

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: MAY 17, 2013

**AGENDA ITEM
B
MAY 22, 2013**

NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION

**AUTHORIZATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT
WATER REVENUE REFUNDING BONDS, SERIES 2013A**

ITEM

It is recommended that the Board of Directors:

1. Adopt the following resolution:

A Resolution of the Board of Directors of the Nipomo Community Services District Public Facilities Corporation Approving An Escrow Agreement in connection with the Issuance by the Nipomo Community Services District of its Not to Exceed \$3,700,000 Nipomo Community Services District Water Revenue Refunding Bonds, Series 2013A

then

2. Reconvene to the Nipomo Community Services District.

BACKGROUND

2003 Certificates. In 2003, the District executed and delivered its \$4,000,000 Revenue Certificates of Participation (Pipeline and Storage Facility Project) Series 2003 (the "2003 Certificates"), of which \$3,235,000 is currently outstanding at an average interest cost of 4.74%. The 2003 Certificates were sold with MBIA bond insurance (then rated "Aaa" and "AAA," now "Baa" and "BBB"), with current underlying ratings of "A" by Standard & Poor's. Based on current bond market conditions, a refunding could reduce true interest cost to 3.56% inclusive of all refunding costs. This would produce a savings in present value dollars of \$216,806 and \$353,194 in Total Dollars. Average annual savings would be \$17,597 over the remaining 20 years life of the Bonds.

The refunding savings are attractive with present value (PV) savings at over 6.5% of the 2003 Certificates outstanding. A 3% PV savings rate is considered by many issuers and financial policies as a net PV savings benchmark. Actual savings will not be determined until time of sale and could be higher or lower depending on bond market conditions in late May 2013.

2013 Bonds. It is now proposed to refinance the 2003 Certificates by issuing refunding bonds authorized by Articles 10 and 11 of Chapter 3 of Division 2 of Title 5 of the Government Code of the State of California (the "Bond Law") in a principal amount not to exceed \$3,700,000 Water Revenue Refunding Bonds, Series 2013A (the "Bonds"). The District will use the proceeds of the Bonds to prepay 2003 Installment Payments. The Bonds will be secured by and payable from Property Tax Revenues first and then Net Revenues of the Water Enterprise. The term of the Bonds is proposed to be 20 years (the remaining term of the 2003 Certificates). Total annual debt payments are expected to be approximately \$234,000 per year depending on final bond rating and market conditions at time of sale.

A standard bond debt service reserve fund will also be funded from Bonds proceeds. A reserve fund serves to enhance the bond rating, cover the last debt payment and satisfy investor concerns. The District has also created a rate stabilization fund in the amount of \$400,000 from existing funds of the Water Enterprise to manage the need for future rate increases.

A Bond Rating has been applied for from Standard and Poor's Corporation. The Rating is expected to be announced on May 22, 2013. It is currently expected that the Water Enterprise system rating will be in the "A" category but there is no assurance of this. Bond insurance may also be considered, if the District is approved, and if shown to be cost effective in lowering interest cost net of the premium. Bonds are proposed to be sold in late May with a bond closing in early June. The true interest rate on the debt is expected to be under 4% depending on the final bond rating and marketing conditions at time of sale. It is currently proposed to sell the Bonds by negotiated sale to Citigroup Global Markets, Inc., as underwriter, pursuant to a Bond Purchase Agreement following a selection process conducted by staff and financial advisor.

It is appropriate at this meeting to consider for adoption the resolutions authorizing the issuance of the Bonds. Resolutions for the District and Public Facilities Corporation (PFC) are attached which would authorize the issuance of not to exceed \$3,700,000 of Water Revenue Refunding bonds by the District. The Bonds will be sold on a negotiated basis at a true interest cost of not to exceed 4.0%. The resolutions also approve the various documents in connection with the issuance of the Bonds. Fulbright & Jaworski L.L.P., has acted as bond counsel and disclosure counsel, C.M. de Crinis & Co., as financial advisor, and The Bank of New York Mellon Trust Company, N.A., as trustee.

General Summary of Security: Principal of and interest on the Bonds are secured by Net Revenues of the District's water enterprise, including, first, the Property Tax Revenues. Net Revenues also include gross revenues of the enterprise minus operating and maintenance costs. The District covenants to maintain its rates and charges at a specified level to have sufficient Net Revenue to make debt service payments on the Bonds. There is also a reserve fund securing the Bonds.

