

CITY OF NAPA CITY COUNCIL
AGENDA REPORT

ADMIN CALENDAR
AGENDA ITEM 6.A.

Date: September 20, 2016

To: Honorable Mayor and Members of City Council

From: Roberta Raper, Finance Director and Jack LaRochelle, Public Works Director

Prepared by: Roberta Raper and Kevin Miller, Materials Diversion Administrator

Subject: Revenue Bond Issuance for Covered Compost System and Other Capital Improvements at City's Materials Diversion Facility

ISSUE STATEMENT:

Adopt a resolution authorizing the issuance and sale of solid waste revenue bonds, in an amount not to exceed \$12,500,000, for the purpose of financing the costs of constructing covered compost system and other capital improvements to the MDF, and related matters; and determine that the potential environmental impacts of these actions were adequately analyzed by a previously adopted mitigated negative declaration.

DISCUSSION:

As discussed in detail at City Council's June 21st meeting, the MDF requires certain improvements be constructed very soon to be in compliance with its Air Quality and stormwater permits. These improvements – covered composting bunkers (estimated at \$7,500,000) and storm drain improvements (estimated at \$2,000,000) being the largest needs – all will serve to reduce the impacts emanating from the increasing flow of food scraps into the MDF which are essential to achieving compliance with the City's mandated diversion policy goals as well as State-required food composting legislation. The 2016 Bonds will fund these improvements, as well as a debt service reserve fund or surety bond and related costs of the financing.

Staff recommends that the City Council approve the issuance of the 2016 Bonds, and an Indenture of Trust and a Continuing Disclosure Certificate in substantially the forms attached (the final dates and precise transaction amounts will be finalized based on the actual closing date). Due to the security, size and length of the term of the transaction, it has been determined that the 2016 Bonds will be sold as a conventional public offering in the municipal bond market to secure the lowest interest rate and annual debt payment. The 2016 Bonds will be issued as "taxable bonds" (i.e., interest on the 2016 Bonds will not be excluded from gross income of the owners of the 2016 Bonds for federal income tax purposes) because the City wishes to maintain more flexibility with respect to the terms of its contracts with facility operators than it could if the 2016 Bonds were issued as "tax-exempt" bonds. Additionally, due to the nature of the solid waste revenue security and need to retain an underwriter during structuring phase of the

project to become fully versed with the credit to best market the bonds to investors, the 2016 Bonds will utilize a negotiated method of sale. Raymond James has been retained as the City's underwriter for the 2016 Bonds ("Underwriter") and was selected based upon a competitive request for qualifications process.

The Underwriter has suggested that the City consider adding a "Green Bonds" designation to the 2016 Bonds because the Underwriter believes that doing so could increase the demand for the 2016 Bonds and, consequently, lower the interest rate. A "Green Bond" designation would not convey any special credit enhancement or unique lien status, but it would allow investors the opportunity to invest in environmentally beneficial endeavors.

Security for the 2016 Bonds. The 2016 Bonds will be payable from revenues of the City's Solid Waste and Materials Diversion Enterprise Fund after all operating expenses have been paid. Note that reimbursement of the City's General Fund from the Solid Waste and Materials Diversion Fund for various ongoing services provided by General Fund employees and functions is treated as an operating expense, and therefore, is payable on a senior basis to debt service on the proposed 2016 Bonds. However, certain capital expenses (including the annual contribution to the City's Street Resurfacing Fund for impacts to the City's streets from the large solid waste and recycling collection trucks) will be funded after the debt service payment. This means the operating expenses will be paid first, debt service payment will be made next, and the capital expenses, including the contribution to the Street Resurfacing program, will be made from funds available after the annual debt service payment is made. While capital expenses are prioritized below the debt service payment, they will continue to be included in the rate setting calculations and process, and will continue to be funded on an annual basis as they have been historically. There is no General Fund obligation of any kind for the 2016 Bonds because the 2016 Bonds are solely secured by net revenues of the Solid Waste and Materials Diversion Enterprise Fund.

