



Midpeninsula Regional
Open Space District

R-12-06
Meeting 12-01
January 11, 2012

AGENDA ITEM 5

AGENDA ITEM

Resolution Approving Documents Relating to Issuance of 2012 Refunding Notes

GENERAL MANAGER AND CONTROLLER'S RECOMMENDATION

Adopt the attached Resolution of the Board of Directors of the Midpeninsula Regional Open Space District authorizing the issuance of a series of Refunding Promissory Notes, approving an Official Statement, and providing other matters properly related thereto.

SUMMARY

The resolution authorizes the District to issue up to \$36 million of 2012 Refunding Notes and approves the Official Statement, other required note documents, and agreements with bond counsel and underwriters. The objective is to take advantage of the passage of California State Assembly Bill 612 (AB612) to shift the maximum prudent amount of existing debt service out beyond twenty years, thereby significantly aiding the District in funding the implementation of its strategic plan.

DISCUSSION

The passage of AB612 and the continuing favorable bond market conditions make it advantageous to propose the refinancing of the \$33.0 million of existing 1999 Revenue Bonds through the issuance of approximately \$33.7 million of refunding notes. The proposed issuance would not yield any immediate cash proceeds to the District; this is strictly a refinancing. However, the proposed refinancing would reduce District debt service payments by approximately \$23 million over the next 16 years. Because the provisions of AB612 allow the District, beginning in January 2012, to issue notes with maturities up to 30 years, there is no advantage to utilizing the Midpeninsula Regional Open Space Financing Authority in this transaction. In the proposed structure, the District is issuing its own notes.

The 2012 Refunding Notes are proposed to be structured as a combination of [1] \$25.7 million of term notes with an estimated average interest rate of 4.9% and an average life of 18 years; and [2] \$8.0 million of capital appreciation bonds with an estimated average interest rate of 7.1% and an average life of twenty seven years. Bond buyers demand a significant premium to purchase

long-dated capital appreciation bonds, which are the tax-exempt form of zero coupon bonds. However, the capital appreciation bonds generate most of the desired cash flow savings. The estimated overall all-in cost is 5.95%. This is slightly higher than the 5.60% all-in cost on our 2011 Revenue Bonds, which securitized a thirty year lease, with much higher debt service requirements over the first 15 years.

The District is seeking bond ratings from Standard & Poor's and Fitch and the interest cost estimates are based on an AA rating, as achieved last year. It is very unlikely that the purchase of municipal bond insurance will be worthwhile.

The estimated Sources and Uses of the proposed refunding notes are shown below.

SOURCES:

Note Proceeds: Par Amount	\$33,654,899
Note Proceeds: Net Discount	- 40,961
Total Sources	\$33,613,938

USES:

Project Fund: New Money	\$ 0
Refunding Escrow Deposit: 1999 Bonds	33,295,663
Underwriters Discount (S&Y)	168,275
Other Cost of Issuance	150,000
Total Uses	\$33,613,938

If approved by the District, the schedule is to price the notes during the week of February 6, 2012, and deliver the notes on March 1, 2012. Because institutional bondholders generally have large amounts of bonds maturing in January, it is anticipated that this will be good timing for favorable demand. The proposed issue is consistent with long-term financial plans and is easily accommodated within our statutory debt limit. After the proposed sale, District's bonded indebtedness would be about 58% of the District's statutory debt limit.

The proposed bond counsel is Jones Hall of San Francisco. In August 2006, staff selected Chris Lynch of Jones Hall as our new bond counsel and we have been very pleased with his work on the 2007 and 2011 Bonds. Mr. Lynch is again working with the District on the 2012 Bonds. Likewise, Chip Eady, representing Meyers, Nave, Riback, Silver & Wilson, is again serving as District Disclosure Counsel. District General Counsel has negotiated retainer agreements with both firms. The negotiated fees are \$45,000 for Jones Hall and \$15,000 for Meyers, Nave.

The proposed underwriter is Stone & Youngberg LLC (S&Y). S&Y's team, led by Tom Lockard, has successfully managed several District financings, including all of the debt issued under the Authority structure. Staff believes that S&Y continues to do an outstanding job for the District and should underwrite the 2012 Refunding Notes. The estimated underwriting fee of 0.5% is slightly below the 0.55% fee paid for the 2007 and 2011 Bonds.

