Attachment 1

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.

<u>60-Day Reimbursement Test</u>. 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.

<u>Three-Year Reimbursement Test</u>. 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.

<u>Placed in Service Test</u>. 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.

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 Czarnezki, 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

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: 8/30/13

Original Fiscal Note ☒

Substitute Fiscal Note ☐

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

FISCAL EFFECT:

☐ No Direct County Fiscal Impact

- ☐ Existing Staff Time Required

☒ Increase Operating Expenditures
(If checked, check one of two boxes below)

- ☐ Absorbed Within Agency's Budget
- ☒ Not Absorbed Within Agency's Budget

☐ Decrease Operating Expenditures

☐ Increase Operating Revenues

☐ Decrease Operating Revenues

☐ Increase Capital Expenditures

☐ Decrease Capital Expenditures

☐ Increase Capital Revenues

☐ Decrease Capital Revenues

☐ Use of contingent funds

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	See Explanation	
	Revenue		
	Net Cost		
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. [1] If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

A. 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 use Airport funds to pay for the completed Narrowbanding capital project.

B. The 2010 Adopted Capital Improvements Budget included $2 million for the Airport Narrowbanding project. The approved financing was Federal and State revenue with a local match from passenger facility charge revenue. Subsequent to budget adoption, the Department indicated that the project was not eligible for the budgeted financing. Therefore, an appropriation transfer was submitted an approved to change the financing to general airport revenue bonds. In addition, a reimbursement resolution was also submitted and approved that would allow the County to reimburse itself for expenditures incurred prior to the issuance of the bonds. Due to timing, the project was not included in the 2010 Airport bond issue as was therefore scheduled to be included in the 2013 Airport bond issue.

The total expenditures for the project were $1,775,500. Therefore, the County would issue $1,775,500 in 2013 Airport bonds to finance the project.

The 2013 Airport Revenue Bonds included funding for the Narrowbanding Project of $1,775,500. Prior to the issuance of final documents on the sale of the 2013 Airport Bonds, the County became aware that reimbursement rules would not allow the County to use the 2013 bond proceeds to fund the Narrowbanding Project. Therefore, the 2013 Bond Proceeds a portion of the Narrowbanding Project proceeds would have to be used for an alternative project. The $1,482,427 in 2013 Airport Revenue Bonds that initially was going to finance the

[1] If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

Narrowbanding project will be applied towards the Baggage Claim project. The Narrowbanding project will be financed with funds from the Airport Reserves.

Since the Baggage Claim project was fully funded with both 2010 and 2013 Airport bond proceeds, the $1,482,928 of additional funding from the 2013 bond proceeds for the Narrowbanding Project would make 2010 Airport Bond funds for the Baggage Claim project in the same amount excess and available. The County is recommending to take the excess 2010 Airport bond funds and apply it to an escrow for 2010 Airport Bonds, and therefore reduce the debt expenses of the 2010 bond issue.

C. This bond revenue account (4907) within the revenue budget for the Narrowbanding project will be reduced by $1,482,427 and a reserve account (4707) will be added for the same amount. The County will create a reserve for the 2010 Airport Bond with the $1,482,928, in order to reduce future debt costs of this bond issue.

D. N/A

Department/Prepared By Pamela Bryant

Authorized Signature

Did DAS-Fiscal Staff Review? ☒ Yes ☐ No

From the Committee on, Reporting on:

File No.

(ITEM NO.) Request to Deposit $1,482,928 in 2010 Airport Revenue Bond Proceeds in to an escrow account with Trustee and use the Airport Reserve to pay for the completed Narrowbanding capital project

A RESOLUTION

WHEREAS, 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; and

WHEREAS, the original financing for the 2010 approved project was Federal and State reimbursement revenue, with a local match from passenger facility charge revenue; and

WHEREAS, subsequent to the adoption of the budget, Airport staff communicated that the project was not eligible for State and Federal funding sources; and

WHEREAS, the project would have to be bond financed; and

WHEREAS, when the 2010 Airport revenue bonds were issued this project was not included, since the funding source was intended to be State and Federal revenues; and

WHEREAS, in 2010, upon being made aware that the project was not eligible for State and Federal revenues, an Airport bond reimbursement resolution was approved that would allow the County to complete the project using County funds and then reimburse itself with Airport bond proceeds the next time the County issued such bonds; and

WHEREAS, 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; and

WHEREAS, the intent to include the project in the next new money airport bond financing; and

WHEREAS, the next new money financing was the issuance of the 2013 General Airport Revenue Bonds (2013A GARBs) that closed on August 14, 2013; and

WHEREAS, in the process of preparing the 2013A bond issue for sale, facts regarding the timing of the expenditures for the Narrowbanding Project began to develop; and

WHEREAS, at that time, 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; and

WHEREAS, this understanding was based upon discussions between staff and the County's Bond Counsel, Chapman and Cutler LLP; and

WHEREAS, apparently, there was some miscommunication with respect to the federal income tax rules relating to reimbursement, specifically to the timing of expenditures; and

WHEREAS, 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

WHEREAS, the Narrowbanding Project (except for a small ancillary portion) was placed into service in 2011; and

WHEREAS, the County had 18 months from the placed in service date in which to issue the bonds, not five (5) years; and

WHEREAS, the 2013 airport bonds would be issued 23 months after the narrowbanding system (except for a small ancillary portion) was placed into service, which would make a portion of the Narrowbanding Project ineligible for bond funding; and

WHEREAS, the result of the change in timeframe is $1,482,928 of the Narrowbanding project cannot be reimbursed with 2013 bond proceeds; and

WHEREAS, 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); and

WHEREAS, since the Narrowbanding Project could not be funded with bond proceeds, the Project would now be funded with Airport Capital Reserves, and

WHEREAS, the County had to identify another project on which to expend those 2013 bond proceeds, originally intended for Airport Narrowbanding Project, prior to the bond closing on August 14, 2013; and

WHEREAS, 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; and

WHEREAS, 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 the baggage claim renovation project; and

WHEREAS, 2013 bond proceeds for the baggage claim renovation, would replace 2010 Airport bond proceeds, originally intended for the baggage claim renovation project; and

WHEREAS, the 2010 bond proceeds, originally intended for the baggage claim renovation project, would now be available for funding other Airport capital projects; and

WHEREAS, after review by the Department of Administrative Services, Office of the Comptroller, and the Department of Transportation, the resulting 2010 bond proceeds of $1,428,928 made available by using 2013 bond funding, cannot be spent on any other airport capital project; and

WHEREAS, according to Bond Counsel, without any project alternative, the County may place the $1,482,928 of 2010 bond proceeds into escrow for the 2010 bond issue; now, therefore

BE IT RESOLVED, the Office of the Comptroller is directed to take necessary action to deposit $1,482,928 in 2010 Airport Revenue Bond proceeds in to an escrow account with US Bank, the Airport Trustee; and

BE IT FURTHER RESOLVED, the Department of Administrative Services is directed to perform an administrative fund transfer that will allow the Airport to use funds from Airport Reserves to pay for the completed narrowbanding capital project.