The Indenture of Trust governs the use of proceeds of the 2016 Bonds and the security for the 2016 Bonds. As is typical with other enterprise revenue financings in California, the Indenture requires the City to collect solid waste service rates sufficient to generate net revenues equal to 100% of annual debt service on the 2016 Bonds, plus a 25% margin. This "margin," or coverage factor, is necessary to secure an investment grade rating that will achieve the most efficient borrowing cost and, as a result, reduce the impact of the financing on customers of the City's solid waste and recycling enterprise. Consequently, to the extent that solid waste service rates are insufficient to pay debt service and provide the 25% debt service coverage factor, the Indenture requires the City to initiate a Proposition 218 process to raise rates (or reduce operating expenses).

However, the Indenture also provides a mechanism under which this obligation can be deferred. The City retains the option of using moneys in a "Rate Stabilization Fund" to fund all or a portion of the "margin" or coverage factor in lieu of raising rates (or reducing operating expenses); the availability of the Rate Stabilization Fund as a method for deferring rate increases (or expense reductions) is dependent upon the City making transfers to the Rate Stabilization Fund in those years where surplus revenues are available. The City's failure to meet its rate covenant would constitute an event of default under the Indenture.

PROFESSIONAL SERVICES:

Jones Hall is serving as Bond Counsel and Disclosure Counsel in connection with the issuance, sale and delivery of the 2016 Bonds and NHA Advisors LLC is serving as municipal advisor in connection with the issuance, sale and delivery of the Bonds under professional services agreements that are on file with the City Manager. These two firms, along with Raymond James & Associates, Inc. serving as underwriter, successfully executed the Napa Successor Agency's Tax Allocation Refunding Bond transaction in January, 2015.

SCHEDULE:

If City Council approves the resolution, it is expected that, shortly thereafter, the bond structure for the 2016 Bonds will be finalized and the preliminary official statement for the 2016 Bonds will be posted for potential bond investors' review. Depending upon bond market conditions, the terms of the 2016 Bonds would be set on or about October 5, 2016 and closing would occur approximately two weeks later (approximately October 20, 2016).

DOCUMENTS FOR APPROVAL

There are several documents attached, including a summary of the proposed City of Napa 2016 Solid Waste Revenue Bond Payment Summary and the proposed resolution, which authorizes Staff and its finance team to complete the transaction, subject to certain not-to-exceed parameters, including maximum bond size, interest rate and underwriter discount. The following documents are included as exhibits to the resolution:

Indenture of Trust. The Indenture of Trust governs the use of proceeds of the 2016 Bonds and the security for the 2016 Bonds. The Indenture establishes the rules for issuance of future debt secured by net revenues of the solid waste and recycling enterprise, includes the "rate covenants" described in "Discussion" above and describes the use and timing of revenues generated by the solid waste and recycling enterprise.

Bond Purchase Agreement. Pursuant to the Bond Purchase Agreement between the City and Raymond James, as Underwriter, the City will make certain representations and agree to the final pricing terms when the 2016 Bonds are sold. Under the Bond Purchase Agreement, the underwriter will agree to purchase all of the 2016 Bonds from the City at an established price, together with any premium or discount.

Continuing Disclosure Certificate. Pursuant to the Continuing Disclosure Certificate, the City will be obligated to provide certain annual financial and operating information and notices of enumerated events to the Electronic Municipal Market Access ("EMMA") website for purposes of assisting the Underwriter with complying with Rule 15c2-12 ("Rule 15c2-12") of the U.S. Securities and Exchange Commission ("SEC") promulgated under the Securities Exchange Act of 1934, as amended.

Preliminary Official Statement. The City is obligated to distribute a disclosure document to potential purchasers of the 2016 Bonds. The attached Preliminary Official Statement has been reviewed and approved for transmittal to the City Council by City staff and its financing team. The distribution of the Preliminary Official Statement by the City 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 2016 Bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the 2016 Bonds.