SUMMARY OF THE PROPOSED TRANSACTION:

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| 1. Amount: | Approximately \$33.7 million |
| 2. Term: | Thirty years |
| 3. Average Life: | 20.4 years |
| 4. Purpose: | Refinance the 1999 Bonds to smooth future debt service payments over thirty years; projected reduction of debt service of \$23 million over initial 16 years |
| 5. Interest Rates: | To be priced in February 2012; estimated all-in cost of 5.95% |
| 6. Reserve Fund: | None |
| 7. Underwriting Fee: | 0.5% of par amount of amount issued, about \$168,275 |
| 8. Other Costs of Issuance: | Estimated not to exceed \$150,000 |
| 9. Closing Schedule: | March 1, 2012 |

PARTIES TO THE TRANSACTION:

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| 1. Issuer: | Midpeninsula Region Open Space District |
| 2. Trustee: | Bank of New York Mellon Trust Company (BNY) |
| 3. Underwriter: | Stone & Youngberg LLC (S&Y) |
| 4. Bond Counsel: | Jones Hall |
| 5. Disclosure Counsel: | Meyers, Nave, Riback, Silver & Wilson |
| 6. Verification: | Causey, Demgen & Moore Inc. |

DUTIES OF THE PARTIES:

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| 1. Issuer: | Issue notes, make principal and interest payments |
| 2. Trustee: | Administers notes for the benefit of the holders, collects principal and interest from the District, makes payments to to holders; pays-off the 1999 bond holders through management of the escrow |
| 3. Underwriter: | Purchases notes from the District and sells them to buyers |
| 4. Bond Counsel: | Prepares and certifies note documents; assures buyers of the tax-exempt status of the notes |
| 5. Disclosure Counsel: | Drafts District official statement and advises on compliance with federal securities laws |
| 6. Verification Counsel: | Confirms that the amount deposited in the escrow account is sufficient to refinance the 1999 Revenue Bonds. |

THE DISTRICT'S DISCLOSURE OBLIGATIONS

The attached Preliminary Official Statement has been reviewed and approved for transmittal to the Board of Directors by staff and the District's financing team. The distribution of the Preliminary Official Statement by the District is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the

2012 Refunding Notes. Material information is information that there is a substantial likelihood that it would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the 2012 Refunding Notes.

The Securities and Exchange Commission (the “SEC”), the agency with regulatory authority over the District’s compliance with the federal securities laws, has issued guidance as to the duties of the Board of Directors with respect to its approval of the Preliminary Official Statement. In its “Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors” (Release No. 36761 / January 24, 1996) (the “Release”), the SEC stated that, if a member of the Board of Directors has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the 2012 Refunding Notes, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC stated that the steps that a member of the Board of Directors could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

MAIN AGREEMENTS:

Note that these documents are substantially complete and correct but are not meant to be in final form at this time.

1. Preliminary Official Statement: Describes note issue to potential buyers
2. Indenture (between District and BNY): Appoints BNY as Trustee for the notes, lists its duties and responsibilities, and details how the notes will be administered.
3. Escrow Deposit and Trust Agreement: Appoints BNY as Escrow Agent for District and Authority and specifies how the 1999 Bonds are to be paid-off.
4. Purchase Contract (between District and S&Y): Defines terms under which S&Y will purchase the notes from the District.
5. Continuing Disclosure Agreement (between District and BNY): Appoints Trustee as the Dissemination Agent with regard to SEC disclosure rules.

FISCAL IMPACT

Sale of the proposed bonds will [1] reduce overall District debt service payments by approximately \$23 million over the next sixteen years; and [2] significantly increase District debt service requirements beginning in 2029, effectively smoothing existing debt service payments over the next thirty years. The proposed sale is consistent with, and, in fact, significantly improves, the District’s long-term financial model.

PUBLIC NOTICE

Notice was provided pursuant to the Brown Act. No additional notice is necessary.

CEQA COMPLIANCE

No compliance is required as this action is not a project under CEQA.

NEXT STEPS

If approved by the Board, staff will proceed with finalization of the documentation and sell the notes.

