



# **CITY OF MILPITAS/MILPITAS MUNICIPAL FINANCING AUTHORITY AGENDA REPORT (AR)**

<b>Item Title:</b>	<b>Adopt Resolutions Authorizing the Sale and Issuance of tax-exempt Water Revenue Bonds and Authorize the Interim City Manager to Execute a Contract with Jones Hall, A Professional Law Corporation (Staff Contact: Walter C. Rossmann, 408-586-3111)</b>
<b>Category:</b>	Leadership and Support Services
<b>Meeting Date:</b>	10/15/2019
<b>Staff Contact:</b>	Walter C. Rossmann, 408-586-3111
<b>Recommendations:</b>	<ol style="list-style-type: none"><li>1. Adopt resolutions of the City Council and the Milpitas Municipal Financing Authority authorizing and directing the City Manager, Assistant City Manager or Director of Finance to execute the sale and issuance of 2019 Water Revenue Bonds with an estimated aggregate principal amount not to exceed \$21.0 million to finance the acquisition, construction and/or improvement of capital improvements to the Water System.</li><li>2. Authorize the Interim City Manager to execute a contract with Jones Hall, A Professional Law Corporation, for Bond Counsel Services.</li></ol>

## **Background:**

This staff report relates to the proposed issuance of the 2019 tax-exempt Water Revenue Bonds, (the “Bonds”) by the Milpitas Municipal Financing Authority (the “Authority”). The City Council serving in its role as governing body of the Authority is asked to approve issuance of the Bonds and all related documents. The near-final versions of these documents are attached.

As a water service provider, the City must maintain the distribution system that provides water to our customers in compliance with numerous federal and state laws and regulations. This includes 200 miles of pipeline, 4 pump stations, 5 storage tanks and other water system appurtenances. Portions of the City’s water infrastructure are over 60 years old and as water system infrastructure continues to age, the risk of infrastructure failure increases. The City has identified approximately \$46.3 million in high priority projects in its water system Capital Improvement Program needed over the next 5 years, to improve the reliability of the City’s water system and ensure the safe delivery of potable water to residents and businesses. Some of these critical projects include:

- **Well Upgrade Project** – project to construct a new well and improve the reliability, taste, odor, and water hardness at the City’s existing wells. Historically, the City’s wells have provided the City with emergency water supply, in case SFPUC and/or SCVWD systems are not available due to an earthquake or other catastrophe.
- **Automated Meter Replacement Program** – project provides for replacement and/or retrofit of all City water meters with automated remote reading meters. The meters will provide electronic results for over 17,000 water accounts, thus eliminating the need for manual meter reads and allowing customers to continuously monitor water usage.
- **Water Supervisory Control and Data Acquisition (SCADA) Project** – project provides for real-time data, remote monitoring, and operation of pumps and valves to allow operators to implement corrective

actions and maintain water supply. Currently operators rely on unsophisticated alarms at limited locations and customer complaints to become aware of water system problems. Operators must drive to sites to evaluate the problem and implement corrective action, such as starting a back-up pump, when the main pumps fail.

The City's FY 2019-2024 Capital Improvement Program and adopted Water Rate Study prior approvals were based on the City issuing bonds to finance \$20.0 million to fund a portion of the City's water system capital improvements. The issuance of bonds to fund capital projects, helps smooth the impact of rate increases on customers, and ensures intergenerational equity over the expected life of the water system. At the January 29, 2019 Fiscal Year 2019-20 Budget Study Session and the May 15, 2019 Study Session on the FY 2019-20 Operating Budget and the 2019-24 Five Year Capital Improvement Program the issuance of Bonds was discussed. The FY 2019-20 Adopted Budget as approved by Council assumes the bond proceeds to fund infrastructure improvements.

Today's interest rate environment is very favorable for issuing long-term debt, which means historically very low borrowing costs for the City. The current 10-year yield is 1.42% and the 30-year yield is 1.83%. These rates are approximately 150 basis points lower than they were a year ago.

#### **Analysis:**

Staff, working with its consultants, has determined that, due to prevailing financial market conditions, it is in the best interests of the City at this time to issue the Bonds since interest rates are at or near historic lows. The Bonds will generate proceeds of \$20.0 million to fund a portion of the City's water system capital improvements. The Bonds will mature in FY 2049 and the City will make semi-annual debt service payments on December 1 and June 1, starting on June 1, 2020. This term and resulting annual principal and interest payments are in alignment with the Council approved rate study.

The City will be obtaining an underlying credit rating for the Bonds from Standards & Poor's. It is expected the credit rating from Standards & Poor's will help the City obtain the best possible interest rates. The City's Water System currently has no debt outstanding and this will be its inaugural rating.

The resolutions being presented for approval authorizes the issuance of the Bonds and approves the form and authorizes execution of the related financing documents including a draft of a Preliminary Official Statement that describes the terms of the Bonds. The resolutions contain parameters that the principal amount of the Bonds cannot exceed \$21 million, the Underwriter's Discount with respect to the Bonds shall not exceed 0.50% of the principal amount of the Bonds, and the true interest cost of the bonds shall not exceed 5%. The financing documents will be finalized when the exact terms of the Bonds are determined at the time the Bonds are sold to investors, anticipated to occur around October 24th with an anticipated bond closing of early November. The forms of the documents to be approved are:

- **Indenture of Trust** – The Indenture is a contract between the Authority and U.S. Bank National Association, acting as Trustee. The Indenture specifies the Trustee, dated date, maturity date or dates, interest rate or rates, interest payment dates, denominations, forms, registration privileges, manner of execution, place or places of payment, terms of redemption and other terms of the Bonds.
- **Installment Sale Agreement** – The Installment Sale Agreement is a contract between the Authority and the City, under which the Authority agrees to provide financing for the Wastewater Projects and to sell the completed Wastewater Projects to the City in consideration of the payment by the City of semiannual installment payments which are sufficient to provide revenues with which to pay principal of, and interest on, the Bonds when due.
- **Bond Purchase Agreement** – The Bond Purchase Agreement is a contract between the Authority, the City and Stifel, Nicolaus & Company, as underwriter (the "Underwriter"), whereby the Authority agrees to sell the Bonds to the Underwriter and the Underwriter agrees to buy the Bonds from the Authority for resale to the public.

