

DATE ISSUED: September 10, 2003 REPORT NO. 03-180

ATTENTION: Honorable Mayor and City Council
Docket of September 15, 2003

SUBJECT: Refunding of the San Diego Open Space Park Facilities District No. 1
General Obligation Bonds Refunding Series 1994

SUMMARY

Issues -

1. Should the City Council adopt an ordinance authorizing the issuance of Refunding General Obligation Bonds (the “2003 Refunding Bonds”) in an amount not to exceed \$36 million and approve related financing documents for the purpose of refunding a portion of the San Diego Open Space Facilities District No. 1 General Obligation Bonds Refunding Series 1994 (the “1994 Refunding Bonds”), including Bond Refunding Resolution and Ordinance, Continuing Disclosure Agreement, Escrow Agreement, Paying Agent Agreement, and related documents?
2. Should the City Council authorize the application of the two-thirds portion of the Environmental Growth Fund monies, pledged by the City of San Diego, to pay the principal of and interest on the 2003 Refunding Bonds and the levy of a tax on behalf of the San Diego Open Space Park Facilities District No.1 (the “District”) in the event that monies pledged by the City of San Diego are insufficient?

Manager’s Recommendations -

1. Adopt an ordinance authorizing the issuance of the 2003 Refunding Bonds in an amount not to exceed \$36 million and approve related financing documents for the purpose of refunding a portion of the 1994 Refunding Bonds, including Bond Refunding Resolution and Ordinance, Continuing Disclosure Agreement, Escrow Agreement, Paying Agent Agreement, and related documents;

2. Adopt an ordinance authorizing the application of the two-thirds portion of the Environmental Growth Fund monies, pledged by the City of San Diego, to pay the principal of and interest on the 2003 Refunding Bonds and the levy of a tax on behalf of the District in the event that monies pledged by the City of San Diego are insufficient.

Other Recommendations - None

Fiscal Impact - Based on current market conditions, refunding a portion of the 1994 Refunding Bonds is expected to generate total savings of approximately \$2.8 million over a 6 year period through Fiscal Year 2009. The average annual debt service for the 2003 Refunding Bonds is estimated to be \$6.9 million, approximately \$508,000 lower than the debt payments for the 1994 Refunding Bonds in Fiscal Years 2005 - 2009. It is estimated that the Fiscal Year 2004 debt service savings would be \$232,000. However, before any determination regarding the disposition of these funds is made, it is recommended that the City wait for the annual reconciliation of franchise fee payments to be completed in March 2004.

All related costs of issuance, including, but not limited to, financial advisor, underwriting, bond counsel, verification, escrow, and paying agent fees, and costs to prepare the official statement would be reimbursed from the 2003 Refunding Bond proceeds.

BACKGROUND

In 1977, the City Council adopted the San Diego Open Space Park Facilities District Procedural Ordinance and pursuant to the adoption of Resolution No. 220486 by the City Council in 1978, the City formed San Diego Open Space Park Facilities District No. 1. The District was formed for the purpose of acquiring open space properties to implement the Open Space Element of the City's General Plan benefiting all property within the City. The City Council established the Environmental Growth Fund, through a City Charter amendment, for the exclusive purpose of preserving and enhancing the environment of the City in whatever manner is deemed appropriate by the City Council. The City deposits 25% from a 3% franchise fee on San Diego Gas and Electric revenues for the transmission and distribution of gas, electricity, and steam within the City to the Environmental Growth Fund (this does not apply to any franchise fee revenues related to the undergrounding of electric utilities).

The City Charter section 103.1a provides that two-thirds of the Environmental Growth Fund shall be used exclusively to pay principal and interest on bonds of any nature issued for the acquisition of open space lands. The remaining one-third of the Environmental Growth Fund shall be used for the purpose of preserving and enhancing the environment and shall be allocated to operations and maintenance costs. If there are no outstanding bonds or if two-thirds of the monies paid into the Environmental Growth Fund exceed the amount necessary to service any outstanding bonds issued for the above purposes in any fiscal year, then those monies shall be used exclusively for the purpose of preserving and enhancing the environment of the City in whatever manner is deemed appropriate by the City Council. The Municipal Code section 63.30 is more restrictive and provides that the two-thirds portion of

the Environmental Growth Fund may be used only for bond payments or acquisition of open space lands.