Indenture of Trust: The Indenture of Trust is one of the key legal documents that lays out the legal structure and terms of the financing. It specifies payment dates, maturity dates of the Bonds; revenues and accounts specifically pledged to the repayment of the Bonds; flow of funds; default and remedy provisions; defeasance provisions in the event the Bonds are redeemed early; parity obligation tests; rate covenants and further covenants of the District. The Indenture is drafted by Bond Counsel and executed by the District and Trustee.

Official Statement: The Official Statement describes the security and discloses potential risks to prospective investors. It will generally describe the sources of payment for the Bonds, the future improvement projects, the financial condition of the District's water enterprise, the economic and demographic characteristics of the District, and inherent known risk factors associated with the security. It's important that this document not contain any material misstatements or omissions. The Preliminary Official Statement (often referred to as the "POS") is distributed by the underwriter to prospective investors prior to the bond sale so that they can make informed purchase decisions. The POS should be as close to final as possible with the actual terms of the pricing (interest rates and principal amounts) left necessarily blank. The Final Official Statement (FOS) will be prepared shortly after the bond sale and must be available in time for bond closing. The POS and FOS are drafted by Bond Counsel, acting as disclosure counsel and is executed by the District.

Escrow Deposit and Trust Agreement: This agreement provides that the proceeds from the Bonds will be deposited with the 2003 Certificate trustee and used to prepay and defease the 2003 Certificates. This document is drafted by Bond Counsel and executed by the District, the PFC and the Trustee, as escrow agent.

Continuing Disclosure Agreement: This agreement outlines the updated information related to the security that the District will agree to provide to the bond markets. Securities and Exchange Commission Rule 15c2-12 requires that certain disclosure be undertaken by the District. Disclosure is required annually, and on an exceptional basis for any major "material" event. This document is drafted by Bond Counsel, acting as disclosure counsel, and executed by the District and the Trustee.

Bond Purchase Agreement: This agreement between the District and Citigroup Global Markets Inc., as the underwriter for the Bonds. The Bonds will be sold on a negotiated basis at a true interest rate of not to exceed 4.0% and with an underwriter's discount of not to exceed 1% and a principal amount of not to exceed \$3,700,000. The sale of the Bonds is scheduled for late May. The underwriter commits to purchase the Bonds at closing at the agreed upon prices and amounts subject to certain closing conditions. This document is drafted by Bond Counsel and executed by the District and the Underwriter.

More specific details of the financing can be found in the drafts of the documents referenced above.

It is appropriate at this meeting to consider for adoption the resolutions of the District and PFC authorizing the refunding of the 2003 Certificates and the issuance of the Bonds.

FISCAL IMPACT

Total annual debt payments for the Certificates are expected to be approximately \$234,000 per year for a term of twenty years payable first from Property Tax Revenues and then from other net revenues of the Water Enterprise.

STRATEGIC PLAN

Strategic Plan Goal 6.1 – Operate all enterprise funds to be financially sound
Strategic Plan Goal 6.3 – Ensure that decisions consider short and long term fiscal impacts

RECOMMENDATION

Staff recommends that the Board of Directors of the Nipomo Community Services District Public Facilities Corporation adopt Resolution 2013-XXXX approving:

- AN ESCROW DEPOSIT AND TRUST AGREEMENT

then

Reconvene to Nipomo Community Services District.

ATTACHMENTS

- A. RESOLUTION 2013-06
- B. ESCROW DEPOSIT AND TRUST AGREEMENT (*see E-1 for Agreement*)

MAY 22, 2013

ITEM B

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT
PUBLIC FACILITIES CORPORATION
RESOLUTION NO. 2013-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES
CORPORATION APPROVING AN ESCROW AGREEMENT IN
CONNECTION WITH THE ISSUANCE BY THE NIPOMO COMMUNITY
SERVICES DISTRICT OF ITS NOT TO EXCEED \$3,700,000 NIPOMO
COMMUNITY SERVICES DISTRICT WATER REVENUE REFUNDING
BONDS, SERIES 2013A**

WHEREAS, the Nipomo Community Services District (the "District") owns and operates that certain Water System referred to herein as the "Enterprise"; and

WHEREAS, the District has heretofore caused the execution and delivery of its \$4,000,000 Nipomo Community Services District Revenue Certificates of Participation (Pipeline and Storage Facility Project) Series 2003 (the "Series 2003 Certificates") for the purpose of financing certain improvements to the Enterprise (the "Prior Improvements"); and

