COUNTY OF MILWAUKEE
INTER-OFFICE COMMUNICATION

DATE : June 28, 2018

TO : Supervisor Theodore Lipscomb, Sr., Chairman, County Board of Supervisors

FROM : Scott B. Manske, Comptroller

SUBJECT : **Authorizing/Parameters Resolution for the 2018 Taxable General Obligation Refunding Bonds**

REQUEST

The Office of the Comptroller is requesting the approval of the attached resolution for the issuance of a not-to-exceed amount of $7,500,000 of Taxable General Obligation Refunding Bonds (Refunding Bonds) to refund tax-exempt debt that was issued to finance capital improvements at the Marcus Center for the Performing Arts ("MCPA").

The attached resolution authorizes the issuance of the bonds, provides parameters for the issuance and delegates approval of the sale of the bonds to the Comptroller. The Comptroller's approval is limited to results of the sale that fall within the parameters outlined in the resolution.

The Office of the Comptroller believes it is necessary, desirable and in the best interest of the County to refund the Refunded Obligations on a taxable basis for the purpose of eliminating the requirement for the Marcus Center to comply with the Private Activity Rules, which will permit the Marcus Center to engage in additional fundraising activities.

BACKGROUND

History

In 1969, the second building of the Milwaukee County War Memorial Project, later renamed the Marcus Center for the Performing Arts ("MCPA") was built with private funds as a living memorial to all who gave their lives in the service of our country, and deeded to the County as a public trust for the preservation and enrichment of the performing arts. The County and the War Memorial Corporation operated the MCPA under the 1954 War Memorial Agreement and two memorandums of understanding (1993 and 1999) until 2013.

In 2015, Wisconsin Act 60 required the County to transfer, unencumbered, the MCPA to the Wisconsin Center District ("WCD"). The transfer was required to take effect upon the adoption of a resolution that requests the transfer by the WCD Board of Directors and a written proclamation of the Milwaukee County Executive supporting the transfer, notwithstanding any policies issued, ordinances enacted, or resolutions adopted by the Milwaukee County Board of Supervisors to the contrary.

In 2016, the County Board and County Executive adopted a Contribution Agreement (CB File 16-214) that among other things committed the County to ten years of operating support (2016-2025) and ten years of capital support (2017-2026). The Contribution Agreement specifically noted that should the MCPA be transferred to the WCD pursuant to 2015 Act 60, the County would be relieved of its obligation to provide financial or other support.

In 2018, the non-statutory provision of 2015 Act 60 that transferred the MCPA to the WCD was repealed under 2017 Act 205. Therefore, the MCPA will continue to be a county-owned asset.

Long-Term Lease Negotiations

Following the adoption of the Contribution Agreement and subsequent to the repeal of the transfer provision, the County has been negotiating a new lease with the MCPA. The draft lease ("Lease") anticipates an initial term that ends in 2066 and an extended term that ends in 2115. The Lease provides more certainty and autonomy to the MCPA in exchange for declining operating and limited capital contributions as adopted in the 2016 Contribution Agreement and as further limited in the future by the terms of the Lease.

As part of the Comptroller's statutory duty to oversee all of the County's debt, the Office of the Comptroller, along with the County's bond counsel (Quarles & Brady) reviewed the Lease to ensure that the tax-exempt status of the County's current outstanding debt would not be adversely impacted by actions that could be taken under the Lease.

The County has issued tax-exempt debt as Qualified 501 (c) (3) Bonds to finance improvements at the MCPA. In many cases, the debt issued to finance capital improvements at the MCPA was a part of a larger debt issuance that financed other capital improvements throughout the County. In an effort to protect the tax-exempt status of the County's outstanding debt, the Office of the Comptroller sought to include language limiting the types of sponsorships, naming rights, and uses of premises that could be pursued under the Lease. The limitations proposed by the Office of the Comptroller and the process for review by the Comptroller and the County's Bond Counsel were determined by MCPA to be too limiting to their efforts to raise funds and operate in a manner that would allow MCPA to become more self-sustaining in the future.

Proposed Refunding

As a result of the need protect the tax exempt status of the County's debt and to provide flexibility to the MCPA, the Office of the Comptroller recommends that the County Board and County Executive approve the attached authorizing and parameters resolution to issue taxable bonds to refund the current tax-exempt debt that was issued to finance capital improvements at the MCPA. The County would use the taxable bonds being issued to purchase government securities for deposit into an escrow account. The escrow account would be held by an escrow agent. Under the terms of the escrow agreement, the government securities are irrevocably pledged to the payment of the outstanding bonds (i.e. debt that was issued for improvements to the MCPA). The government securities would be in a principal amount such that the principal and interest earned are sufficient to retire the principal of and interest on the outstanding bonds as they come due.

A list of the debt issuances along with the final maturity date and the par amount being refunded is listed in Table 1.

Table 1 Debt Issuances and Par Amounts Being Refunded[1]

Debt Issuance	Final Maturity	Par Amount
Series 2009F Notes	8/1/2019	$ 90,000.00
Series 2010D Notes	10/1/2020	$ 195,000.00
Series 2012 Refunding Bonds	12/1/2020	$ 110,000.00
Series 2013A Bonds	9/1/2023	$ 1,720,000.00
Series 2015B Refunding Bonds	10/1/2021	$ 15,000.00
Series 2016C Notes	9/1/2021	$ 1,830,000.00
Series 2016E Refunding Bonds	12/1/2022	$ 100,000.00
Series 2017D Notes	9/1/2020	$ 2,785,000.00

The refunding of this debt would protect the tax status of the balance of the tax-exempt debt that financed the County's overall capital improvements program while also providing the MCPA the necessary flexibility so that its fundraising activities would not be limited by tax-exempt debt covenants.

