



CITY COUNCIL AGENDA REPORT

MEETING DATE: MARCH 15, 2004

ITEM NUMBER:

SUBJECT: TEFRA HEARING AND ADOPTION OF CERTIFICATE OF APPROVAL

DATE: MARCH 2, 2004

FROM: FINANCE DEPARTMENT /ADMINISTRATIVE

PRESENTATION BY: MARC R. PUCKETT, DIRECTOR OF FINANCE

FOR FURTHER INFORMATION CONTACT: MARC R. PUCKETT, (714) 754-5243

RECOMMENDED ACTION

- 1) Hold Host Jurisdiction Public Hearing regarding the issuance of Private Activity Bonds.
- 2) Adopt resolution approving the issuance of the Variable Rate Demand Revenue and Revenue Refunding Bonds by the City of Whittier on behalf of the Borrower for the Project, Whittier College, a California nonprofit public benefit corporation, for the purposes of Section 147(f) of the Internal Revenue Code, authorizing and directing the appropriate officers of the City to jointly and severally do any and all things necessary to execute any and all documents which they deem advisable in order to carry out, give effect to, and comply with the terms and intent of the resolution, conditioned upon receipt of an Indemnification Agreement from Whittier College.

BACKGROUND

Certain City officials were contacted by representatives of Whittier College to discuss their plans to issue Variable Rate Demand Revenue and Revenue Refunding Bonds. The representatives requested that the City hold the public hearing required by the host jurisdiction in which the project is located in pursuant to section 147(f) of the Internal Revenue Code regarding the issuance of private activity bonds.

Proceeds of the bonds in an amount not to exceed \$60,000,000 will be used to finance educational facilities for Whittier College (the "Project"). These bonds would be issued by the City of Whittier on behalf of the Borrower for the project, Whittier College, a California nonprofit public benefit corporation, to finance, among other things, acquiring the land and facilities (including equipment and furnishings) currently leased by the College for its law school, located at 3333 Harbor Boulevard, planning, constructing, and equipping new facilities, and making general improvements to the Costa Mesa campus including parking, landscaping, utilities and other exterior spaces.

The Bonds will be paid entirely from payments made by the College under a loan agreement between the College and the City of Whittier, and the City has no financial liability or obligation with respect to the payment thereof. Neither the full faith and credit nor the taxing power, if any, of the City, or any other political subdivision of the City, is pledged to the payment of the principal of, premium, if any, purchase price, or interest with respect to the bonds.

In reliance on the opinion of its bond counsel for the financing, Stradling, Yocca, Carlson and Rauth, P.C., the City of Whittier, on behalf of Whittier College, represents that it is legally authorized and empowered under the Act to undertake this financing. The City of Whittier, on behalf of Whittier College, requests that the City assist in this financing by conducting the public hearing and providing the host jurisdiction approval required by Section 147(f) of the Internal Revenue Code of 1986, as amended.

ANALYSIS

Section 147(f) of the Internal Revenue Code of 1986 requires that the borrower, Whittier College, obtain the approval of the governing body or chief elected representative of the state or local government jurisdiction in which the financed facilities are to be located following a public hearing in order to issue private activity bonds. The public hearing can be held by the governing body of the City after publication of a notice of the hearing in a newspaper serving the areas where the Project is located.

The Notice of Public Hearing and adoption of the requisite resolution have been reviewed by the Acting City Attorney and outside bond counsel. Based upon the request of the Acting City Attorney, an indemnification agreement will be provided by the Borrower to hold harmless and indemnify the City against any claims brought against the City by any debt holder or other party based upon the City's role in approving the bonds.

FISCAL REVIEW

There is no fiscal review required for this item at this time. Costs of preparation and publication of the Notice of Public Hearing and resolution was borne by the Borrower.

LEGAL REVIEW

The Acting City Attorney has reviewed this report and the attached resolution and has concluded that the City Council has the legal authority to take the recommended action.

CONCLUSION

In conclusion, the Council is respectfully requested to hold the host jurisdiction public hearing regarding the issuance of private activity bonds pursuant to Section 147(f) of the Internal Revenue Code, approve the issuance of the bonds, and authorize and direct the appropriate officers of the City to jointly and severally do any and all things necessary to execute any and all documents which they deem advisable in order to carry out, give effect to, and comply with the terms and intent of the resolution, conditioned upon receipt of a properly executed Indemnification Agreement from Whittier College.

Representatives of Whittier College will be available to answer any questions regarding the Project. Feel free to contact me directly if you have questions or need additional information.

MARC R. PUCKETT
Director of Finance

Attachment 1 – [Notice of Public Hearing](#)

Attachment 2 – [Resolution](#)

Attachment 3 – [Indemnification/Hold Harmless Agreement](#)