



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY COUNSEL

File #: 21-426

Board Meeting Date: 6/8/2021

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: John C. Beiers, County Counsel

Subject: Approval of Issuance of Bonds for Purposes of Section 147 of the Internal Revenue Code

RECOMMENDATION:

Adopt a resolution approving for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, the issuance of bonds pursuant to a plan of finance by San Mateo County Joint Powers Financing Authority in an aggregate principal amount not to exceed \$305,000,000, for the purpose of financing and/or refinancing the acquisition, construction, remodeling and/or equipping of county facilities and certain other matters relating thereto.

BACKGROUND:

On April 11, 2017, this Board approved a financing plan and timelines for a number of capital projects, including with respect to the construction of the Cordilleras Mental Health Facility ("Cordilleras Project").

On May 18, 2021, this Board approved the issuance of lease revenue bonds in an aggregate principal amount not to exceed \$305,000,000 in connection with financing the Cordilleras Project and associated refunding of prior bonds (the "Bonds") as part of an overall plan of finance to manage the County's debt service and to finance capital projects. The present resolution is directed to ensuring that the Bonds have certain tax-exempt protections available to such issuances under the Internal Revenue Code.

The financing for the Cordilleras Project is made more efficient by issuing the Bonds on a tax-exempt basis. Subject to certain exceptions, the Internal Revenue Code prohibits what they term "private use" - or use of facilities improved with bond funds by users other than state and local governments. Non-profit (501(c)(3)) organizations are generally considered private users. In order to preserve the tax-exempt status of the Bonds if part of the Cordilleras facilities are operated in whole or in part by a nonprofit organization, the County is conducting a hearing and recommending approval of the Bonds pursuant to Internal Revenue Code Section 147. This permits a nonprofit to use the Cordilleras facilities without creating private use and thus without jeopardizing the tax-exempt status of the bonds.

DISCUSSION:

In order for all or a portion of the Bonds to qualify as tax-exempt obligations for purposes of Internal Revenue Code Section 147, the County, must conduct a public hearing under the Tax Equity and Fiscal Responsibility Act (the “TEFRA Hearing”) to provide the members of the community an opportunity to speak in favor of or against the use of tax-exempt obligations for the financing of the Project. Prior to such TEFRA Hearing, reasonable notice must be provided to the members of the community.

To this end, on May 17, 2021, the County caused a notice to appear on its website stating that a public hearing with respect to the issuance of the Bonds would be held by the County on May 25, 2021. The County Counsel and Chief Financial Officer of the County held the public hearing described above on May 25, 2021, and an opportunity was provided for persons to comment on the issuance and sale of the Bonds and the plan of financing and/or refinancing.

The County’s actions in holding the abovementioned public hearing and the Board’s actions in approving this Resolution do not obligate the County in any manner for payment of the principal, interest, fees or any other costs associated with the issuance of the Bonds, and the resolution expressly conditions Board approval of this Resolution on that understanding.

County Counsel and Bond Counsel have reviewed the resolution submitted herewith as to form and content.

FISCAL IMPACT:

This Board has previously approved the issuance of the Bonds in an aggregate principal amount not to exceed \$305,000,000. The approval of this resolution does not impose additional fiscal impact or obligations on the County’s General Fund or the Bond proceeds.