

COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICAITON

DATE : July 16, 2012
 TO : Supervisor Gerry Broderick, Chair, Parks, Energy and Environment Committee
 FROM : Scott B. Manske, Comptroller
 SUBJECT : Private Activity and Tax Exempt Status of Bonds for Crystal Ridge Project

Issue:

The County has a proposal to enter into a management lease agreement for the Crystal Ridge property owned by Milwaukee County. The proposed work at the Crystal Ridge site could be considered to be a private activity. In the 1990's, the County did work on the Crystal Ridge (Franklin Landfill) site, using General Obligation Bonds. The General Obligation Bonds have restrictions as to the use of bond proceeds for private activity. If issues with bonds are not resolved then the bonds could become taxable. To remain in compliance with the bond requirements, the County could pay-off the old debt using tax levy, or determine that the private activity is minimal and does not require a payout using tax levy.

Since there is a potential conflict between the proposed private activity and the county debt previously issued for work at this site in the 1990's, the Comptrollers office must review the proposal. The review will determine if the debt will require an early payout using tax levy, or if the private activity is minimal, and therefore, no current tax levy bond payout is required.

Summary Status of Bonds:

Based on a review of the bond issues by this office and the County outside bond counsel, it is our preliminary determination that the County would have to provide tax levy of \$213,974 to take out the outstanding bonds related to the 1994 and 2009 bond issues. The 1995, 1996, and 1997 bonds do not pose any issue that would require that these bonds be currently paid out.

Fund 15 Division 1377			
Franklin Landfill Plan			
Bonds by Year	Original Debt	Outstanding Debt 12/31/2011	Possible Payout Needed using Tax Levy
1994	\$ 2,333,900	\$ 140,872	\$ 140,872
1995	250,000	36,977	-
1996	300,000	-	-
1997	2,961,442	2,211,913	-
2009E	73,102	73,102	73,102
	\$ 5,918,444	\$ 2,462,864	\$ 213,974

Bond issues are allowed a 5% grace for private activity, before any repayment would have to occur. In our analysis, the debt issued for the Franklin Landfill in 1995, 1996 and 1997 can be considered part of the 5% grace allowance for private activity for each of those bond issues. The 1994 bonds were issued with knowledge that the 5% grace allowance was used up by certain projects funded with the 1994 bonds. As a result, any new private activity would require defeasance, or payout. We will go back and analyze the projects that were initially identified as private activity in 1994. The result of this analysis may determine that a smaller portion of these bonds may have to be refunded.

The 2009 bond issue is Build America Bonds which are not permitted to have any private activity. Therefore, the entire portion of 2009E bonds used for Franklin Landfill would have to be refunded.

Background:

The Comptroller's Office was notified on Wednesday, June 27, 2012 of a private project that was being proposed for the Crystal Ridge land ("Private Project"). The proposal included the building of ball diamonds and other items necessary for a baseball complex, which would be managed by a private entity. In the 1990's, the Crystal Ridge (Franklin Landfill) project was funded with County general obligation bonds ("County Debt Project").

General Obligation bonds are tax-exempt, and maintain that tax exempt status by being used for governmental purposes. If the County Debt Projects, built with the bonds, are used for private purposes, then the bonds may lose their tax exempt status. If the bonds lose their tax exempt status, then the bonds have to be paid-off, and the bond holders paid for their bonds.

Since the proposed Private Project is using property which had improvements made to it with general obligation bonds, the bonds could become callable, or due and payable. The original County Debt Project cost was \$5.9 million. The outstanding debt on the County Debt Project, as of December 31, 2011, is \$2.46 million. The outstanding debt by year is as follows: 1994 - \$141,000, 1995 - \$37,000, 1997 - \$2,212,000, and 2009E bonds of \$73,102.

The Comptroller's office met with the DAS - Architectural and Engineering staff and Parks Department staff on the footprint of the Private Project, and County Debt Project that has previously occurred at the site. The Comptroller office has determined that the full scope of the Private Project does touch on and involve the original County Debt Project.

Based on the site comparison and conclusion, the Comptroller's office began working with the County's outside Bond Counsel to determine if any of the outstanding bonds were subject to an early call, and would require tax levy funds to make this call.

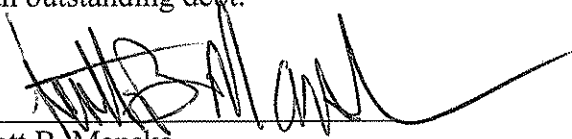
Based upon Bond Counsel's review, we have tentatively determined that the 1995, 1996 and 1997 bonds are not subject to early payout, due to private activity. It is our preliminary conclusion that the 1994 outstanding bonds and the 2009E bonds do create a potential

private activity issue, and should be paid out using tax levy or other sources of funding. The payout would have to occur in 2012.

This analysis is near final, but could be subject to change, but provides the most reasonable estimate based on the known facts in this matter.

Recommendation:

The Office of the Comptroller recommends that if this Private Project goes forward, that the County would have to obtain tax levy funding of approximately \$214,000 to avoid any issue with outstanding debt.



Scott B. Manske
Comptroller

Attachments

cc: Chris Abele, County Executive
Supervisor Marina Dimitrijevic, Chairwoman, County Board of Supervisors
Supervisor Patricia Jursik, Chair, Economic and Community Development
Committee
Patrick Farley, Director, Department of Administrative Services
Stephen Cady, Fiscal and Budget Analyst, County Board