Attachment:

1. Resolution

Prepared by:

Michael Foster, Controller

Contact person:

Same as above

RESOLUTION NO. 12-XX

**RESOLUTION OF THE MIDPENINSULA REGIONAL OPEN SPACE
DISTRICT AUTHORIZING THE ISSUANCE OF A SERIES OF REFUNDING
PROMISSORY NOTES, APPROVING AN OFFICIAL STATEMENT, AND
PROVIDING OTHER MATTERS PROPERLY RELATING THERETO**

WHEREAS, the Midpeninsula Regional Open Space District (the "District") previously entered into a Project Lease dated as of January 1, 1999 (the "1999 Project Lease"), with the Midpeninsula Regional Open Space District Financing Authority (the "Authority") for the purpose of (i) financing the acquisition of open space and (ii) refunding on an advance basis the District's outstanding 1992 Promissory Notes; and

WHEREAS, the Authority issued its 1999 Revenue Bonds (the "1999 Bonds") pursuant to a Trust Agreement dated as of January 1, 1999 (the "1999 Trust Agreement"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "1999 Trustee"); and

WHEREAS, the 1999 Bonds were secured by and payable from the Base Rental Payments payable by the District under the 1999 Project Lease; and

WHEREAS, the District wishes to refinance the 1999 Project Lease and the 1999 Bonds, and, for that purpose, wishes to issue its 2012 Refunding Promissory Notes (1999 Project Lease) (the "Notes") pursuant to Article 3 of Chapter 3 of Division 5 of the Public Resources Code of the State of California (the "Law") and an Indenture, dated as of January 1, 2012; and

WHEREAS, in order to accomplish the prepayment of the 1999 Base Rental Payments and redemption and defeasance of the 1999 Bonds, the District and the Authority will enter into an Escrow Deposit and Trust Agreement, dated as of January 1, 2012 (the "Escrow Agreement"); and

WHEREAS, District staff has caused to be prepared and has reviewed a preliminary form of the Official Statement for the Notes (the "Official Statement"), which preliminary form is on file with the Secretary, and the District wishes at this time to approve the Official Statement in the public interests of the District; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of the Notes, as contemplated by this resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California.

NOW, THEREFORE, BE IT RESOLVED by the Midpeninsula Regional Open Space District, as follows:

Section 1. Recitals True and Correct. The District hereby finds and declares that the above recitals are true and correct.

Section 2. Issuance and Sale of the Notes. The District hereby authorizes and approves the issuance of the Notes to be designated "Midpeninsula Regional Open Space District 2012 Refunding Promissory Notes (1999 Project Lease)." The Notes may be issued in any combination of current interest notes and capital appreciation notes as determined by the Controller.

Section 3. Security for the Notes. The Board hereby approves the pledge pursuant to the Indenture (as defined below) as security for the payment of principal of and interest on the Notes of the "Limited Taxes," which term is generally defined in the Indenture as the limited ad valorem property taxes levied upon all taxable property in the District by the Board of Supervisors of Santa Clara County, the Board of Supervisors of San Mateo County and the Board of Supervisors of Santa Cruz County and allocated to the District under applicable law that are legally available to pay the interest on and principal of the Notes. The District shall not be obligated to pay the principal of or interest on the Notes except from the Limited Taxes. As permitted by Section 5544.2(f) of the Law, the Board hereby approves the pledge of the Limited Taxes to the following outstanding promissory notes of the District: (i) the Midpeninsula Regional Open Space District 2005 Refunding Promissory Notes, (ii) the Midpeninsula Regional Open Space District 2007 Refunding Promissory Notes (1996 Project Lease – 2nd Issue); (iii) the Midpeninsula Regional Open Space District 2007 Refunding Promissory Notes (1996 Promissory Notes); (iv) the Midpeninsula Regional Open Space District 2007 Refunding Promissory Notes (1999 Promissory Notes); and (v) the Midpeninsula Regional Open Space District 2007 Refunding Promissory Notes (1999 Project Lease – 2nd Issue).

