

Public Financing Authority Meeting Agenda



SEPTEMBER 25, 2012

7:00 p.m.

City of Turlock Yosemite Room

156 S. Broadway, Turlock, California

Chairman
John S. Lazar

Agency Members
William DeHart, Jr. Mary Jackson
Forrest White Amy Bubiak

City Manager
Roy W. Wasden
City Clerk
Kellie E. Weaver
City Attorney
Phaedra A. Norton

NOTICE REGARDING NON-ENGLISH SPEAKERS: The Turlock Public Financing Authority meetings are conducted in English and translation to other languages is not provided. Please make arrangements for an interpreter if necessary.

EQUAL ACCESS POLICY: If you have a disability which affects your access to public facilities or services, please contact the City Clerk's Office at (209) 668-5540. The City is committed to taking all reasonable measures to provide access to its facilities and services. Please allow sufficient time for the City to process and respond to your request.

NOTICE: Pursuant to California Government Code Section 54954.3, any member of the public may directly address the Public Financing Authority on any item appearing on the agenda, including Consent Calendar and Public Hearing items, before or during the Public Financing Authority's consideration of the item.

AGENDA PACKETS: Prior to the Public Financing Authority meeting, a complete Agenda Packet is available for review on the City's website at www.cityofturlock.org and in the City Clerk's Office at 156 S. Broadway, Suite 230, Turlock, during normal business hours. Materials related to an item on this Agenda submitted to the Agency after distribution of the Agenda Packet are also available for public inspection in the City Clerk's Office. Such documents may be available on the City's website subject to staff's ability to post the documents before the meeting.

1. CALL TO ORDER

2. CITIZEN PARTICIPATION:

This is the time set aside for members of the public to directly address the Board on any item of interest to the public, before or during the Board's consideration of the item, that is within the subject matter jurisdiction of the Public Financing Authority. You will be allowed three (3) minutes for your comments. If you wish to speak regarding an item on the agenda, you may be asked to defer your remarks until the Board addresses the matter.

No action or discussion may be undertaken on any item not appearing on the posted agenda, except that Board may refer the matter to staff or request it be placed on a future agenda.

3. DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS:

4. CONSENT CALENDAR:

Information concerning the consent items listed hereinbelow has been forwarded to each Board Members prior to this meeting for study. Unless the Chairman, a Board Member or member of the audience has questions concerning the Consent Calendar, the items are approved at one time by the Board. The action taken by the Board in approving the consent items is set forth in the explanation of the individual items.

A. Motion: Accepting Minutes of Regular Meeting of July 24, 2012

B. Resolution: Approving Post-Issuance Tax Compliance Procedures for Tax-Exempt and Direct Pay Subsidy Bonds

5. SCHEDULED MATTERS: None

6. ADJOURNMENT

1. **CALL TO ORDER** – Mayor Lazar called the meeting to order at 7:19 p.m.
PRESENT: Agency Members Amy Bublak, Bill DeHart, Mary Jackson, Forrest White and Chairman Lazar
ABSENT: None
2. **PUBLIC PARTICIPATION:** None
3. **DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS:** None
4. **CONSENT CALENDAR:**
Action: Motion by Agency Member Bublak, seconded by Agency Member White, and unanimously carried to adopt the consent calendar as follows:
 - A. Motion: Accepting Minutes of Regular Meeting of January 10, 2012
5. **SCHEDULED MATTERS:**

Chairman Lazar handled City Council Meeting Scheduled Matters Item 8A and Public Financing Authority Scheduled Matters Item 5A concurrently.

- A. Sr. Account Marie Lorenzi presented the staff report on the request to authorize the Issuance and Sale of Turlock Public Financing Authority Sewer Revenue Bonds, Series 2012, in an aggregate principal amount not to exceed: (a) in the event that no debt service reserve fund is funded for the bonds, \$60,000,000; or (b) in the event that a debt service reserve fund is funded for the bonds, \$65,000,000; Approve the Form of and authorize the Execution and Delivery of an Indenture, a Master Installment Purchase Agreement, a 2012 Supplement thereto, a Bond Purchase Contract and an Official Statement relating to an Installment Purchase Financing; and Approve certain actions in connection therewith.

Chairman Lazar asked for public comment. No one spoke. Chairman Lazar closed public comment.