- **Preliminary Official Statement** – The Preliminary Official Statement is the offering statement used by the Underwriter to inform the marketplace of the terms of the Bonds and contains all relevant information for the investor to decide whether to purchase the Bonds.
- **Continuing Disclosure Certificate** - Contained in the Preliminary Official Statement is the form of the Continuing Disclosure Certificate, which requires the City to submit annual continuing disclosure reports and notice of certain listed events to the marketplace as long as the Bonds are outstanding. Willdan Financial Services, as dissemination agent, assists the City with this responsibility.

The financing team consisting of bond counsel, financial advisor, staff, and the City Attorney's Office reviewed and approved for transmittal the Preliminary Official Statement to the City Council, sitting as the governing body of the Authority. The distribution of the Preliminary Official Statement by the Authority 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 related to the purchase of the 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 Bonds. If the members of the City Council conclude that the Preliminary Official Statement includes all facts that would be material to an investor in the Bonds, it may adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over compliance with federal securities laws, has issued guidance as to the duties of the members of the City Council, sitting as the governing body of the Authority, 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 SEC indicated that, if a member of the governing body 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-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 indicated that the steps that a member of the governing body could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

The proposed bonds are being issued under the City's adopted debt and disclosure policies (see attached) approved by the City Council on October 17, 2017 and the Authority's debt policy anticipated to be approved by the Board on October 15, 2019. The proposed bonds meet all requirements outlined in the City's adopted policies.

Pursuant to the requirements of Section 5852.1 of the California Government Code ("Code"), set forth below are good faith estimates provided by the Municipal Advisor, based on market conditions as of September 6, 2019. The following estimates and the final costs will depend on market conditions and can be expected to vary from the estimated amounts set forth below.

- The true interest cost of the Bonds is estimated at 3.49% calculated as provided in Section 5852.1(a)(1)(A) of the Code.
- The finance charge of the Bonds, including all fees and charges paid to third parties, including underwriter's discount, is estimated at \$263,641.
- Proceeds of the Bonds received by the Authority for the sale of the Bonds, less the finance charge, is equal to \$20,000,000.
- The total payment amount including principal and interest calculated as provided in Section 5852.1(a)(1)(D) of the Code is estimated at \$32,703,092.

#### Bond Counsel Services

The issuance of bonds requires specialized legal services. Staff has engaged Jones Hall, A Professional Law Corporation, to support the issuances of the water bonds and seeks Council approval of the attached contract in the amount of \$98,000. The contract amount for each contract supporting the bond issuance of the water

bonds and the companion item on tonight's agenda for the wastewater bonds are within the City Manager's contract approval authority of \$100,000. However, since these contracts are for similar legal services the combined contract amounts require Council approval for award of contract. Therefore, staff in consultation with the City Attorney's recommends that the Council authorizes the interim City Manager to execute the contract.

### **Policy Alternatives:**

**Alternative 1:** Do not issue bonds to finance the Water System's capital improvements and use existing reserves and debt payment savings to pay for improvements

Pros: Avoids interest payments over 30 years in the amount of \$12.7 million

Cons: Much needed critical improvements to the Water System will not be possible

Reason not recommended: Portions of the City's water infrastructure are over 60 years old and in need of renewal and/or replacement to lower the risk of infrastructure failure. The City has identified approximately \$46.3 million in high priority projects in its water system Capital Improvement Program needed over the next 5 years, to improve the reliability of the City's water system and ensure the safe delivery of potable water to residents and businesses. The issuance of these bonds to fund capital projects, helps smooth the impact of rate increases on customers, and ensures intergenerational equity over the expected life of the water system.

### **Fiscal Impact:**

The sale of the Bonds will have no financial impact on the City's General Fund, as all payments of principal and interest on the Bonds will be paid solely from Water System Net Revenues. It is estimated that the average annual debt service payment will be approximately \$1.11 million which has been included in the rate increases for the current and next three fiscal years as approved by the Council on February 19, 2019.

### **California Environmental Quality Act:**

Not applicable

### **Recommendations:**

1. Adopt resolutions of the City Council of the City of Milpitas and the Milpitas Municipal Financing Authority authorizing and directing the City Manager, Assistant City Manager or Director of Finance to execute the sale and issuance of 2019 Water Revenue Bonds with an estimated aggregate principal amount not to exceed \$21.0 million to finance the acquisition, construction and/or improvement of capital improvements to the Water System.
2. Authorize the City Manager to execute a contract with Jones Hall, A Professional Law Corporation, for Bond Counsel Services.

### **Attachments:**

1. City Council Resolution
2. Municipal Financing Authority Resolution
3. Indenture of Trust
4. Installment Sale Agreement
5. Bond Purchase Agreement
6. Preliminary Official Statement
7. City Debt Policy
8. Disclosure Policies
9. Professional Services Agreement with Jones Hall