The Securities and Exchange Commission (the “SEC”), the agency with regulatory authority over the City’s compliance with the federal securities laws, has issued guidance as to the duties of the City Council 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 City Council has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the Bonds, whether relating to their repayment, tax 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 City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

The security for the 2016 Bonds is described in the section of the Preliminary Official Statement entitled “SECURITY FOR THE BONDS.” (See Page 10)

Information about the solid waste and recycling enterprise is located in three sections:

- “THE SOLID WASTE ENTERPRISE SYSTEM” (See Page 20)
- “SOLID WASTE REGULATIONS.” (See Page 52)

The key risk factors associated with the 2016 Bonds are described in the section of the Preliminary Official Statement entitled “RISK FACTORS” (See Page 55).

FINANCIAL IMPACTS:

The proposed 2016 Bonds will require an additional annual debt service appropriation from the Solid Waste and Materials Diversion Fund of not more than \$850,000 per year for 19 years, beginning in Fiscal Year 2017-18. Using a figure of \$185,000 to represent 1% of the Solid Waste Collection Rate Revenue, an \$850,000 debt service payment equates to approximately 4.6% of annual collection rate revenue. In FY 2016/17 only interest is due (accrued interest of approximately \$260,000), which is already included in the adopted budget. This financial impact rests solely with the Solid Waste and Materials Diversion Fund—there is no General Fund impact from this financing.

CEQA:

City staff recommends that the City Council determine, pursuant to CEQA Guidelines Section 15162, that the potential environmental effects of the Recommended Action described in this Agenda Report (the 2016 Bonds) were adequately examined by the

Mitigated Negative Declaration (MND) for the Napa Renewable Resources Project (NRRP), which was adopted by the City of Napa Planning Commission on October 31, 2013, pursuant to Resolution No. PC2013-15. A Notice of Determination for the MND was filed on February 3, 2014 (File # 12-0022, State Clearinghouse Number 2013092036). The 2016 Bonds are planned to finance physical construction of certain critical and time-sensitive improvements to the City's Materials Diversion Facility (MDF) that are described as a part of the NRRP, including a covered compost system (covered aerated static pile, or CASP system) and stormwater upgrades. The 2016 Bonds are also anticipated to include sufficient funds to finance additional physical improvements to the MDF that have not yet been completely identified, and that were not analyzed in the MND, such as the potential construction of an extension of the roof at the main sorting building at the MDF. Any such additional physical improvements to be funded by the 2016 Bonds are not subject to CEQA review at this time, since the City has not yet completely defined those physical improvements, and has not made a commitment to any physical change in the environment. Any such additional physical improvements will be subject to environmental review in accordance with CEQA at the "earliest feasible time" after they have been identified, and prior to "approval" of construction, consistent with CEQA Guidelines Sections 15004 and 15352.

DOCUMENTS ATTACHED:

1. Attachment 1. Resolution Authorizing the Issuance and Sale of Solid Waste Revenue Bonds, in an amount not to exceed \$12,500,000, for the Purpose of financing the Costs of Constructing Materials Diversion Facility Improvement Projects, approving an Indenture of Trust, a Continuing Disclosure Certificate and an Official Statement, and Related Matters (with Exhibits "A", "B", "C", and "D")

Attachment 2: City of Napa 2016 Solid Waste Revenue Bond Debt Payment Summary

NOTIFICATION:

Courtesy Copy via email to:

Greg Kelley, General Manager/Managing Partner, Napa Recycling & Waste Services
Mike Murray, Controller/Chief Financial Officer, Napa Recycling & Waste Services
Greg Pirie, Napa County Solid Waste Program Manager/Local Enforcement Officer
Karen Querin, Napa County Auditor-Controller Office
Evan Edgar, Edgar and Associates
Eric Scriven, NHA Advisors
Robert Larkins, Raymond James & Associates, Inc.

RECOMMENDED ACTION:

Staff recommends that the City Council move, second and approve each of the actions set forth below, in the form of the following motion. Move to:

Adopt a resolution authorizing the Issuance and Sale of Solid Waste Revenue Bonds, in an amount not to exceed \$12,500,000, for the Purpose of financing the Costs of Acquisition and Construction of Capital Improvements at the City's

Materials Diversion Facility, approving an Indenture of Trust, a Continuing Disclosure Certificate, and an Official Statement, and authorizing Related Matters.