



Office of the City Manager

CONSENT CALENDAR
October 9, 2007

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Robert Hicks, Director, Finance Department

Subject: Reimbursement: Animal Shelter Pre-Development Expenditures

RECOMMENDATION

Adopt a Resolution declaring the intent of the City of Berkeley to reimburse certain expenditures made prior to the issuance of General Obligation bonds to improve the animal shelter, in accordance with the requirements of Treasury Regulation Section 1.150-2.

FISCAL IMPACTS OF RECOMMENDATION

None. The pre-development costs were considered in the development of the estimated project costs at the time of voter approval of the General Obligation bond measure.

CURRENT SITUATION AND ITS EFFECTS

The City plans to sell the bonds in mid-January 2008, and receive proceeds around February 1, 2008. However, in the near future, staff plans to solicit written proposals from qualified firms to provide architectural and engineering services for a new animal shelter to replace the existing shelter at the same location.

In order for these pre-development costs to be reimbursed by proceeds from the General Obligation bond, the City must comply with Section 1.150-2 of the US Treasury Department Regulations. The US Department of Treasury has promulgated regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the prior to the date of issuance of the bonds. Those regulations (Treasury Regulations, Section 1.150-2) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months after the later of (1) the date the expenditure is paid or (2) the date the project is placed in service or abandoned, but in no event more than three years after the date the expenditure is paid.

This resolution is intended to meet the requirement of Treasury Regulation 1.150-2, that the City declare its official intent to reimburse animal shelter project expenditures that were incurred prior to the issuance of the General Obligation bonds.

BACKGROUND

The City of Berkeley (the City) received voter authorization in November 2002 to issue \$7,200,000 in General Obligation bonds to fund improvements for an animal shelter. Shortly after Measure I passed, the City Council approved the formation of a Council subcommittee to conduct a search and evaluate sites for a new animal shelter. Due to zoning considerations, all of the sites investigated were located in West Berkeley. The subcommittee consisted of 2 council members, 2 humane commissioners and city staff. Various sites were located and their feasibility explored but for various reasons such as price, size and location, all sites were rejected by the Council subcommittee.

Staff have solicited opinions for rebuilding at the present location and received positive feedback. The current shelter is located in an area zoned for light industry; therefore, noise from the dogs during the day does not affect neighbors. Aquatic Park is nearby and an excellent place for volunteers to walk dogs. The shelter is located close to Interstate 80 making it easily accessible to visitors. The current site is 12,000 sq. feet with 8,000 sq. feet of building. By building a second story for offices and small animal rooms, the site would be suitable for the new shelter. However, as the entire foundation must be raised by 3 feet to avoid future flooding, the shelter will have to relocate to a warehouse or other suitable site during construction.

At the time of the election, it was estimated to cost a property owner approximately \$0.0066 per \$100 of assessed value or \$6.50 for a home assessed at \$100,000. Since the authorization was received in 2002, the City has seen assessed values increase 54%. This significant increase has created a situation where the new anticipated tax rate will be approximately \$0.0040 per \$100 of assessed value or \$4.00 for a home assessed at \$100,000.

RATIONALE FOR RECOMMENDATION

Compliance with Federal law.

CONTACT PERSON

Robert Hicks, Director, Finance Department, 981-7300

Attachments:

1: Resolution

Exhibit A: Description of the Project

RESOLUTION NO. _____

REIMBURSEMENT OF CERTAIN CAPITAL EXPENDITURES FROM PROCEEDS OF A TAX-EXEMPT OBLIGATION

WHEREAS, the City has developed a list of capital projects (the "Projects") described in Exhibit A hereto; and

WHEREAS, all or a portion of the expenditures relating to the Projects (the "Expenditures") (i) have been paid within the sixty days prior to the passage of this Resolution or (ii) will be paid on or after the passage of this Resolution; and

WHEREAS, the City reasonably expects to reimburse itself for the Expenditures with the proceeds of an obligation the interest on which will be excluded from the gross income of the owner or owners of such obligation.

NOW THEREFORE, BE IT RESOLVED, that the City Council find and determine as follows:

Section 1. The City reasonably expects to reimburse the Expenditures with proceeds of one or more obligations to be issued by the City or another entity of the City or in which the City is a member or for which the members of the City Council act as the governing board or whose debt is subject to the approval of the City Council.

Section 2. The maximum principal amount of the obligations expected to be issued for the Projects is \$7,200,000.

Section 3. This Resolution is a declaration of official intent to reimburse expenditures pursuant to Treasury Regulations Section 1.150-2.

Section 4. All actions of the officers, agents and employees of the City or other entity of the City that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified and confirmed.

Section 5. This Resolution shall be in full force and effect immediately upon its adoption. |

EXHIBIT A

DESCRIPTION OF THE PROJECTS

The acquisition of land, if necessary, and the construction or rehabilitation of a building for an animal shelter that meets the requirements of state law.