

**COUNTY OF MILWAUKEE
INTER-OFFICE COMMUNICATION**

DATE: August 30, 2013

TO: Supervisor Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Scott B. Manske, Comptroller, Office of the Comptroller

SUBJECT: **Request to Deposit 2010 Airport Revenue Bond Proceeds with Trustee and use funds from the Airport Reserve to Finance the Narrowbanding Project**

Request

The Office of the Comptroller is requesting the approval of the attached resolution to deposit \$1,482,928 in 2010 Airport Revenue Bond proceeds into an escrow account with US Bank National Association, the Airport Trustee, and process an administrative fund transfer to substitute the bond proceeds with Airport Reserve funds to pay for the completed Narrowbanding capital project.

The Airport Narrowbanding Project could not be financed with bond funds, and therefore the 2010 Airport Revenue Bond funds will be placed into escrow to reduce the 2010 Airport Revenue Bond financing directly. The Narrowbanding project will instead be funded with Airport Capital Reserves intended for capital project improvements, which are funded with Airport revenues.

Background

The 2010 Capital Improvements Budget included \$2 million for Project WA160 Narrowband Conversion (Narrowbanding Project) for the Airport Communication System to replace the Airport's current VHF based communication system with an industry-standard narrowband compliant system. Completion of the project allowed for more effective communication throughout the Airport System and complied with the National Telecommunications and Information Administration mandate for more rapid federal agency migration to narrowband operation, which became effective January 1, 2008.

The original financing for the 2010 approved project was Federal and State reimbursement revenue, with a local match from passenger facility charge revenue. Subsequent to the adoption of the budget, Airport staff communicated that the project was not eligible for State and Federal funding sources. Therefore, the project would have to be bond financed from a future Airport bond issuance. Since the 2010 Airport bond issuance had already been completed, a reimbursement resolution was approved that would allow the County to complete the project using County funds and then reimburse itself with bond proceeds the next time the County issued

Airport bonds. In accordance with US Treasury rules, the County must express its intent to reimburse itself for costs incurred prior to the issuance of bonds to finance the improvements.

In 2010, the County Board approved the reimbursement resolution for the Narrowbanding Project. It was the intent to include the project in the next new money airport bond financing. The next new money financing was the issuance of the 2013 General Airport Revenue Bonds (2013A GARBs) that closed on August 14, 2013. The Narrowbanding Project for \$1,775,500 was included in the bond issue.

In the process of preparing the final documents for the sale of the 2013 Airport Bonds, it was discovered that the Narrowbanding Project fell out of the bond reimbursement timeframe. As a result only a portion of the \$1,775,500 of the Narrowbanding Project could be funded with 2013 Airport Bond proceeds. The remaining \$1,428,928 would be ineligible for bond financing. Therefore, the County had to find an alternative project for the expenditure of \$1,428,928 intended for the Narrowbanding Project.

Since the Narrowbanding project did not meet the bond funding requirements, the County had to identify another project on which to expend those bond proceeds prior to the bond closing on August 14, 2013. After extensive review by staff from the Office of the Comptroller and the Department of Transportation- Airport Division and numerous discussions with Bond Counsel, there were no eligible projects that the 2013A bonds could be applied towards, other than to spend the proceeds in question on the baggage claim renovation project. The decision was made by the County, based on a suggestion by Bond Counsel, to spend \$1,482,928 of the 2013 bond proceeds on that project.

The Baggage Claim project was funded with proceeds from the 2010 Airport Bonds and 2013 Airport Bonds. Using the Narrowbanding Project funds from the 2013 bond issuance would reduce the requirement for 2010 Airport bond funding, thus making 2010 Airport bond proceeds available for other Airport projects. No other Airport projects could be found using 2010 Airport bond proceeds of \$1,428,928.

Since no other project is available for 2010 Airport Bond proceeds, Bond Counsel has recommended that the County may place the \$1,482,928 in escrow for the paydown of the 2010 bond issue. The attached resolution will accomplish this recommendation. In addition, the resolution directs the County to prepare a fund transfer to fund the Narrowbanding project with Airport Reserve funds intended for capital needs of the Airport, funded with Airport revenues.

