

MOUNTAINS RECREATION AND CONSERVATION AUTHORITY

August 7, 2019 - Agenda Item VIII

Resolution No. 19-126

RESOLUTION OF THE GOVERNING BOARD OF THE MOUNTAINS RECREATION AND CONSERVATION AUTHORITY AUTHORIZING AND APPROVING AS TO FORM AN \$8 MILLION REVOLVING CREDIT AGREEMENT TO FINANCE GRANTS AND ANNUAL OPERATING COSTS, INCLUDING THE ISSUANCE OF THREE PROMISSORY NOTES IN THE RESPECTIVE AMOUNTS OF \$3,000,000, \$3,000,000 AND \$2,000,000, A DEED OF TRUST, A PLEDGE AGREEMENT, AND CERTAIN OTHER DOCUMENTS IN CONNECTION THEREWITH, AND AUTHORIZING CERTAIN RELATED ACTIONS

WHEREAS, pursuant to the Mountains Recreation and Conservation Authority Joint Exercise of Powers Agreement (the "JPA Agreement"), entered into pursuant to the provisions of the Joint Exercise of Powers Act, comprising Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code (the "JPA Law"), among the Santa Monica Mountains Conservancy, a public agency of the State of California, the Conejo Recreation and Park District, a public agency and duly constituted body corporate and politic of the State of California established pursuant to Chapter 4, Division 5, of the California Public Resources Code and the Rancho Simi Recreation and Park District, a public agency and duly constituted body corporate and politic of the State of California established pursuant to Chapter 4, Division 5, of the California Public Resources Code, the Mountains Recreation and Conservation Authority (the "Authority") is authorized to jointly exercise any power common to such contracting parties, including, without limitation, the power to acquire and dispose of real property;

WHEREAS, the JPA Agreement provides that the Authority shall have such additional powers as apply generally to separate public entities established pursuant to the JPA Law;

WHEREAS, pursuant to Resolution No. 06-113 adopted by the Governing Board of the Authority (the "Governing Board") on July 12, 2006, the Authority has previously entered into a revolving credit agreement with Zions First National Bank (the "Prior Lender"), which provided for two revolving lines of credit (the "Prior Loans"), as further evidenced by two promissory notes (the "Prior Notes") in favor of the Prior Lender to finance, respectively, (a) land acquisitions and certain construction projects, and (b) operating cost shortfalls of the Authority;

WHEREAS, pursuant to Resolutions Nos. 09-92 and 14-164, adopted by the Governing Board on August 5, 2009 and October 1, 2014, respectively, the Authority and the Prior Lender have twice modified the Prior Loans by extending the duration thereof and modifying the interest rates;

WHEREAS, the Authority's ability to request disbursements under the Prior Loans expires on September 1, 2019;

WHEREAS, the Governing Board deems it necessary and desirable to (i) acquire land and complete certain construction projects ("the "Capital Projects"), (ii) undertake projects for the benefit of the public that are not related to capital improvements, as well as incurring preliminary expenditures and conducting feasibility activities for proposed capital improvements (collectively, the "Additional Projects"; and together with the Capital Projects, the "Projects"), and (iii) finance operating cost shortfalls of the Authority;

WHEREAS, the Governing Board deems that it is necessary and desirable for the Authority to maintain a financing arrangement to finance the Projects and operating cost shortfalls of the Authority;

WHEREAS, pursuant to a Request for Proposals (RFP) process assisted by Columbia Capital Management, LLC (the "Municipal Advisor"), a municipal advisor duly registered with the U.S. Securities and Exchange Commission to provide financial advisory services to municipal entities, the Authority has solicited from five banks active in the municipal direct lending market proposed terms for a credit facility to provide the desired financing;

WHEREAS, two banks submitted proposals in response to the RFP, and after evaluation of the proposals with the assistance of the Municipal Advisor, the Authority has determined that the terms proposed by BBVA USA, an Alabama banking corporation (the "Lender"), are most advantageous and provide the lowest cost of borrowing to the Authority;

WHEREAS, the Lender is willing to provide financing (the "Loans") to the Authority the proceeds of which will be used to (i) prepay the outstanding balances on the Prior Loans, (ii) pay, or reimburse the Authority for, costs related to the Projects, (iii) pay operating cost shortfalls, and (iv) if applicable, pay costs of such financing;

WHEREAS, the Prior Loans were secured by a security interest in an approximately 80 acre parcel known as the Trebek Parcel presently owned by the Authority, which security interest will terminate upon the prepayment of the Prior Loans;

WHEREAS, in order to facilitate the Loans, the Governing Board proposes to grant a security interest in the Trebek Parcel to the Lender, pursuant to a deed of trust to be executed by the Authority (the "Deed of Trust") in favor of the Lender;

WHEREAS, it is proposed that the terms of the Loans be governed by a Revolving Credit Agreement, to be entered into between the Authority and the Lender (the "Revolving Credit Agreement") and this Resolution;

WHEREAS, it is further proposed that the Loans to be provided by the Lender be evidenced by (i) a \$3,000,000 promissory note (the "Tax-Exempt Series A Note") with respect to the Loan consisting of a revolving line of credit to finance the Capital Projects (the "Tax-Exempt Series A Loan"), (ii) a \$3,000,000 promissory note (the "Series B Note") with respect to the Loan consisting of a revolving line of credit to finance the Additional Projects (the "Series B Loan"), and (iii) a \$2,000,000 promissory note (the "Series C Note"; and collectively with the Tax-Exempt Series A Note and the Series B Note, the "Promissory Notes") with respect to the Loan consisting of a revolving line of credit to finance operating cost shortfalls of the Authority (the "Series C Loan"), with such Promissory Notes to be issued in substantially the forms presented at this meeting and on file with the Secretary of the Authority;

WHEREAS, it is further proposed that the Promissory Notes be secured by the Deed of Trust and a pledge of certain funds and grants by the Authority pursuant to a pledge agreement (the "Pledge Agreement");

WHEREAS, there have been prepared and presented at this meeting the following documents required for the incurrence by the Authority of the Loans and the issuance of the Promissory Notes in connection therewith (collectively, the "Loan Documents"), the forms of which are on file with the Secretary of the Authority, and such Loan Documents are now in substantially final form:

- (1) Form of the Revolving Credit Agreement;
- (2) Forms of the three Promissory Notes of the Authority;
- (3) Form of the Deed of Trust to be granted by the Authority in favor of the Lender; and
- (4) Form of the Pledge Agreement to be entered into between the Authority and the Lender.

WHEREAS, on July 18, 2019, the Board of Directors of the Rancho Simi Recreation and Park District adopted a resolution making a finding, after a duly noticed public hearing pursuant to Section 6586.5 of the California Government Code, that the proposed Loans and issuance by the Authority of the Promissory Notes will result in significant public benefits;

WHEREAS, on July 18, 2019, the Board of Directors of the Conejo Recreation and Park District adopted a resolution making a finding, after a duly noticed public hearing pursuant to Section 6586.5 of the California Government Code, that the proposed Loans and issuance by the Authority of the Promissory Notes will result in significant public benefits;

WHEREAS, on August 26, 2019, the Santa Monica Mountains Conservancy ("SMMC") will

consider a resolution making a finding, after a duly noticed public hearing pursuant to Section 6586.5 of the California Government Code, that the proposed Loans and issuance by the Authority of the Promissory Notes will result in significant public benefits (the "SMMC Resolution"); and

WHEREAS, on July 3, 2019, the Governing Board approved a local debt policy (the "Local Debt Policy") in furtherance of Section 8855(i) of the California Government Code, as amended by SB 1029, enacted as Chapter 307, Statutes of 2016;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Mountains Recreation and Conservation Authority, as follows:

Section 1. All of the recitals herein contained are true and correct, and the Governing Board so finds.

Section 2. The Governing Board hereby determines that the proposed Loans and Promissory Notes to be issued in accordance with the parameters set forth in this Resolution are consistent with the Local Debt Policy.

Section 3. Subject to the approval by SMMC of the SMMC Resolution, the incurrence of the Loans pursuant to the terms of the Revolving Credit Agreement and the issuance by the Authority of the Tax-Exempt Series A Note in the principal amount of \$3,000,000, the Series B Note in the principal amount of \$3,000,000, and the Series C Note in the principal amount of \$2,000,000, are hereby approved.

Section 4. The form of the Revolving Credit Agreement, on file with the Secretary of the Governing Board, is hereby approved, and each of the Financial Officer of the Authority and the Chief Deputy Financial Officer of the Authority (each, an "Authorized Officer"), acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Revolving Credit Agreement in substantially said form, with such changes therein as may be requested by Bond Counsel and as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. The forms of Promissory Notes, on file with the Secretary of the Governing Board, are hereby approved, and the Promissory Notes shall be executed by the manual or facsimile signature of an Authorized Officer, and attested by the manual or facsimile signature or another Authorized Officer, for and in the name and on behalf of the Authority, in substantially said form, with such changes therein as may be requested by Bond Counsel and as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. The Promissory Notes described herein are being issued pursuant to the

authority of the JPA Law, and other applicable provisions of law. The date, maturity date, interest rate, principal and interest payment dates, terms of prepayment and other terms of the Promissory Notes shall be as provided in the Promissory Notes and the Revolving Credit Agreement as finally executed. The Promissory Notes shall be issued to the Lender, provided that the Lender executes and delivers to the Authority an investor letter in the form and substance substantially set forth as Exhibit "A" to the Promissory Notes.

Section 7. The principal amount of the Promissory Notes, together with the interest thereon, shall be payable from income, revenue, cash receipts and other moneys which are legally available therefore and received or held by the Authority, and the other security to be provided pursuant to the Pledge Agreement and Deed of Trust. EXCEPT TO THE EXTENT PROVIDED HEREUNDER AND UNDER THE PROMISSORY NOTES, NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA OR ANY PUBLIC AGENCY THEREOF OR ANY MEMBER OF THE AUTHORITY IS

PLEGGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON, THE PROMISSORY NOTES.

Section 8. The form of the Deed of Trust, on file with the Secretary of the Governing Board, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute the Deed of Trust with respect to the Trebek Parcel in favor of the Lender in substantially said form, with such changes therein as may be requested by Bond Counsel and as the Authorized Officer accepting the same may require or approve, such approval to be conclusively evidenced by the acceptance thereof.

Section 9. The form of the Pledge Agreement, on file with the Secretary of the Governing Board, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Pledge Agreement in substantially said form, with such changes therein as may be requested by Bond Counsel and as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 10. The Authority represents and covenants that will not take any action or fail to take any action if such action or failure to take such action would adversely affect the exclusion from gross income of the interest payable on the Tax-Exempt Series A Note under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Without limiting the generality of the foregoing, the Authority will not make any use of the proceeds of the Tax-Exempt Series A Note or any other funds of the Authority which would cause the Tax-Exempt Series A Note to be an "arbitrage bond" within the meaning of Section 148 of the Code, a "private activity bond" within the meaning of Section 141(a) of the Code, or an obligation the interest on which is subject to federal income taxation

because it is “federally guaranteed” as provided in Section 149(b) of the Code. The Authority, with respect to the proceeds of the Tax-Exempt Series A Note, will comply with all requirements of such sections of the Code and all regulations of the United States Department of the Treasury issued or applicable thereunder to the extent that such requirements are, at the time, applicable and in effect. The Authority will comply with the requirements of the tax certificate to be executed by the Authority and delivered to the Lender at closing, including without limitation any arbitrage rebate requirement described therein or in Section 148(f) of the Code, and will comply with the informational reporting requirement of Section 149(e) of the Code.

Except for debt that may be issued by the Authority to finance the acquisition of vehicles in aggregate principal amount of less than \$1,000,000, the total aggregate principal amount of the Tax-Exempt Series A Note is the total amount of all “qualified tax-exempt obligations” (within the meaning of such term under Section 265(b)(3) of the Code) which have been or which are reasonably expected to be issued by the Authority during this calendar year. The Authority and all other subordinate entities thereof have not issued, and do not expect to issue, any

other tax-exempt debt during this calendar year. The Tax-Exempt Series A Note is not a “private activity bond” within the meaning of that term under Section 141 of the Code. Ninety-five percent or more of the net proceeds thereof are to be used for local governmental activities of the Authority. Neither the Authority or any other subordinate entities thereof have issued any other such qualified tax-exempt obligations during this calendar year, and it is reasonably expected that none will be issued, except for less than \$1,000,000 in aggregate principal amount to finance the acquisition of vehicles as described above. Thus, the total aggregate principal amount of qualified tax-exempt obligations issued or reasonably expected to be issued during this calendar year by the Authority and any subordinate entities thereof does not exceed \$10,000,000. The Authority hereby designates the Tax-Exempt Series A Note as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Code.

The covenants contained in this Section shall survive the payment of the Tax-Exempt Series A Note.

Section 11. All actions heretofore taken by the officers and agents of the Authority with respect to the financing described herein and the issuance of the Promissory Notes are hereby approved, ratified and confirmed, and any member of the Governing Board or officer of the Authority, acting alone, is hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents (including subordination agreements with respect to any outstanding encumbrances on the Trebek Parcel) which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Promissory Notes and to effectuate

the purposes thereof and of the documents herein approved in accordance with this Resolution and resolutions heretofore adopted by the Authority and otherwise in order to carry out the Loans.

Section 12. The actions taken are exempt from the provisions of the California Environmental Quality Act.

Section 13. The Executive Officer and the Authorized Officers are hereby authorized, jointly and severally, to make clarifications to and correct errors in the text of any documents, instruments or certificates authorized hereunder, and to make modifications thereto, provided that such modifications do not materially alter the fundamental economic terms of such documents.

Chair

AYES:

NOS:

ABSTAIN:

ABSENT:

I HEREBY CERTIFY that the foregoing resolution was adopted at a regular meeting of the governing board of the Mountains Recreation and Conservation Authority, duly noticed and held according to law, on the 7th day of August, 2019.

Date:

Executive Officer