Action: **Resolution No. PFA-2012-001** Authorizing the Issuance and Sale of Turlock Public Financing Authority Sewer Revenue Bonds, Series 2012, in an aggregate principal amount not to exceed: (a) in the event that no debt service reserve fund is funded for the bonds, \$60,000,000; or (b) in the event that a debt service reserve fund is funded for the bonds, \$65,000,000; Approving the Form of and Authorizing the Execution and Delivery of an Indenture, a Master Installment Purchase Agreement, a 2012 Supplement thereto, a Bond Purchase Contract and an Official Statement relating to an Installment Purchase Financing; and Approving certain actions in connection therewith was introduced by Councilmember Bublak, seconded by Councilmember DeHart, and carried unanimously.

DRAFT

6. ADJOURNMENT

Mayor Lazar adjourned the meeting at 7:22 p.m.

RESPECTFULLY SUBMITTED

Kellie E. Weaver
City Clerk

DRAFT



**Public Financing Authority
Synopsis**

4B

September 25, 2012

From: Roy W. Wasden, Executive Director

Prepared by: Marie Lorenzi, Senior Accountant

Agendized by: Roy W. Wasden, Executive Director

1. ACTION RECOMMENDED:

Resolution: Approving Post-Issuance Tax Compliance Procedures for Tax-Exempt and Direct Pay Subsidy Bonds

2. DISCUSSION OF ISSUE:

The attached Resolution formally memorializes the Turlock Public Financing Authority's (as an extension of the City) current procedures related to the issuance of long-term debt and the subsequent of monitoring compliance with bond covenants. The procedures attached to the Resolution represent best practices in debt administration and will assist Staff in staying in compliance with the various covenants and requirements of the debt issuance documents as well as to maintain the tax-exempt nature of the bonds the City/PFA currently has outstanding. This is important to those who have invested in the City's/PFA's bonds.

3. BASIS FOR RECOMMENDATION:

As noted above, the attached Resolution memorializes the Staff's current practices related to the issuance and subsequent monitoring of outstanding bond issuances. While there is no legal requirement to formally adopt these procedures, there is question asked on IRS Form 8038-G which is filed with each debt issuance asking whether there are adopted procedures for post-issuance tax compliance. It is generally thought adopted procedures may lessen an issuer's exposure to a tax compliance audit by the IRS.

4. FISCAL IMPACT / BUDGET AMENDMENT:

The adoption of these policies and procedures should not have a fiscal impact on the City's adopted budget. Staff has already engaged the necessary professionals to perform items described in the document (i.e. annual Rebate Report) and included the associated costs in the operating budget of funds that have outstanding bond issuances.

5. EXECUTIVE DIRECTOR'S COMMENTS:

Recommend approval

6. ENVIRONMENTAL DETERMINATION:

Not applicable

7. ALTERNATIVES:

None recommended

**BEFORE THE BOARD OF DIRECTORS OF THE
TURLOCK PUBLIC FINANCING AUTHORITY**

IN THE MATTER OF APPROVING POST- } RESOLUTION NO. PFA 2012-____
**ISSUANCE TAX COMPLIANCE }
PROCEDURES FOR TAX-EXEMPT AND }
DIRECT PAY SUBSIDY BONDS }
_____ }**

WHEREAS, the City of Turlock (City) and the Turlock Public Financing Authority (PFA) have issued bonds, the proceeds of which were used to fund various projects for the benefit of the City and its citizenry; and

WHEREAS, during the course of the issuance process City Staff has engaged legal, investment, and other professionals to provide assistance and guidance during the process; and

WHEREAS, incorporated within the agreements and other documents executed in conjunction with the various bond issuances are covenants that the City and/or PFA have agreed to adhere to while the bonds are outstanding; and

WHEREAS, during the issuance process and post-issuance City Staff has employed processes and procedures to ensure continued compliance with requirements necessary to maintain the tax-exempt nature of the bonds issued and now wishes to memorialize these procedures in the form of a Resolution with Exhibit A detailing the procedures.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Turlock Public Financing Authority does hereby approve the Post-Issuance Compliance Procedures for Tax-Exempt and Direct Pay Subsidy Bonds.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Turlock Public Financing Authority this 25th day of September, 2012, by the following vote:

- AYES:
- NOES:
- NOT PARTICIPATING:
- ABSENT:

ATTEST:

Kellie E. Weaver, City Clerk,
City of Turlock, County of Stanislaus,
State of California

Post-Issuance Tax Compliance Procedures For Tax-Exempt and Direct Pay Subsidy Bonds

September 26, 2012

The purpose of these Post-Issuance Tax Compliance Procedures is to establish policies and procedures in connection with tax-exempt bonds and direct pay subsidy bonds (e.g. "build America bonds" or similar programs) ("Bonds") issued by or on behalf of the Turlock Public Financing Authority (the "Authority") or the City of Turlock, California (the "City" and, collectively with the Authority, the "Issuer") so as to ensure that the Issuer complies with all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt or direct pay subsidy status of the Bonds.

