

COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION

DATE : May 20, 2020

TO : Supervisor Marcelia Nicholson, Chairwoman, County Board of Supervisors

FROM : Scott B. Manske, Comptroller
Joe Lamers, Director, Office of Performance, Strategy, and Budget

SUBJECT : Reallocation of Unspent Bond Proceeds from the Debt Service Reserve

REQUEST

To comply with the Internal Revenue Service (“IRS”) expenditure rules for bonds, the Office of the Comptroller and the Department of Administrative Services - Office of Performance Strategy and Budget (“DAS-PSB”) are seeking approval to reallocate approximately \$3.1 million of 2014-2019 unspent bonds from the Debt Service Reserve (“DSR”) to finance debt service expenses, finance capital projects that have anticipated deficits, finance projects anticipated to be included in 2020 so that the 2020 issuances can be reduced, and to finance one new project that can begin construction in 2020. The projects that were financed with tax-exempt bonds issued in 2014-2016 are not compliant with IRS expenditure rules because the County has not been able to demonstrate a consistent pattern of spending that reflects a commitment to implementation. Therefore, this request relating to the transfer of unspent bond proceeds on capital projects is being done to comply with IRS rules. For tax-exempt bonds/notes issued prior to 2018, it is recommended that the bonds are used to pay interest expenses to the extent possible. It is also recommended to use surplus taxable bond proceeds to pay debt service expenses.

The expenditure deadlines for the tax exempt bonds/notes issued in 2014-2019 are listed below. With the exception of the Series 2018F and Series 2019E, all of the bonds and notes were issued on a tax-exempt basis. The County has not yet issued the 2020 corporate purpose bonds.

Table 1: Unspent Bonds by Bond Issue Year/Series

Bond Issue	Amount Unspent*	Closing Date	Expenditure Deadline
2014A	\$344	11/6/2014	11/6/2017
2015A	\$96,605	11/12/2015	11/12/2018
2016A	\$88,421	11/10/2016	11/10/2019
2017A	\$505,213	11/8/2017	11/8/2020
2018A	\$79,037	11/15/2018	11/15/2021
2018C	\$100	11/15/2018	11/15/2021
2018D	\$576,471	11/15/2018	11/15/2021
2018E	\$51,434	11/15/2018	11/15/2021
2018F	\$965,657	11/15/2018	N/A
2019A	\$3	10/2/2019	10/2/2022
2019C	\$4	10/2/2019	10/2/2022
2019D	\$145,156	11/7/2019	11/7/2022
2019E	\$1	11/7/2019	N/A
2019F	\$1	11/7/2019	11/7/2022
2019G	\$558,401	11/7/2019	11/7/2022
Total	\$3,066,848		

*The unspent balance amounts are as of 5/19/20. If activity changes the dollar amounts prior to a transfer being processed after final board adoption, an amount as close to the current unspent amount as possible will be transferred.

BACKGROUND

In April 2020, the Office of the Comptroller and the DAS-PSB submitted a report to the County Board and County Executive (File 20-309) for the May Committee cycle that requested authorization to lapse certain capital expenditures and revenues from 2019 to 2020.

The report indicated that there was \$3,066,848 of unspent bond proceeds that was being lapsed to the DSR. The report also indicated that a future reallocation of bond proceeds would be submitted to the County Executive and County Board for approval.

The reallocation of bonds would be done to pay eligible debt service expenses or to finance projects that would be able to spend the proceeds in a timely fashion. In most cases, this would mean that only ongoing projects with shortfalls would be considered. Other factors such as capitalization and private activity also limit which projects are considered.

The report also indicated that the Office of the Comptroller would work with the Department of Administrative Services and other departments to identify projects that would meet the criteria above.

IRS Expenditure Rules for Tax Exempt Bonds

In order to comply with IRS regulations, at the time the County issues tax-exempt bonds the County states it expects to spend all of the bond proceeds within three years and proceed with due diligence to complete the projects being financed and spend all of the bond proceeds. If the bond proceeds have not been spent within three years, the County must restrict the investment yield that can be earned on the unspent proceeds to a yield not greater than the yield on the bonds and must take action to demonstrate a consistent pattern of spending to reflect a commitment to completing and implementing the projects.

The County is complying with the requirement regarding investment yield since the investment yield is currently lower than the yield on the bonds. If investment rates increase, the County could have a problem identifying investments with yields lower than the yield on the bonds. The penalty for not complying with the investment rate restriction could be monetary or could be a loss of the subsidy payments on the Build America Bonds or Qualified Energy Conservation Bonds.

