit increased to $30,000,000, and includes projects for non-profit organizations.

Additionally, Ms. Sesay advises that interest rates are currently at historically low levels. According to Ms. Sesay, these terms would not be available through other financing mechanisms, which would require an interest rate at least 0.5 percent higher than the anticipated 5.5 percent interest rate that is available with the proposed financing. Mr. Valdez advises that the MCCP's existing Revenue Bond Anticipation Notes have an interest rate of six percent, which would be reduced with the anticipated financing at 5.5 percent.

FISCAL IMPACTS

Under the proposed resolution, the MCCP would be exclusively responsible for the repayment of the subject not-to-exceed $30,000,000 of Tax Exempt Bank Qualified Revenue Bonds from revenues generated from the underground parking garage. According to Ms. Sesay, the proposed refunding does not create a debt for the City, nor will any funds of the City be pledged to repay the subject not-to-exceed $30,000,000 of Revenue Bonds. Ms. Sesay and Mr. Ben Rosenfield, the Controller have reviewed the financial projections. As stated on page 2 of the Attachment, Ms. Sesay states that "I have reviewed the financial projections and I support MCCP's proposal to pursue this financing".

For FY 2010-2011, MCCP anticipates total income, including parking revenues less Parking Taxes, and interest income on cash reserves to be $4,357,512. In addition, MCCP anticipates total expenses, including (a) operating expenses, (b) rent, and (c) debt service to be $4,187,145. MCCP therefore anticipates a net operating cash flow of $170,367. MCCP cash flow projections anticipate increasingly larger net operating cash flows in future years, which would be transferred to the City upon termination of the ground lease in 2039.

Additionally, Ms. Sesay states that the net present value of the projected cash flows to the City, under the ground lease with MCCP for the underground parking garage and under the proposed Tax Exempt Bank Qualified Revenue Bonds, are equal to or greater than the net present value of the projected cash flows to the City under the ground lease and MCCP's existing Revenue Bond

[10] According to Ms. Sesay, the MCCP is not authorized to issue debt on its own. It must therefore utilize a conduit issuer. A conduit issuer is an organization that issues municipal securities to raise capital for revenue-generating projects where the funds generated are used by a third party (known as the "conduit borrower," in this case MCCP) to make payments to investors.

Anticipation Notes. Specifically, MCCP will continue to be obligated to pay $100,000 in annual base rent to the City for the term of the lease, or $2.8 million through 2039, as well as any amount by which "surplus revenues" would exceed $100,000. According to Mr. Valdez, MCCP anticipates "surplus revenues" to begin in calendar year 2014 or before. Mr. Valdez estimates that the City will also continue to receive Parking Tax revenues, which MCCP projects to be $1,075,718 in FY 2010-2011. Finally, ownership will be transferred to the City from MCCP at the termination of the lease in 2039.

According to Ms. Katharine Petrucione, Director of Finance for the Recreation and Park Department, MCCP is three payments behind on its annual rent obligation of $100,000 to the City, or $300,000. According to Mr. Valdez, MCCP anticipates being able to meet it's rent obligations as well as the proposed debt service obligations with the proposed bond refunding. According to Mr. Valdez, the MCCP will repay, without interest, $100,000 in delinquent rent to the City in December 2010 and pay the remaining $200,000 to the City in ten equal annual amounts of $20,000 over a ten year period. According to Mr. Valdez, beginning in January of 2011, MCCP will be able to meet their obligation of $100,000 in annual rent payments to the City.

POLICY CONSIDERATIONS

The American Recovery and Reinvestment Act (ARRA) provisions expire on December 31, 2010. According to the Director of the Office of Public Finance, the proposed resolution provides an opportunity for the MCCP to refinance their existing $26,500,000 of Revenue Bond Anticipation Notes issued in 2005, repay MCCP's existing other indebtedness and allows the MCCP to take advantage of current historic low interest rates. In order for MCCP to take advantage of the ARRA provisions, these Tax Exempt Bank Qualified Revenue Bonds must be issued by December 31, 2010.