In May 1994, the City issued \$64,260,000 in General Obligation Bonds to refund all or a portion of the following series of outstanding District bonds: (i) the Open Space Park Bonds of 1978, Series 79A, (ii) the Open Space Park Bonds of 1978, Series 86A and (iii) the Open Space Park Refunding Bonds of 1986 and to pay certain costs of issuance. The 1994 Refunding Bonds were secured by the District's power and obligation to cause the City to tax all taxable property within the District in an amount sufficient to pay the principal and interest on the bonds. The City Charter section 103.1a provides that the two-thirds portion of the City's Environmental Growth Fund be used to pay principal and interest on bonds issued to acquire open space park facilities. Consistent with this, the City Council pledged the two-thirds portion of the Environmental Growth Fund as security on the 1994 Refunding Bonds. In the event that monies pledged by the City were not sufficient to make debt service payments on the 1994 Refunding Bonds, the District was authorized through a 1978 ballot measure to cause the City to levy and collect a tax each fiscal year, together with available amounts from Environmental Growth Fund two-thirds monies, to pay the principal and interest on the 1994 Refunding Bonds.

DISCUSSION

The 1994 Refunding was an Advance Refunding of the outstanding District bonds mentioned above. In an Advance Refunding, the outstanding bonds are legally defeased by funding an escrow fund sufficient to, combined with interest earnings, make debt payments on the outstanding bonds over the remaining term of the bonds and to pay off the bonds on the redemption date. According to federal tax law, entities may only once advance refund bonds issued after 1985. The 2003 Refunding Bonds are planned on a Current Refunding basis. In a Current Refunding, when the refunding bond is issued, the refunding bond proceeds are used to call the outstanding bonds promptly thereafter. A Current Refunding is undertaken when the outstanding bonds mature or are callable (i.e., become eligible for redemption) within 90 days of the issuance of the refunding bond.

A portion of the 1994 Refunding Bonds are eligible for redemption prior to their maturity dates, at the option of the District, at 101% of the par value of the bonds, on or after January 1, 2004. The documents being submitted for City Council action provide authorization to the City Manager to proceed with the Current Refunding of the 1994 Refunding Bonds. Under the proposed refunding plan, the proceeds of the 2003 Refunding Bonds will be placed in an escrow fund until the call date (January 1, 2004) of the 1994 Refunding Bonds, with the proceeds, including any interest earned, to be used to redeem the outstanding 1994 Refunding Bonds in early January 2004.

The basic financing documents being submitted for City Council action include:

Bond Refunding Resolution and Ordinance (similar in effect to Trust Indenture) - Outline of the parties' rights, responsibilities, and obligations with respect to the issuance.

Continuing Disclosure Agreement – Agreement between the City and Paying Agent regarding continuing disclosure requirements.

Escrow Agreement – Agreement governing use and investment of funds deposited in the Escrow Account.

Paying Agent Agreement – Agreement between the District and the Paying Agent governing the obligations of the Paying Agent with respect to payment of debt service on the 2003 Refunding Bonds.

The Preliminary and Final Official Statement (the bond offering document providing certain information pertaining to the bond refunding) will be submitted for City Council action in the next few weeks.

CONCLUSION

The 2003 Refunding Bonds will be sold by competitive bid, with the sale currently scheduled for November 2003. The best bid will be determined based on the lowest true interest cost to the City.

It is recommended that the City Council authorize the issuance of the 2003 Refunding Bonds in an amount not to exceed \$36 million and approve the related financing documents and the necessary Ordinances and Resolutions. It is also recommended that the City Council, consistent with the City Charter, pledge the two-thirds portion of the Environmental Growth Fund to debt service on the 2003 Refunding Bonds.

ALTERNATIVE

Do not approve the requested actions necessary to issue the 2003 Refunding Bonds.

Respectfully submitted,

Mary E. Vattimo
City Treasurer

Approved: Patricia T. Frazier
Deputy City Manager