ANALYSIS

Allocation of Unspent Bond Proceeds

Since the IRS expectation is that the County will proceed or demonstrate a consistent pattern of spending to demonstrate a commitment to implementation, approximately \$3.1 million is recommended to be reallocated from the Debt Service Reserve.

Table 2: Proposed Reallocation of Unspent Bonds

<u>Project Description</u>	<u>Unspent Bond Amount*</u>
<i>Use Unspent Bonds to Pay Eligible Debt Service Expenses **</i>	
Org. Unit 9960 Debt Service (2020 Debt Service Expenses)	\$1,306,111
Subtotal	\$1,306,111
<i>Replace Cash Funding in Previously Approved Projects **</i>	
WP53601 Mitchell Airport Park Playground Replacement	\$291,984
WP69701 Litle Menonomonee River Parkway OLT Relocation	\$30,000
WP69801 Greenfield Park OLT Reconstruction	\$24,040
Subtotal	\$346,024
<i>Replace new 2020 Bonds in Previously Approved Projects</i>	
WT12101 Bus Replacement Program	\$558,403
Subtotal	\$558,403
<i>Additional Funding to Cover Project Shortfall</i>	
WH24201 North Shop Improvements	\$272,000
WP70401 Honey Creek Bridges Repair - St. Anne Ct. to Bluemound	\$90,000
WP51201 McKinely Marina Parking Lot Improvements	\$75,000
Subtotal	\$437,000
<i>Provide Funding for New Capital Project</i>	
WH24601 Resurface CTH BB - S. N Cape Rd. to USH 45	\$419,310
Subtotal	\$419,310
Total	\$3,066,848

*The unspent balance amount total is \$3,066,848 as of 05/19/20. If activity changes the dollar amounts prior to a transfer being processed after final board adoption an amount as close as possible to the current unspent amount as possible will be transferred.

** \$1,652,135 of funding freed up from utilizing unspent bond proceeds for debt service (\$1,306,111) and project costs (\$346,024) is requested to be reallocated to the Unallocated Contingency Account

Allocation of Unspent Bond Proceeds to Pay Eligible Debt Service Expenses

2020 Debt Service Expenses (\$1,306,111)

Tax exempt bonds and notes that were issued prior to 2017 and have not been spent are currently out of compliance with IRS expenditure rules. The approximately \$3.1 million in unspent bonds includes \$185,370 of unspent proceeds that were issued prior to 2017. In addition, there are \$178,969 of unspent 2017 bonds and notes that will be out of compliance by the end of the year and can be applied towards the remaining 2017 interest payments due in 2020. There are also unspent taxable bond proceeds of \$889,354 that are also able to be applied towards 2020 principal and interest payments. It is recommended that these proceeds that total \$1,306,111 be used to pay 2020 debt service expenses.

It is also recommended that the expenditure authority (levy financed) that previously financed these debt service expenses is transferred to Org. Unit 1945 Appropriation for Contingency to increase the unallocated contingency account. These funds will be needed to offset various departmental and non-departmental revenue shortfalls that have occurred as a result of the COVID-19 pandemic.

Allocation of Unspent Bond Proceeds to Replace Cash Financing in Previously Approved Projects

Table 3: Proposed Reallocation of Unspent Bonds to Replace Existing Cash Funding

<u>Project Description</u>	<u>Unspent Bond Amount</u>
<i>Replace Cash Funding in Previously Approved Projects</i>	
WP53601 Mitchell Airport Park Playground Replacement	\$291,984
WP69701 Little Menomononee River Parkway OLT Relocation	\$30,000
WP69801 Greenfield Park OLT Reconstruction	\$24,040
Total	\$346,024

WP53601 Mitchell Airport Park Playground Replacement (\$291,894)

The 2020 Adopted Capital Improvements Budget included an appropriation of \$291,984 for Project WP53601 Mitchell Airport Park Playground Replacement. Financing was provided from property tax levy. In April 2020, an Administrative Order placed a hold on some cash financed capital projects. This hold included Project WP53601 Mitchell Park Airport Playground Replacement. It is recommended that the unspent bonds replace the tax levy that was budgeted for this project. This will allow the project to continue and allow the tax levy to be transferred to Org. Unit 1945 Appropriation for Contingency to increase the unallocated contingency account.

WP69701 and WP69801 Oak Leaf Trail (“OLT”) Projects (\$54,040)

In March 2018, the County Board and County Executive approved Resolution 18-195. The Resolution authorized the Department of Parks, Recreation and Culture (“Parks”) to apply for and accept if awarded three Transportation Alternative Program (“TAP”) grants. The Resolution also directed the Department of Administrative Services and the Office of the Comptroller to process an administrative appropriation transfer once the grants are awarded.