Section 4. Approval of Indenture. The Indenture related to the Notes, by and between the District and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Indenture"), in the form presented to this meeting, is hereby approved. The President, the Secretary, the General Manager and the Controller of the District (the "Designated Officers") are, and each of them acting alone is, hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver the Indenture, and the Secretary is hereby authorized and directed, for and in the name and on behalf of the District, to attest the Designated Officer's signature to the Indenture, in such form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer, upon consultation with Jones Hall, A Professional Law Corporation, bond counsel to the District, including such additions or changes as are necessary or advisable in accordance with Section 8 hereof; provided that no additions or changes shall authorize an aggregate principal amount (or maturity amount in the case of capital appreciation notes) of the Notes in excess of \$36,000,000, or result in a true interest cost in excess of 6.25% per annum. The approval of such additions or changes shall be conclusively evidenced by the execution and delivery by a Designated Officer on behalf of the District of the Indenture. The date, maturity dates, aggregate principal amount (or maturity amount in the case of capital appreciation notes), annual maturity amounts, interest rate or rates, interest payment dates (or compounding dates in the case of capital appreciation notes), denominations, form, registration privileges, manner of execution, place of payment, terms of redemption and other terms of the Notes shall be as provided in the Indenture, as finally executed.

Section 5. Approval of Refinancing and Escrow Agreement. The prepayment of the 1999 Base Rental Payments and the refunding of the 1999 Bonds are hereby approved, subject to achieving debt service savings in an amount acceptable to the Controller; issuance of the 2012 Notes in an amount sufficient to prepay the 1999 Base Rental Payments and the refunding of the 1999 Bonds shall be conclusive evidence of the Controller's approval. The Designated Officers are, and each of them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the District, to execute the Escrow Agreement in the form on file with the Secretary, together with any changes therein or additions thereto approved by the Designated Officers, whose execution thereof shall be conclusive evidence of approval of any such additions and changes, and such other documents as the Designated Officers determine are necessary to effectuate such refunding.

Section 6. Sale of the Notes. The District hereby appoints Stifel, Nicolaus & Company, Inc. dba Stone & Youngberg, a Division of Stifel Nicolaus (the "Underwriter"), as the underwriter for the Notes, and approves the sale of the Notes by negotiation with the Underwriter, pursuant to the Purchase

Contract by and between the Authority and the Underwriter. The underwriter's discount (excluding original issue discount) proposed by the Underwriter, in an amount not to exceed 0.5% of the aggregate par amount (or maturity amount in the case of capital appreciation notes) of the Notes, is both reasonable and customary under the prevailing market conditions and is hereby approved, with the final discount to be identified in the Purchase Contract. The Designated Officers are, and each of them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the District, to execute the Purchase Contract in the form on file with the Secretary, together with any changes therein or additions thereto approved by the Designated Officers, whose execution thereof shall be conclusive evidence of approval of any such additions and changes.

Section 7. Official Statement. The District hereby approves the preliminary Official Statement describing the Notes, in substantially the form on file with the Secretary. Distribution of the preliminary Official Statement and the final Official Statement by the Underwriter is hereby approved. The Designated Officers are hereby authorized and directed to approve any changes in or additions to the final form of the Official Statement, whose execution thereof shall be conclusive evidence of approval of any such changes and additions, and the Designated Officers are hereby authorized to execute a certificate deeming the preliminary Official Statement to be final for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934.

Section 8. Municipal Bond Insurance. The Designated Officers, each acting alone, are hereby authorized and directed to obtain a municipal bond insurance policy for the Notes if it is determined, upon consultation with the Underwriter that such municipal bond insurance policy will reduce the true interest cost with respect to the Notes.

Section 9. Official Action. All actions heretofore taken by the officers and agents of the District with respect to the preparation of the Official Statement and the Indenture and the sale and issuance of the Notes, are hereby approved, confirmed and ratified, and the proper officers of the District, including the Designated Officers and the District's general counsel, are hereby authorized and directed, for and in the name and on behalf of the District, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Notes in accordance with this Resolution, including but not limited to those certificates, agreements and other documents described in the Indenture and the other documents herein approved, and any certificates, agreements or documents as may be necessary to further the purpose hereof or provide additional security for the Notes, but which shall not create any obligation or liability of the District other than with respect to the limited tax revenues pledged as security for the Notes in the Indenture and assets derived from the proceeds of the Notes.

Section 10. Approval of Professional Service Agreements. The District hereby approves the form of the professional services agreements on file with the Secretary with respect to the services of Jones Hall, A Professional Law Corporation as bond counsel and Meyers Nave Riback Silver & Wilson, A Professional Law Corporation, as disclosure counsel. The General Manager is hereby authorized and directed to execute the agreements on behalf of the District with such changes, additions or deletions as may be approved by the General Manager.

Section 11. Effective Date. This resolution shall take effect from and after the date of approval and adoption thereof.