WHEREAS, the District has determined that it is in the best interests of the District to refund and prepay the Series 2003 Certificates at this time to achieve an interest rate savings; and

WHEREAS, for the purpose of prepaying the unpaid installment payments due by the District for the purchase of the Prior Improvements acquired under that certain 2003 Installment Purchase Agreement, dated as of May 1, 2003 (the "Series 2003 Installment Purchase Agreement"), by and between the District and the Nipomo Community Services District Public Facilities Corporation (the "Corporation"), the District has determined to issue its Water Revenue Refunding Bonds, Series 2013A (the "Bonds"), in a principal amount not to exceed \$3,700,000, pursuant to and in accordance with Articles 10 and 11 of Chapter 3 of Division 2 of Title 5 of the Government Code of the State of California (the "Bond Law"); and

WHEREAS, an escrow agreement has been filed with the Corporation and the members of the Board, with the aid of its staff, have reviewed said documents; and

WHEREAS, the Corporation has duly considered the refunding and prepayment of the 2003 Certificates, and wishes at this time to approve the execution of certain documents in connection with the issuance by the District of the Bonds.

**NIPOMO COMMUNITY SERVICES DISTRICT
PUBLIC FACILITIES CORPORATION
RESOLUTION NO. 2013-XXXX**

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION APPROVING AN ESCROW AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE NIPOMO COMMUNITY SERVICES DISTRICT OF ITS NOT TO EXCEED \$3,700,000 NIPOMO COMMUNITY SERVICES DISTRICT WATER REVENUE REFUNDING BONDS, SERIES 2013A

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Nipomo Community Services District Public Facilities Corporation:

Section 1. The refunding and prepayment of the Series 2003 Certificates are hereby authorized and approved by the Corporation.

Section 2. The Water Revenue Refunding Bonds, Series 2013A (the "Bonds") to be issued by the District in an amount not to exceed \$3,700,000 in the aggregate pursuant to and in accordance with the provisions of an Indenture of Trust, (the "Indenture"), by and between the District and The Bank of New York Mellon Trust Company, N. A., as trustee (the "Trustee"), is hereby approved by the Corporation.

Section 3. The Escrow Deposit and Trust Agreement, by and among the Corporation, the District and The Bank of New York Mellon Trust Company, N. A., as escrow bank, relating to the prepayment and defeasance of the Series 2003 Certificates (the "Escrow Agreement"), is hereby approved, and the Chairperson, the Executive Director, or the written designee of any such official, is hereby authorized and directed to execute the Escrow Agreement, with such changes, insertions and omissions as may be approved by such officials, with the advice of counsel to the Corporation and Bond Counsel, and the Secretary or Assistant Secretary is hereby authorized and directed to attest to such official's signature.

Section 4. The Corporation hereby approves the preparation of the Preliminary Official Statement describing the financing, together with any changes therein or additions thereto deemed advisable by the Chairperson, the Executive Director, or the written designee of any such official.

Section 5. The final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Bonds.

Section 6. The Chairperson, the Executive Director, the Secretary, the Assistant Secretary and all other appropriate officials of the Corporation are hereby authorized and directed to execute and/or attest such other agreements, documents and certificates as may be necessary to effect the purposes of this resolution and the financing herein authorized.

Section 7. This resolution shall take effect immediately.

**NIPOMO COMMUNITY SERVICES DISTRICT
PUBLIC FACILITIES CORPORATION
RESOLUTION NO. 2013-XXXX**

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION APPROVING AN ESCROW AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE NIPOMO COMMUNITY SERVICES DISTRICT OF ITS NOT TO EXCEED \$3,700,000 NIPOMO COMMUNITY SERVICES DISTRICT WATER REVENUE REFUNDING BONDS, SERIES 2013A

Upon a motion by Director _____, seconded by Director _____, on the following roll call vote, to wit: .

**AYES:
NOES:
ABSTAIN:
ABSENT:**

the foregoing resolution is hereby passed and adopted on this ____ day of _____, 2013.

JAMES HARRISON
Chairperson of the Board

ATTEST:

APPROVED AS TO FORM:

MICHAEL S. LEBRUN
Secretary to the Board

MICHAEL W. SEITZ
Corporation Legal Counsel