In March 2019, the administrative appropriation transfer was processed. The local share of the funding was provided from tax levy from the Parks operating budget. It is recommended that unspent bonds replace the tax levy that is currently budgeted for this project. This will allow the tax levy to be transferred to Org. Unit 1945 Appropriation for Contingency to increase the unallocated contingency account.

Allocation of Unspent Bond Proceeds to Reduce the Size of the 2020 Bond Issuances

The Office of the Comptroller and the DAS-PSB have reviewed existing adopted capital projects that are anticipated to be part of the 2020 bond issuances. Based on this analysis, it is recommended that \$558,403 of unspent bond proceeds are used to reduce the amount of new bonds/notes that are needed to be issued in 2020 for Project WT12101 Bus Replacement Program – 2019. Reducing the size of the 2020 bond/note issuances will reduce future principal and interest expenses.

Table 4: Adopted Project(s) That Will Be Financed With Unspent Bonds Rather Than 2020 Bonds

<u>Project Description</u>	<u>Unspent Bond Amount</u>
WT12101 Bus Replacement Program - 2019	\$558,403
Total	\$558,403

Allocation of Unspent Bond Proceeds to Increase Appropriations to Ongoing Projects

Table 5: Adopted Projects That Will Be Provided Additional Funds

<u>Project Description</u>	<u>Unspent Bond Amount*</u>
WH24201 North Shop Improvements	\$272,000
WP70401 Honey Creek Bridge Repair - St. Anne Ct. to Bluemound	\$90,000
WP51201 McKinley Marina Parking Lot Improvements	\$75,000
Total	\$437,000

WH24201 North Shop Improvements (\$272,000)

The 2017 Adopted Budget included an appropriation of \$325,000 for the North Shop Improvements Project. The 2017 appropriation funded the **programming and schematic design** for the replacement of the existing North Highway Maintenance Facility. The current facility located at 6270 N Hopkins was built in 1928 and is structurally deficient, lacks proper ventilation of exhaust from equipment, has inadequate storage (current garage does not allow for parking of trucks with plow attachments due to the aisle/garage size) and has not been updated to account for necessary current staff accommodations. The project was financed by Series 2019C Promissory Notes.

Work on the design phase of the project is currently underway. The Department of Administrative Services Facilities Management – Architecture, Engineering and Environmental Services (“DAS-AE&E”) has indicated that an additional \$272,000 is required in order to perform the **detailed design**, team review, design changes, construction cost estimate, bid ready documents, and bid phase services. Assuming this request is approved, it is anticipated that bid documents will be complete by the first quarter of 2021.

WP70401 Honey Creek Bridge Repair – St. Anne Ct. to Bluemound (\$90,000)

The 2020 Adopted Budget included an appropriation of \$158,654 for repairs to the bridge over Honey Creek from St. Anne Ct. to Bluemound Rd. During inspection of the bridge in the fall of 2018 it was determined that the west façade of the bridge over Honey Creek at St. Anne Court was unsafe and needed to be removed. Parks maintenance staff oversaw removal of the unsafe material and attempted to temporarily solidify the bridge railing that prevented both pedestrians and vehicles from exiting the deck of the bridge and entering the creek below. The railing was not structurally sound without the support of the facade and subsequently removed. Parks appropriately barricaded and secured the space for safety.

In April 2020, bids were received for the project. All of the bids substantially exceeded the available funding. Although significantly over the project construction budget and pre-bid cost estimate, the bids received were fairly close in price which indicates the bids received were competitive and representative of the current market. There were several elements of the project that had the greatest impact on higher than expected bids. The need to erect a containment structure spanning the river to prevent the stone being removed from the bridges from falling in the river, and making sure all equipment and construction efforts are staged outside the flood plain, had a significant impact. Additionally, construction is limited to only one side of the street at a time to maintain through traffic on the street which effects productivity.

It is recommended that \$90,000 of unspent bonds are reallocated to the project so that the work on the project can be completed. Assuming the unspent bond allocation is approved, the project is anticipated to be substantially complete by September 2020.

WP51201 McKinley Marina Parking Lot Improvements (\$75,000)

The 2016 Capital Improvements Budget included an appropriation of \$365,000 for the planning and design phase of Project WP51201 McKinley Marina Parking Lot Improvements – Phase 1. The 2018 Capital Improvements Budget included an appropriation of \$2,141,305 for the construction of Phase 1 of Project WP51201 McKinley Marina Parking Lot Improvements. The scope of the project included replacing the north parking lot and access improvements including the construction of new storm water best management practices. The scope also included the gatehouse, fencing for the storage area, and the intersection improvements at Lincoln Memorial Drive and all underground utilities.