According to Ms. Sesay, in order for the interest on the subject bonds to qualify for tax exemption, a public hearing must be held to allow an opportunity for persons to comment on the issuance and sale of the proposed bonds. Ms. Sesay advises that although a notice was published and a public hearing is scheduled to be held in the morning of December 1, 2010, the proposed resolution does not include language that a required public hearing will be held. Therefore, the Budget and Legislative Analyst recommends that the proposed resolution be amended to provide that in order for the interest of the bonds to qualify for tax exemption, the City has scheduled a public hearing to be held on December 1, 2010 to provide an opportunity for persons to comment on the issuance and sale of the subject bonds.

RECOMMENDATIONS

1. Amend the proposed resolution to provide that in order for the interest of the bonds to qualify for tax exemption, the City has scheduled a public hearing to be held on December 1, 2010 to provide an opportunity for persons to comment on the issuance and sale of the subject bonds.

2. Approve the proposed resolution, as amended.

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

Nadia Sesay
Director
Office of Public Finance

MEMORANDUM

TO: Honorable Members, Board of Supervisors

FROM: Nadia Sesay, Director of the Office of Public Finance NS

SUBJECT: Music Concourse Community Partnership (the "MCCP") Proposed Take-out Financing

DATE: November 9, 2010

I have been briefed and was provided financial projections by MCCP staff with respect to their proposed take-out financing in an amount not to exceed $30,000,000 in Bank Qualified Tax Exempt Bonds privately placed by First Republic Bank (the "Bank"). I support the MCCP's goal to prudently proceed with the take-out financing of the Bond Anticipation Notes in the amount of $26,500,000 issued in 2005 to finance a portion of the costs of construction of an underground parking facility in Golden Gate Park located between the M.H. de Young Museum and the California of Academy of Sciences (the "Project") in the City and County of San Francisco (the "City").

Background

In November 2003, the Board of Supervisor's of the City (the "Board of Supervisor") and the Mayor adopted and approved Resolution 03-1319 approving and authorizing the execution and delivery of a ground lease between the City, as lessor, and Music Concourse Community Partnership, a non-profit benefit organization, as lessee, relating to the Project. In addition, there were other pertinent legislation adopted and approved by the Board of Supervisors and the Mayor to facilitate the financing and construction of the Project. At the time MCCP planned to issue an estimated $53,375,000 in revenue bonds and $7,338,463 in private donations to fund the estimated project cost of $60,713,463. The estimated $53,375,000 in revenue bonds was to be repaid through parking revenues generated from the parking garage.

In December 2003, the City filed a validation action in the California Superior Court, County of San Francisco which sought approval for the design, construction and operation of the Project, including a declaration that the City had complied with the terms of the governing ground lease, the related resolutions adopted by the Board of Supervisors, and the California Environment

Quality Act (the "CEQA"). The lawsuit and related disclosure issues kept the MCCP from accessing capital markets.

In June 2005, California Statewide Communities Development Authority (the "CSCDA") issued $26,500,000 in Revenue Bond Anticipation Notes (the "Notes") on behalf of MCCP to finance a portion of the Project, fund a reserve fund, and pay for cost of issuance. The Notes have a final maturity of December 1, 2011. The expected total cost of the Project in 2005 was $55,112,000, the remainder of which was funded from private donations.

MCCP expected on or prior to the maturity of the Notes to secure long-term financing for the Project. The principal of the Notes will be paid with the proceeds from the sale of refunding revenue bonds issued by CSCDA on behalf of MCCP as permitted under the Ground Lease at or prior to the maturity of the Notes.

In 2007 the entire garage became fully functional. In July 2007, MCCP borrowed additional $1,500,000 in private loans arranged directly with the Fine Arts Museum Foundation and the California Academy of Sciences. The loan was to make final construction payments to the contractor. This loan, when combined with the $26,500,000 of Notes did not exceed the amount reasonably necessary to facilitate the Project.

MCCP now proposes to secure long-term financing in an amount not to exceed $30,000,000 to refund or refinance the Notes and other project related indebtedness.