Fiscal Impact

Estimated debt service schedules have been prepared for a 2018 taxable issuance and include all costs associated with the refunding. The additional costs associated with the transaction are estimated to be $500,000. The additional costs are calculated by comparing the estimated debt service associated with the taxable bonds and comparing it to the actual tax exempt debt service for debt issued for MCPA capital improvements. These additional costs will be spread across the term of the taxable refunding bonds (2019-2023).

These additional costs are considered to be unexpected costs of the Lease transaction. The MCPA has agreed to cover half of the actual additional costs, which are currently estimated to be $250,000, by reducing the 2026 capital contribution due from the County to the MCPA pursuant to the 2016 Contribution Agreement. It is anticipated that a separate file will be submitted to the County Board that will request approval to effectuate the sharing of the additional costs. The Lease agreement will not be executed until the cost sharing has been approved. A Fiscal Note is attached and provides additional details.

1 The $15,000 project amount related to Marcus Center Improvements included in the General Obligation Refunding Bonds, Series 2015B were not issued as Qualified 501-(c)-(3) Bonds and have already been accounted for as part of the "bad money" portion of the issuance. The 2015B bonds may not be refunded and may just be paid off according to the current maturity schedule.

Financing Future Improvements to the MCPA

Under the 2016 Contribution Agreement and the Lease, the County is responsible for a schedule of capital improvements through 2026. In the Lease, the County will be agreeing not to issue tax-exempt bonds in the future to finance any capital improvements required under the 2016 Contribution Agreement or the Lease. These future capital improvements may only be financed by the County with cash or taxable debt. The Office of the Comptroller is requesting language in the Lease to document that the limitation on the County's ability to issue tax-exempt bonds in the future will make it difficult for the County to provide additional capital improvement appropriations beyond what is included in the 2016 Contribution Agreement and in the Lease.

BOND SALE PARAMETERS

The parameters for the financing would consist of the following:

- Final Maturity no later than 2023.
- Bonds will be issued on a taxable basis for the purpose of complying with certain provisions of the Internal Revenue Code of 1986.
- Bonds will not be subject to optional redemption.
- Minimum purchase price of 99 percent of the par amount of the bonds – The price of the bond reflects the maximum price an investor would want to pay for the bond based on the coupon rate and the market rate. This is known as the yield or rate of return on the bond. When the coupon rate on the bond is equal to the market rate the purchase price is equal to the principal amount of the bond (par). If the coupon rate is lower than the market rate, the bonds will be purchased at a discount. If the coupon is higher than the market rate, the bonds will be purchased at a premium. If there is a premium paid, the amount of the premium would be used to reduce the amount of the refunding bond issue. Whether or not the bond purchase price is a par, discount or premium is dependent upon market conditions on the day of the sale.

DEBT ISSUANCE EXPENSES

The attached resolution authorizes and directs the Comptroller to request credit ratings and to pay all professional services and other issuance expenses related to the issuance of the bonds from debt proceeds. An administrative appropriation transfer will be processed to increase expenditure authority to pay for the cost of issuance and the defeasance. Anticipated expenses include bond counsel, financial auditor, escrow agent, financial advisory fees, official statement printing and mailing costs, credit rating fees and expenses and other issuance costs such as publication costs and express mail.

RECOMMENDATION

The Office of the Comptroller requests that the Finance and Audit Committee approve and recommend approval by the full County Board of the attached resolution. The resolution authorizes the issuance of the bonds; allows for the processing of administrative fund transfers to facilitate the transaction (including allocating net bid premiums and surplus bonds to the Debt Service Reserve), establish an escrow and select an escrow agent; and delegates, to the Comptroller, the authority to approve the final terms and conditions of the bond sale provided that those terms and conditions are within the parameters set forth in the attached resolution. The sale will consist of the issuance of a not-to-exceed amount of $7,500,000 in taxable bonds to refund the MCPA improvement portions of the outstanding 2009F General Obligation Promissory Notes, 2010D General Obligation Promissory Notes, Series 2012 General Obligation Refunding Bonds, Series 2013A General Obligation Corporate Purpose Bonds, Series 2015B General Obligation Refunding Bonds, Series 2016C General Obligation Promissory Notes, 2016E General Obligation Refunding Bonds, and 2017D General Obligation Promissory Notes.

Scott B. Manske
Comptroller

Attachment

cc: Chris Abele, County Executive
Supervisor Luigi Schmitt, Chairman, Finance and Audit Committee
Raisa Koltun, Chief of Staff, County Executive
Kelly Bablitch, Chief of Staff, County Board
Teig Whaley-Smith, Director, DAS
Vince Masterson, DAS
Pamela Bryant, Capital Finance Manager
Stephen Cady, Research Director
Paul Kuglitsch, Corporation Counsel
Brian Lanser, Quarles & Brady LLP
Bridgette Keating, Quarles & Brady LLP
David Anderson, PFM Financial Advisors LLC
Justin Rodriguez, Budget and Management Coordinator
Paul Mathews, Marcus Center for the Performing Arts
Michael Ostermeyer, Polsinelli LLP