In July 2018, the Department of Parks, Recreation and Culture received a \$150,000 grant from the Fund for Lake Michigan to finance the incorporation of bioswales, storm water trees, permeable pavement and sumped catch basins within parking lot islands, medians and adjacent landscape areas to optimize stormwater runoff capture for the project.

To date the Phase 1 grading and underground utilities have been completed. The entrance drive and parking lot near the Milwaukee Yacht Club have been completed except for the final lift of asphalt. Items remaining to be completed include the final lift of asphalt, the intersection of the entrance drive and Lincoln Memorial Drive including traffic signal changes, site lighting and site restoration. The contractor has recently remobilized to complete the project.

The project is anticipated to have a shortfall of approximately \$75,000. The primary reason for the shortfall in funding for Phase 1 has been the need to excavate and remove unsuitable material - primarily existing tar macadam paving which is considered a low hazardous material. The removal of unsuitable materials resulted in importing additional stone base material. Other lesser items impacting the budget involved adjusting the limits of Phase 1 slightly to ensure the Phase 1 improvements will function properly with the existing facilities until future phases of the parking lot improvements are funded. The adjustment of the Phase 1 limits involved additional paving, curb and gutter and lighting, all of which are built in their final configuration for incorporation into the next phase. Changes to the size and species of plants for the rain garden improvements have also been required due to the unavailability of originally specified plant material.

It is recommended that unspent bonds of \$75,000 are allocated to Phase 1 of the McKinley Marina Project. Assuming approval of the additional funds, it is anticipated that Phase 1 of the McKinley Marina Project will be substantially complete in July 2020.

Allocation of Unspent Bond Proceeds to Create Appropriations for new Project(s)

Table 6: New Projects That Will Be Provided 2020 Funds

<u>Project Description</u>	<u>Unspent Bond Amount*</u>
WH24601 Resurface W. Rawson Ave. (CTH BB) - S. North Cape Rd. to USH 45	\$419,310
Total	\$419,310

In March 2020, the Milwaukee County Department of Transportation (“MCDOT”) submitted a request to the Wisconsin State Department of Transportation (“WisDOT”) to include Project WH24601 Resurface CTH BB – S. North Cape Rd. to USH 45 in the Local Roads Improvement Program. In April 2020, MCDOT received a letter from WisDOT indicating that the County was awarded \$270,690 for the project. The State/Municipal Agreement for the project is in the process of being finalized. The project is included in the County’s Five-Year Capital Improvements Plan.

This segment of W. Rawson Ave. is in need of resurfacing. This would complete the improvements needed on the western half of W. Rawson Avenue. The construction work would be done in conjunction with the construction of Project WH24001 W. Rawson Ave. (CTH BB) from USH 45 to Hawthorne.

The total estimated costs are \$690,000, including project contingencies. It is recommended that \$419,310 of unspent bonds is provided for the local match necessary to complete the project. It is also recommended that the appropriation transfer necessary to create the revenue budget and expenditure budget associated with the \$270,690 from the Local Road Improvement Program funding is also approved in the attached resolution. The appropriation transfer would be processed after the receipt of the executed State/Municipal Agreement.

Assuming the approval of the unspent bond reallocation and the Local Road Improvement Program funding, the construction is anticipated to be performed in 2020.

RECOMMENDATION

The Office of the Comptroller and the DAS-PSB recommend adoption of the attached resolution. The resolution authorizes the reallocation (via administrative transfers) of \$3,066,848 of unspent bonds from the Debt Service Reserve. If activity changes the dollar amounts prior to a transfer being processed after final board adoption, an amount as close as possible to the current unspent amount as possible will be transferred.



Scott B. Manske
Comptroller

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Joe Lamers
Director, DAS- Performance, Strategy and Budget

pc: David Crowley, County Executive
Supervisor Jason Haas, Chair, Committee on Finance and Audit
Mary Jo Meyers, Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board
Stephen Cady, Office of the Comptroller
Pamela Bryant, Office of the Comptroller
Justin Rodriguez, Office of the Comptroller
Greg High, Department of Administrative Services- AE&ES
Guy Smith, Department of Parks, Recreation, and Culture
Sarah Toomsen, Department of Parks, Recreation, and Culture
Donna-Brown Martin, Department of Transportation
Andrea Weddle-Henning, Department of Transportation
Vince Masterson, Department of Administrative Services- PSB