Financing Plan

The California Economic Development Authority (the "CEDA")on behalf of the MCCP is proposing to issue Bank Qualified Tax Exempt Bonds in an amount not to exceed $30,000,000 (the "Bonds") privately placed by the Bank to take out the existing Notes, fund a reserve fund, pay other project related indebtedness and fund cost of issuance. The Bonds will bear a fixed interest rate of 5.5%, over 28 years or final maturity of February 2039. The Bonds are executed under the provisions of the American Recovery and Reinvestment Act of 2009 (the "ARRA") which expires on December 31, 2010. Historically, "Bank Qualified" tax-exempt bonds up to $10 million annually are available to government agencies. This is particularly advantageous to non-frequent issuers which provided attractive accounting treatment for the lending bank which results in lower interest rate to the issuer. Under ARRA the $10,000,000 was increased to $30,000,000 and included projects of non-profit organizations. The structure is simple. It requires no public underwriting, rating, trustee, or ongoing public disclosure or financial information. The transaction is evidenced by a tri-party loan agreement between the MCCP, the borrower, the Bank and the CEDA, the government entity that serves as the conduit issuer. Due to the fact that the Project and related revenues are isolated, getting a rating stronger that BBB will be challenging. In addition, this structure allows for attractive negotiable covenants including prepayment provisions prior to the maturity as a whole or in part on any date plus accrued interest with no prepayment penalty.

Additionally, MCCP has provided financial projections. I have reviewed the financial projections and I support MCCP's proposal to pursue this financing. The Bonds will be repaid from parking revenues generated from the parking garage. The proposed financing does not create a debt of the City, nor will any funds of the City be pledged to the repayment of the Bonds. In addition, the net present value of the projected cash flows to the City under the ground lease and the Bonds are equal to or greater than the net present value of the projected cash flows to the City under the Lease and the Bonds.

As noted above, the ARRA provision expires on December 31, 2010. This is a great opportunity for the MCCP to the refund the Notes and allows the MCCP to take advantage of the current historic low interest rate environment. I would respectfully request this item be introduced at the November 9, 2010 meeting and expeditiously assigned to the Budget and Finance Committee of the Board of Supervisors to allow the MCCP to meet the deadline.

cc: Angela Calvillo, Clerk of the Board of Supervisors
Harvey Rose, Board of Supervisor's Budget Analyst
Ben Rosenfield, Controller
Virginia Elizondo, Deputy City Attorney
Mark Blake, Deputy City Attorney
Phil Ginsburg, General Manager of the Recreation and Park Department
Katharine Petrucione, CFO of the Recreation and Park Department
Greg Wagner, Mayor's Budget Director
Starr Terrell, Mayor's Liaison to the Board of Supervisors

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

Nadia Sesay
Director
Office of Public Finance

MEMORANDUM

TO: Honorable Members, Board of Supervisors

FROM: Nadia Sesay, Director of the Office of Public Finance NS

SUBJECT: Music Concourse Community Partnership (the "MCCP") Proposed Take-out Financing

DATE: November 9, 2010

I have been briefed and was provided financial projections by MCCP staff with respect to their proposed take-out financing in an amount not to exceed $30,000,000 in Bank Qualified Tax Exempt Bonds privately placed by First Republic Bank (the "Bank"). I support the MCCP's goal to prudently proceed with the take-out financing of the Bond Anticipation Notes in the amount of $26,500,000 issued in 2005 to finance a portion of the costs of construction of an underground parking facility in Golden Gate Park located between the M.H. de Young Museum and the California of Academy of Sciences (the "Project") in the City and County of San Francisco (the "City").

Background

In November 2003, the Board of Supervisor's of the City (the "Board of Supervisor") and the Mayor adopted and approved Resolution 03-1319 approving and authorizing the execution and delivery of a ground lease between the City, as lessor, and Music Concourse Community Partnership, a non-profit benefit organization, as lessee, relating to the Project. In addition, there were other pertinent legislation adopted and approved by the Board of Supervisors and the Mayor to facilitate the financing and construction of the Project. At the time MCCP planned to issue an estimated $53,375,000 in revenue bonds and $7,338,463 in private donations to fund the estimated project cost of $60,713,463. The estimated $53,375,000 in revenue bonds was to be repaid through parking revenues generated from the parking garage.

In December 2003, the City filed a validation action in the California Superior Court, County of San Francisco which sought approval for the design, construction and operation of the Project, including a declaration that the City had complied with the terms of the governing ground lease, the related resolutions adopted by the Board of Supervisors, and the California Environment

Quality Act (the "CEQA"). The lawsuit and related disclosure issues kept the MCCP from accessing capital markets.

In June 2005, California Statewide Communities Development Authority (the "CSCDA") issued $26,500,000 in Revenue Bond Anticipation Notes (the "Notes") on behalf of MCCP to finance a portion of the Project, fund a reserve fund, and pay for cost of issuance. The Notes have a final maturity of December 1, 2011. The expected total cost of the Project in 2005 was $55,112,000, the remainder of which was funded from private donations.

MCCP expected on or prior to the maturity of the Notes to secure long-term financing for the Project. The principal of the Notes will be paid with the proceeds from the sale of refunding revenue bonds issued by CSCDA on behalf of MCCP as permitted under the Ground Lease at or prior to the maturity of the Notes.

In 2007 the entire garage became fully functional. In July 2007, MCCP borrowed additional $1,500,000 in private loans arranged directly with the Fine Arts Museum Foundation and the California Academy of Sciences. The loan was to make final construction payments to the contractor. This loan, when combined with the $26,500,000 of Notes did not exceed the amount reasonably necessary to facilitate the Project.

MCCP now proposes to secure long-term financing in an amount not to exceed $30,000,000 to refund or refinance the Notes and other project related indebtedness.

Financing Plan

The California Economic Development Authority (the "CEDA")on behalf of the MCCP is proposing to issue Bank Qualified Tax Exempt Bonds in an amount not to exceed $30,000,000 (the "Bonds") privately placed by the Bank to take out the existing Notes, fund a reserve fund, pay other project related indebtedness and fund cost of issuance. The Bonds will bear a fixed interest rate of 5.5%, over 28 years or final maturity of February 2039. The Bonds are executed under the provisions of the American Recovery and Reinvestment Act of 2009 (the "ARRA") which expires on December 31, 2010. Historically, "Bank Qualified" tax-exempt bonds up to $10 million annually are available to government agencies. This is particularly advantageous to non-frequent issuers which provided attractive accounting treatment for the lending bank which results in lower interest rate to the issuer. Under ARRA the $10,000,000 was increased to $30,000,000 and included projects of non-profit organizations. The structure is simple. It requires no public underwriting, rating, trustee, or ongoing public disclosure or financial information. The transaction is evidenced by a tri-party loan agreement between the MCCP, the borrower, the Bank and the CEDA, the government entity that serves as the conduit issuer. Due to the fact that the Project and related revenues are isolated, getting a rating stronger that BBB will be challenging. In addition, this structure allows for attractive negotiable covenants including prepayment provisions prior to the maturity as a whole or in part on any date plus accrued interest with no prepayment penalty.

Additionally, MCCP has provided financial projections. I have reviewed the financial projections and I support MCCP's proposal to pursue this financing. The Bonds will be repaid from parking revenues generated from the parking garage. The proposed financing does not create a debt of the City, nor will any funds of the City be pledged to the repayment of the Bonds. In addition, the net present value of the projected cash flows to the City under the ground lease and the Bonds are equal to or greater than the net present value of the projected cash flows to the City under the Lease and the Bonds.

As noted above, the ARRA provision expires on December 31, 2010. This is a great opportunity for the MCCP to the refund the Notes and allows the MCCP to take advantage of the current historic low interest rate environment. I would respectfully request this item be introduced at the November 9, 2010 meeting and expeditiously assigned to the Budget and Finance Committee of the Board of Supervisors to allow the MCCP to meet the deadline.

cc: Angela Calvillo, Clerk of the Board of Supervisors
Harvey Rose, Board of Supervisor's Budget Analyst
Ben Rosenfield, Controller
Virginia Elizondo, Deputy City Attorney
Mark Blake, Deputy City Attorney
Phil Ginsburg, General Manager of the Recreation and Park Department
Katharine Petrucione, CFO of the Recreation and Park Department
Greg Wagner, Mayor's Budget Director
Starr Terrell, Mayor's Liaison to the Board of Supervisors