Rules on the Funding of Projects under a Reimbursement Agreement:

When the 2013 Airport bonds were sold, it was the understanding of the Office of the Comptroller staff (formerly DAS-Fiscal staff) that the County had 5 years to reimburse itself for expenditures incurred prior to the issuance of the bonds if a reimbursement resolution was approved. This understanding was based upon discussions between staff and the County's Bond Counsel, Chapman and Cutler LLP. Apparently, there was some miscommunication with

respect to the federal income tax rules relating to reimbursement, specifically to the timing of expenditures. The rules relating to expenditures are as follows:

- No expenditure made 60 days prior to the date of the adoption of the reimbursement resolution can be made (other than architectural and engineering fees and similar costs)
- Bonds must be issued within 18 months of the later of:
 - The first date that a reimbursed expenditure is made
 - The placed-in-service date of the project for which the reimbursed expenditure was made (or the date of abandonment of the project for which the reimbursed expenditure was made)
- Bonds must be issued within three years of the date of the first reimbursed expenditure in any event

Therefore, the County was only allowed to include project expenditures which were incurred up to 18 months prior to the bond closing date. The result of the change in timeframe is \$1,482,928 million of the Narrowbanding project cannot be reimbursed with 2013 bond proceeds due to the fact that expenditures were outside the allowable timeframe for reimbursement from 2013 bond proceeds. The Narrowbanding project cannot be financed with 2010 bond proceeds since the project costs are outside the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) requirements (public hearing and approval requirements). Approximately \$300,000 of the expenses meet all IRS requirements which results in this request in the amount of \$1,482,928 instead of \$1,775,500. Below are the various tests for compliance with the IRS requirements for reimbursement.

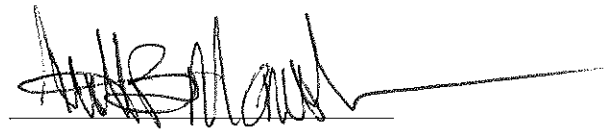
60-Day Reimbursement Test. All of the narrow banding expenditures were made after the 60 days preceding the date of the adoption of the reimbursement resolution for the narrow banding. The test was passed.

Three-Year Reimbursement Test. The first narrow banding expenditure was made in September of 2010, and the Bonds were issued in August of 2013, so the Bonds were issued within three years after the first narrow banding expenditure was made. This test was passed.

Placed in Service Test. The narrow banding system (except a small ancillary portion of the system) was placed into service in September of 2011, which is more than 18 months before the Bonds were issued, so the bulk of the narrow banding expenditures cannot be reimbursed because this test was failed.

Recommendation

The Office of the Comptroller recommends that the Finance, Personnel, and Audit Committee approve the attached resolution which directs the Comptroller to take the necessary action to deposits \$1,482,928 in 2010 Airport Revenue Bond proceeds in to an escrow account with US Bank, the Airport Trustee and use Airport funds from Airport reserves to pay for the completed Narrowbanding capital project.

A handwritten signature in black ink, appearing to read "Scott B. Manske", is written over a horizontal line. The signature is stylized and includes a long horizontal stroke extending to the right.

Scott B. Manske
Comptroller

pc: Chris Abele, County Executive
Willie Johnson Jr., Co-Chair, Finance, Personnel, and Audit Committee
David Cullen, Co-Chair, Finance, Personnel, and Audit Committee
Joe Czarnecki, County Clerk
Dan Diliberti, County Treasurer
Pamela Bryant, Capital Finance Manager, Office of the Comptroller
Justin Rodriguez, Capital Finance Analyst, Office of the Comptroller
Kelly Bablitch, Chief of Staff, County Board
Stephen Cady, County Board Fiscal and Budget Analyst
David Anderson, Public Financial Management, Inc.
Chuck Jarik, Chapman and Cutler LLP
Emile Banks, Emile Banks & Associates