



Staff Report

RESOLUTION REGARDING THE CITY OF BELMONT'S INTENTION TO ISSUE TAX-EXEMPT 2009 SEWER TREATMENT FACILITY REVENUE BONDS (AUTHORIZATION REIMBURSING QUALIFYING SEWER TREATMENT FACILITY EXPENDITURES IN ADVANCE OF BOND SALE)

Honorable Mayor and Council Members:

Summary

Approval of the attached resolution will allow the City to reimburse itself for qualifying sewer treatment facility expenditures from the proceeds of a future sewer treatment facility revenue bond.

Background

In keeping with the City's policy of financing long term assets with long term debt, City Council directed staff to proceed with issuance of sewer treatment facility bonds to pay for the estimated \$45.2 million share of the South Bayside System Authority's (SBSA) Capital Improvement Program (CIP).

The City is in receipt of SBSA's first cash requirement for the CIP. The invoice is for \$935,108.48 and carries interest of \$128.75 per day from December 31, 2008. The invoice is now due and payable.

Discussion

Bond counsel has prepared a resolution regarding the City's intention to issue tax-exempt 2009 sewer treatment facility revenue bonds. More importantly, the resolution authorizes the reimbursement of qualifying sewer treatment facility expenditures in advance of bonds being sold. The only available source of funds for this advance is the unused balance of the 2006 Sewer Revenue Bonds that is designated for improvements of the City's conveyance system.

The resolution attached allows for the temporary use of those funds for qualifying sewer treatment facility expenditures and the repayment of those sums from the proceeds of a future sewer treatment facility revenue bond contemplated later this year. The invoice from SBSA for Belmont's share of the CIP is an example of a qualified expenditure.

Passage of the attached resolution does not irrevocably bind the City to issue sewer treatment

facility revenue bonds. It merely spelled out the City’s intent to do so at some future date and preserved the City’s right to reimburse itself for qualified expenditures. Furthermore, Treasury and Internal Revenue Code Regulations require adoption of the resolution as an “official action”, which then qualifies the City to issue tax exempt debt, for purposes of reimbursing expenditures prior to the issuance of the bonds.

General Plan/Vision Statement

No impact.

Fiscal Impact

Approval of the attached resolution will authorize the payment of \$935,108.48 plus interest of \$128.75 per day from December 31, 2008.

There are sufficient funds available in the 2006 Sewer Revenue Bond for this purpose assuming the 2009 Sewer Treatment Facility Revenue Bonds are issued. Should those bonds be delayed, the Public Works Department will be instructed to defer capital improvements of the City’s conveyance system.

Public Contact

Posting of City Council agenda.

Recommendation

Adopt the attached resolution.

Alternatives

1. Defer the matter to the Finance Commission for future study.
2. Take no action.

Attachments

- A. Resolution Regarding its Intention to Issue Tax- Exempt 2009 Sewer Treatment Facility Revenue Bonds

Respectfully submitted,

Thomas Fil
Finance Director

Jack R. Crist
City Manager

Staff Contact:

Thomas Fil, Finance Director
(650) 595-7435

tfil@belmont.gov

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
REGARDING ITS INTENTION TO ISSUE TAX- EXEMPT 2009 SEWER
TREATMENT FACILITY REVENUE BONDS**

WHEREAS, the City Council of the City of Belmont (the “City”), acting through the Belmont Joint Powers Financing Authority (the “Authority”), desires to finance the costs of acquiring, constructing, repairing, expanding, modernizing, and/or equipping of sewer treatment facilities, as provided in Exhibit A attached hereto and incorporated herein (the “Project”);

WHEREAS, the City 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 treatment facility 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 City desires to incur certain capital expenditures (the “Expenditures”) with respect to the Project from available moneys of the City, including the payment of the City’s share of the costs of the South Bayside System Authority in connection with the treatment facilities;

WHEREAS, the City Council 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 City for the Expenditures from the proceeds of the Bonds; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Belmont, orders and determines as follows:

SECTION 1. The City 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 \$45,200,000.

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 City will make a reimbursement allocation, which is a written allocation that evidences the City’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 City and a licensed architect or engineer certify that at least

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 City 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 City.

SECTION 6. This resolution is consistent with the budgetary and financial circumstances of the City, 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 City (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 City 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 City 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 City 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 City Counsel so finds, determines and represents.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on March 24, 2009 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont

Exhibit A

The Project is defined as those costs of acquiring, constructing, repairing, expanding, modernizing, and/or equipping of water treatment facilities, as provided in the document titled, South Bayside System Authority's Capital Improvement Program (CIP), 10 Year Plan, FY 08-09 to FY 17-18, dated April 2008, and periodically updated thereafter, is incorporated herein by reference.