General

Ultimate responsibility for all matters relating to Issuer financings and refinancings rests with the Executive Director of the Authority and the City Manager of the City (collectively, the "Responsible Officer").

Post-Issuance Compliance Requirements

External Advisors / Documentation

The Responsible Officer and other appropriate Issuer personnel shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for the appropriate tax status. Those requirements and procedures shall be documented in an Issuer resolution(s), Tax Certificate(s) and/or other documents finalized at or before issuance of the Bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

The Responsible Officer and other appropriate Issuer personnel also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of the Bonds to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of Bond-financed assets and future contracts with respect to the use of output or throughput of Bond-financed assets.

Whenever necessary or appropriate, the Issuer shall engage expert advisors (each a "Rebate Service Provider") to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds.

Role of the Issuer as Bond Issuer

Unless otherwise provided by Issuer resolutions, unexpended Bond proceeds shall be held by the Issuer, and the investment of Bond proceeds shall be managed by the Responsible Officer. The Responsible Officer shall maintain records and shall prepare regular, periodic statements to the Issuer regarding the investments and transactions involving Bond proceeds.

If an Issuer resolution provides for Bond proceeds to be administered by a trustee, the trustee shall provide regular, periodic (monthly) statements regarding the investments and transactions involving Bond proceeds.

Arbitrage Rebate and Yield

Unless a Tax Certificate documents that bond counsel has advised that arbitrage rebate will not be applicable to an issue of Bonds:

- the Issuer shall engage the services of a Rebate Service Provider, and the Issuer or the Bond trustee shall deliver periodic statements concerning the investment of Bond proceeds to the Rebate Service Provider on a prompt basis;
- upon request, the Responsible Officer and other appropriate Issuer personnel shall provide to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
- the Responsible Officer and other appropriate Issuer personnel shall monitor efforts of the Rebate Service Provider and assure payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond of each issue is redeemed; and
- during the construction period of each capital project financed in whole or in part by Bonds, the Responsible Officer and other appropriate Issuer personnel shall monitor the investment and expenditure of Bond proceeds and shall consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the Bonds.

The Issuer shall retain copies of all arbitrage reports and trustee statements as described below under "Record Keeping Requirements".

Use of Bond Proceeds

The Responsible Officer and other appropriate Issuer personnel shall:

- monitor the use of Bond proceeds, the use of Bond-financed assets (e.g., facilities, furnishings or equipment) and the use of output or throughput of Bond-financed assets throughout the term of the Bonds (and in some cases beyond the term of the Bonds) to ensure compliance with covenants and restrictions set forth in applicable Issuer resolutions and Tax Certificates;

- maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of Bonds;
- consult with Bond Counsel and other professional expert advisers in the review of any contracts or arrangements involving use of Bond-financed facilities to ensure compliance with all covenants and restrictions set forth in applicable Issuer resolutions and Tax Certificates;
- maintain records for any contracts or arrangements involving the use of Bond-financed facilities as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in applicable Issuer resolutions and Tax Certificates; and
- meet at least annually with personnel responsible for Bond-financed assets to identify and discuss any existing or planned use of Bond-financed, assets or output or throughput of Bond-financed assets, to ensure that those uses are consistent with all covenants and restrictions set forth in applicable Issuer resolutions and Tax Certificates.

All relevant records and contracts shall be maintained as described below.

Record Keeping Requirements

Unless otherwise specified in applicable Issuer resolutions or Tax Certificates, the Issuer shall maintain the following documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least three years:

- a copy of the Bond closing transcript(s) and other relevant documentation delivered to the Issuer at or in connection with closing of the issue of Bonds;
- a copy of all material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with Bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds;
- a copy of all contracts and arrangements involving private use of Bond-financed assets or for the private use of output or throughput of Bond-financed assets; and
- copies of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements.