

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

BUDGET AND FINANCE COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair
Budget and Finance Committee

FROM: Linda Wong, Assistant Clerk

DATE: September 25, 2017

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, September 26, 2017

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting on Tuesday, September 26, 2017, at 2:00 p.m. This item was acted upon at the Committee Meeting on Thursday, September 21, 2017, at 10:00 a.m., by the votes indicated.

Item No. 31 **File No. 170950**

Resolution approving in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended, the issuance of tax-exempt obligations by the California Statewide Communities Development Authority in an aggregate principal amount not to exceed \$30,000,000 for the financing or refinancing of various capital facilities owned or to be owned by San Francisco Museum of Modern Art.

RECOMMENDED AS COMMITTEE REPORT

Vote: Supervisor Malia Cohen - Aye
Supervisor Norman Yee - Aye
Supervisor Katy Tang - Excused

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney
Alisa Somera, Legislative Deputy Director

1 [Approving Issuance of Bonds - California Statewide Communities Development Authority -
2 San Francisco Museum of Modern Art - Not to Exceed \$30,000,000]

3 **Resolution approving in accordance with Section 147(f) of the Internal Revenue Code**
4 **of 1986, as amended, the issuance of tax-exempt obligations by the California**
5 **Statewide Communities Development Authority in an aggregate principal amount not to**
6 **exceed \$30,000,000 for the financing or refinancing of various capital facilities owned**
7 **or to be owned by San Francisco Museum of Modern Art.**

8
9 WHEREAS, The California Statewide Communities Development Authority, is a joint
10 exercise of powers agency established pursuant to the laws of the State of California (the
11 "Authority") and that certain Amended and Restated Joint Exercise of Powers Agreement,
12 dated as of June 1, 1988, among certain local agencies, including the City (the "Agreement");
13 and

14 WHEREAS, San Francisco Museum of Modern Art (SFMOMA), a California nonprofit
15 corporation (the "Corporation"), has requested that Authority to issue obligations (the
16 "Obligations") in an aggregate principal amount not expected to exceed \$30,000,000, for the
17 purpose of making a loan to the Corporation to finance or refinance various capital facilities as
18 more fully described below; and

19 WHEREAS, Proceeds of the Obligations will be loaned to the Corporation, pursuant to
20 a Loan Agreement or a Master Loan Agreement (each, a "Loan Agreement"), and the
21 Corporation will use the proceeds of the Obligations as follows: (1) the acquisition of fee title
22 ownership of a parking garage (including an existing rooftop café area and sculpture garden
23 area therein) located at 147 Minna Street, San Francisco, California (the "Parking Garage");
24 (2) capital improvements, equipment acquisition, capital maintenance and other related
25 improvements to the Parking Garage and the Corporation's existing facilities located at 151

1 Third Street, San Francisco, California (the "Museum"); (3) the acquisition and installation of
2 artworks for the Museum (collectively, the "Projects"); and (4) pay various costs of issuance
3 and other related costs with respect to the Obligations; and

4 WHEREAS, The Projects are or will be owned and operated by the Corporation, and
5 the Museum and the Projects are located within the geographic boundaries of the City and
6 County of San Francisco (the "City"); and

7 WHEREAS, The City is a member of the Authority; and

8 WHEREAS, The issuance and delivery of the Obligations shall be subject to the
9 approval of and execution by the Authority of all financing documents relating thereto to which
10 the Authority is a party and subject to the issuance of the Obligations by the Authority; and

11 WHEREAS, Interest on the Obligations may qualify for tax exemption under Section
12 103 of the Internal Revenue Code of 1986, as amended (the "Code") only if the Obligations
13 are approved in accordance with Section 147(f) of the Code; and

14 WHEREAS, The Board of Supervisors of the City (the "Board") is the elected legislative
15 body of the City and is one of the applicable elected representatives required to approve the
16 issue within the meaning of Section 147(f) of the Code and Section 9 of Agreement; and

17 WHEREAS, The Authority has requested the Board to approve the issuance and sale
18 of the Obligations in order to satisfy the public approval requirements of Section 147(f) of the
19 Code and the requirements of Section 9 of the Agreement; and

20 WHEREAS, On August 28, 2017, the City caused a notice to appear in the *San*
21 *Francisco Chronicle*, which is a newspaper of general circulation in the City, stating that a
22 public hearing with respect to the issuance of the Obligations and the Projects would be held
23 by the Controller's Office of Public Finance on September 11, 2017; and

24 WHEREAS, The Controller's Office of Public Finance held the public hearing described
25 above on September 11, 2017, and an opportunity was provided for persons to comment on

1 the issuance of the Obligations and the plan of financing for the Projects, and such written
2 comments received on or prior to the date of such hearing have been forwarded to this Board;
3 now, therefore be it

4 RESOLVED, That this Board hereby finds and declares the above recitals are true and
5 correct; and, be it

6 FURTHER RESOLVED, That this Board hereby approves the issuance of the
7 Obligations by the Authority; and be it

8 FURTHER RESOLVED, That it is the purpose and intent of this Board that this
9 Resolution constitute approval of the issuance of the Obligations by the applicable elected
10 representative of the governmental unit having jurisdiction over the area in which the Projects
11 are located for the purposes of and in accordance with Section 147(f) of the Code and Section
12 9 of the Agreement; and, be it

13 FURTHER RESOLVED, That the approval of the issuance of the Obligations by the
14 Authority is neither an approval of the underlying credit supporting the Projects nor an
15 approval of the financial structure of the Obligations; and be it

16 FURTHER RESOLVED, That the Obligations shall not constitute a debt or obligation of
17 the City and neither the full faith and credit or taxing power of the City shall be available to the
18 payment of the Obligations, the payment of the principal, prepayment premium, if any, and
19 purchase price of and interest on the Obligations shall be solely the responsibility of the
20 Corporation; and be it

21 FURTHER RESOLVED, The adoption of this Resolution shall not obligate (i) the City to
22 provide or pledge any of its revenues or assets to the Corporation for the acquisition,
23 rehabilitation and development of the Projects or to issue the Obligations for purposes of such
24
25

1 financing; or (ii) the City, or any department of the City, to approve an application or request
2 for, or take any other action in connection with, environmental, General Plan consistency
3 determinations, zoning or any other permit or other regulatory action sought in connection with
4 the Projects; and be it

5 FURTHER RESOLVED, that this Resolution shall take effect immediately upon its
6 adoption.

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA
10 CITY ATTORNEY

11
12 By: 

13 Mark D. Blake
14 Deputy City Attorney

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CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Todd Rydstrom
Deputy Controller

Nadia Sesay
Director
Office of Public Finance

August 31, 2017

Supervisor Jane Kim
City Hall, Room 244
City and County of San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco CA 94102

Dear Supervisor Kim:

Thank you for agreeing to introduce the Board of Supervisors resolution approving, for the purposes of the Internal Revenue Code, the issuance of tax-exempt obligations (the "Bonds") by the California Statewide Communities Development Authority (the "Authority") on behalf of San Francisco Museum of Modern Art (SFMOMA), a California nonprofit corporation (the "Borrower"), to finance and/or refinance certain capital facilities owned and operated by the Borrower as summarized below. I respectfully request introduction of the resolution at the meeting of the Board of Supervisors on Tuesday, September 5, 2017.

Pursuant to the Tax Equity and Fiscal Responsibility Act (TEFRA), to facilitate the tax exemption of interest on the Bonds the City is required to conduct a public hearing and to approve the financing by the Authority. The Office of Public Finance is scheduled to hold such hearing on Monday, September 11, 2017, notice of which was published in the *San Francisco Chronicle* on August 28, 2017. Any comments heard or received from the TEFRA public hearing will be brought to the attention of the Board during staff presentation of this item at the Budget & Finance Committee. The action by the Board will acknowledge that the hearing was duly held and that the financing is proceeding.

The Bonds will be issued in an aggregate principal amount not to exceed \$30 million. I have performed a limited due diligence review of information pertaining to the project and proposed financing that I have summarized below.

The Borrower

SFMOMA's mission is to make the art for our time a vital and meaningful part of public life. The Museum traces its founding to 1935, when it opened as the San Francisco Museum of Art under its founding director Grace McCann Morley in the War Memorial Veterans Building. Today, it is

a crucial landmark institution in San Francisco, providing cultural enrichment and education, unique exhibitions and programs for residents and visitors to the City, free admission to children 18 and under, and free K-12 school visits.

The Project

The proceeds from the sale of the Bonds will be loaned to the Borrower for the following purposes: (1) the acquisition of fee title ownership of a parking garage (including an existing rooftop café area and sculpture garden area therein) located at 147 Minna Street, San Francisco, California (the "Parking Garage"); (2) capital improvements, equipment acquisition, capital maintenance and other related improvements to the Parking Garage and the Corporation's existing facilities located at 151 Third Street, San Francisco, California (the "Museum"); (3) the acquisition and installation of artworks for the Museum (collectively, the "Projects"); and (4) pay various costs of issuance and other related costs with respect to the Bonds.

Financing Information

Assuming all required approvals are obtained, the Authority expects to issue the Bonds in an amount not to exceed \$30 million. Bond Counsel on the transaction is Hawkins Delafield & Wood LLP.

Public Approval Process

The City and County of San Francisco is a participating member of the Authority, a joint powers authority. The Authority is authorized to issue bonds, notes, certificates of participation, or other forms of indebtedness, including refunding previously issued debt. As noted above, federal tax law requires that the governing body of the jurisdiction in which the project is located approve the financing and the project after providing the opportunity for a duly-noticed public hearing before the Bonds may be issued on a tax-exempt basis.

Your assistance with this matter is greatly appreciated. Please contact me at (415) 554-4862, if you any questions or require additional information. Thank you.

Sincerely,

Vishal Trivedi
Bond Analyst

DECLARATION OF PUBLICATION OF SAN FRANCISCO CHRONICLE

**CITY AND COUNTY OF
SAN FRANCISCO**

**NOTICE OF PUBLIC HEARING
PURSUANT TO SECTION 147(F) OF
THE INTERNAL REVENUE CODE
OF 1986, AS AMENDED, FOR THE
FINANCING OR REFINANCING OF
CERTAIN FACILITIES FROM THE
ISSUANCE OF TAX-EXEMPT
OBLIGATIONS**

NOTICE IS HEREBY GIVEN that at 10:30 a.m. on September 11, 2017, in the City and County of San Francisco, Controller's Office of Public Finance, Room 336, 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102, a public hearing (the "Public Hearing") will be held regarding the proposed issuance of tax-exempt Obligations (the "Obligations") by the California Statewide Communities Development Authority (the "Authority") in one or more series in an aggregate principal amount not to exceed thirty million dollars (\$30,000,000), pursuant to a plan of finance for various capital facilities as more fully described below. Proceeds of the Obligations will be loaned to San Francisco Museum of Modern Art (SFMOMA) (the "Corporation"), a California nonprofit public benefit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); pursuant to a loan agreement between the Authority and the Corporation or a master loan agreement by and among a lending institution selected by the Corporation, the Authority, and the Corporation (each, a "Loan Agreement"). The Corporation expects to use the proceeds of the Obligations to finance or refinance: (1) the acquisition of fee title ownership of a parking garage (including an existing rooftop café area and sculpture garden area therein) located at 147 Minna Street, San Francisco, California (the "Parking Garage"); (2) capital improvements, equipment acquisition, capital maintenance and other related improvements to the Parking Garage and the Corporation's existing facilities located at 151 Third Street, San Francisco, California (the "Museum"); (3) the acquisition and installation of artworks for the Museum (collectively, the "Projects"); and (4) various costs of issuance and other related costs.

The Projects are or will be owned and/or operated by the Corporation and are located within the geographic boundaries of the City and County of San Francisco (the "City"). The Obligations will be paid entirely from payments by the Corporation under the Loan Agreement. Neither the full faith and credit nor the taxing power, if any, of the City, the Authority and its members, the State of California (the "State") or any other political corporation, subdivision or agency of the State is pledged to the payment of the principal of, premium, if any, or interest on the Obligations, nor shall the City, the Authority and its members, the State, or any other political corporation, subdivision or agency of the State be liable or obligated to pay the principal of, premium, if any, or interest on the Obligations. The Public Hearing is intended to comply with the public approval requirements of Section 147(f) of the Code. Those wishing to comment on the issuance of the Obligations, the proposed nature or location of the Project, or the plan of finance may either appear in person at the time and place indicated above or submit written comments, prominently marked "TEFRA Hearing - SFMOMA," which must be received prior to the Public Hearing, to the Office of Public Finance at the address indicated above.
Date: August 28, 2017
CITY AND COUNTY OF SAN FRANCISCO

Lori Gomez

Declares that:

The annexed advertisement has been regularly published
In the

SAN FRANCISCO CHRONICLE

Which is an was at all times herein mentioned established as newspaper of general circulation in the City and County of San Francisco, State of California, as the term is defined by Section 6000 of the Government Code

SAN FRANCISCO CHRONICLE

(Name of Newspaper)

901 Mission Street

San Francisco, CA 94103

From

8/28/17

To

8/28/17

Namely on

8/28/17

(Dates of Publication)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

8/28/17

At San Francisco, California



