



Legislation Text

File #: 13-1432, **Version:** 1

Auditor-Controller recommending the Board consider the following;

- 1) The Auditor-Controller and Chief Administrative Officer (CAO) to negotiate contracts with Kronick, Moskovitz, Tiedemann & Girard (Bond and Disclosure Counsel), Stone & Youngberg, a Division of Stifel Nicolaus, (Underwriter), and NBS Government Finance Group (NBS/GFG) (Special Tax Consultant);
- 2) Authorize the CAO to execute all necessary contracts related to the refunding of current bonds and issuance of additional bonds for CFD 2001-1 (Promontory) after each agreement has been reviewed by County Counsel and Risk Management;
- 3) Authorize the CAO to execute the Deposit and Reimbursement Agreement between El Dorado County and AKT Promontory, LLC in regards to CFD 2001-1 upon final approval by County Counsel and Risk Management; and
- 4) Authorize the CAO and Auditor-Controller to work with the Assessment & Community Facilities District Screening Committee members and contracted consultants to consider River Rock Development's requests and begin the proceedings of financing Promontory Mello Roos Bonds by preparing a preliminary offering statement and all other necessary steps as soon as practical.

Fiscal Impact/Change to Net County Cost

This item will have no impact on the County General Fund. The contracts with underwriter and bond counsel will be contingent fee agreements. There will be no cost to the County unless the bonds are refunded, in which case the costs will be paid out of the proceeds from the bond sale. The cost of the pricing consultant and special tax consultant will be advanced by the Developer who would then be reimbursed with proceeds from the bond sale.

Background

On June 26, 2001, the Board of Supervisors adopted Resolution No. 181-2001, forming Community Facilities District No. 2001-1 (Promontory Specific Plan) (the "CFD"). In addition, your Board's approved Resolution No. 182-2001 authorizing the issuance of special tax bonds up to an aggregate principal amount of \$30.0 million on behalf of the CFD. In 2002, your Board authorized the sale of the first bond series for \$10,940,000 and in 2005, a second series of bonds was authorized by your Board in the amount of \$7,950,000, for a total bond issuance to date of \$18,890,000. Of the authorized \$30 million, the CFD has \$11,110,000 of unused bond authorization. It is requested by written communication on October 24, 2013, from River Rock Development Company, as an authorized representative of AKT-Promontoy, LLC ("Promontory"), to issue the third series of Mello Roos Bonds. This final series would be at an amount not-to-exceed \$11,110,000. The actual amount of bonds sold would depend on the lien to value ratio calculated by the consultants and reviewed by the County. In addition to the request to sell additional bonds, it is requested to amend the current Rate & Method of Apportionment. The first step in processing these requests is to authorize the Deposit and Reimbursement Agreement between the County and the Developer. A \$15,000 deposit was received from River Rock Development to pay third party invoices from consultants retained by the County to assist in the issuance of bonds and to reimburse the County for the cost of staff time dedicated to said proceedings. The Deposit and Reimbursement Agreement authorizes the County to require additional funds from River Rock Development to cover

costs through these proceedings, as needed.

There is approximately \$18,890,000 of Promontory Mello Roos bonds currently outstanding. These bonds were issued in 2002 and 2005. Interest rates have dropped significantly since these bonds were issued. Because interest rates have dropped, it appears that at this time it would be advantageous to the property owners in the district if these bonds were refunded (refinanced).

Reason for Recommendation

In order to refinance the outstanding bonds and to issue the final series of bonds, an offering statement, in addition to many other legal documents, will have to be prepared. In order to proceed, the County must contract with a bond counsel, a bond underwriter, and a special tax consultant. I recommend that the County also obtain the services of a disclosure counsel.

These firms will provide "special services" as described in section 3.12.230 of the County's Purchasing Ordinance and section 31000 of the Government Code, and accordingly, are exempt from any formal competitive procurement requirements.

I recommend that the County contract with the firm of Kronick, Moskovitz, Tiedemann & Girard (Kronick) to serve as bond and disclosure counsel. I recommend that we use Kronick because they have substantial municipal bond experience, they have an office in the Sacramento area, and they have performed satisfactorily for the County in the past. I recommend that we contract with NBS/GFG to serve as special tax consultant because they currently provide other services to the Promontory Mello Roos District.

I recommend, with the concurrence of the Treasurer-Tax Collector, that the County use the firm of Stone & Youngberg, a Division of Stifel Nicolaus, as our bond underwriter. For the past 10 years, Stone & Youngberg has been the most active underwriter of special tax and special assessment municipal debt in California. They have been in business for over 80 years.

Action(s) to be taken following Board approval

- (1) Authorize and execute Deposit and Reimbursement Agreement between El Dorado County and Developer in regards to CFD 2001-1 upon final approval by County Counsel and Risk Management;
- (2) Authorize CAO to execute agreements with Kronick, Moskovitz, Tiedemann & Girard (Bond and Disclosure Counsel), Stone & Youngberg (Underwriter), and NBS Government Finance Group (NBS/GFG) (Special Tax Consultant).
- (3) Authorize the CAO and Auditor-Controller to work with the Assessment & Community Facilities District Screening Committee members and contracted consultants to consider all requests by Developer and take all necessary steps to refund the CFD 2001-1 (Promontory) Mello Roos Bonds and issue additional bonds as soon as practical.

Contact
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