



Memorandum

TO: HONORABLE MAYOR AND CITY
COUNCIL AND CITY OF SAN JOSE
FINANCING AUTHORITY BOARD

FROM: Scott P. Johnson
John Stufflebean

SUBJECT: SEE BELOW

DATE: July 12, 2010

Approved

Date

7/20/10

COUNCIL DISTRICT: N/A

SUBJECT: APPROVAL OF THE FINANCING STRUCTURE FOR THE ISSUANCE OF, AND THE POTENTIAL PROJECTS TO BE FINANCED BY, QUALIFIED ENERGY CONSERVATION BONDS

RECOMMENDATION

- (a) Adoption of a resolution of the City of San José City Council approving the financing structure for, and the potential projects to be financed by, the City of San José Financing Authority's issuance of Qualified Energy Conservation Bonds, in an aggregate principal amount not to exceed \$9,750,904.66, in connection with the financing of certain energy efficiency and renewable energy capital improvements of the City of San José, and declaring the City's intention to reimburse qualified project costs from bond proceeds.
- (b) Adoption of a resolution of the City of San José Financing Authority Board approving the financing structure for the issuance of Qualified Energy Conservation Bonds, in an aggregate principal amount not to exceed \$9,750,904.66, in connection with the financing of certain energy efficiency and renewable energy capital improvements of the City of San José.

OUTCOME

Approval of the recommendations will allow the City to retain \$9,750,904.66 in Qualified Energy Conservation Bonds tax credit allocation to finance energy efficiency and renewable energy capital improvements of certain City owned municipal facilities.

BACKGROUND

Overview

Qualified Energy Conservation Bonds ("QECBs") were initially authorized under the Energy Improvement and Extension Act of 2008 and the provisions were amended by the American Recovery and Reinvestment Tax Act of 2009. A total of \$3.2 billion is available for QECBs, which are tax credit bonds that can be used to finance government initiatives designed to reduce greenhouse gas emissions.

The City of San José (the "City") received \$9,750,904.66 in QECB allocation on July 22, 2009.

Type of Debt

As initially authorized, QECBs are tax credit bonds. On tax credit bonds, issuers repay principal on a regular schedule, but generally do not pay interest. Instead, the holder of a QECB receives a federal tax credit in lieu of interest. The tax credit may be applied against the bond holder's regular and alternative minimum tax liability. The tax credit amount is treated as taxable interest income to the holder of the bonds.

Qualified projects

One hundred percent (100%) of the available project proceeds of QECBs must be used for qualified conservation purposes, which include capital projects for the reduction of energy consumption in publicly-owned buildings by at least 20% and renewable energy facilities such as solar facilities.

Costs of Issuance

Costs of issuance to be paid from QECB proceeds are limited to 2% of the QECB proceeds. For the City, this is equal to approximately \$195,000.

Sinking Fund

A reserve/sinking fund is expected to be used to repay QECBs. The reserve is not subject to arbitrage limitations if (i) it is funded no faster than equal annual installments, (ii) it is funded such that it is not expected to exceed the amount necessary to repay the bonds, and (iii) it is invested at a yield no greater than the permitted sinking fund yield. The permitted sinking fund yield is set daily by Treasury. A reserve/sinking fund may not be financed with proceeds of the QECBs so the City would need to identify an alternative funding source for the reserve fund.

Maturity and Payments

Each month the U.S. Treasury sets the maximum maturity for QECBs priced during that month. There are no legal requirements relating to amortization of the QECBs. Payments can be structured by the issuer and the purchaser of the bonds. As an example, for the month of June 2010, the maximum maturity for QECBs is 17 years with a rate subsidy of 5.41%. With a lease revenue bond structure, the City may be required to pay off the bonds over a shorter period than 17 years. In theory, the QECB rate subsidy could provide an issuer with a 0% interest rate, but it is likely that purchasers will require a discount on the QECB or a supplemental interest payment

which would be payable by the issuer. Any supplemental interest earned on a QECB is federally taxable to the bondholder.

Interest Rate Subsidy In-Lieu of Tax Credit

On March 18, 2010, President Obama signed into law the Hiring Incentives to Restore Employment Act (the "HIRE Act"), which, among other things, changes the rules for issuers of certain Qualified Tax Credit Bonds ("QTCBs") described in Section 54A of the Internal Revenue Code. The HIRE Act allows issuers of certain QTCBs to receive direct subsidy payments, not unlike those already available to issuers of Build America Bonds ("BABs") and Recovery Zone Economic Development Bonds. The HIRE Act permits these QTCB issuers to elect to receive the new direct subsidy payments, or to forego the direct subsidy payments and to permit holders of these QTCBs to receive tax credits as provided prior to passage of the HIRE Act.

Issuers of QECBs and new clean renewable energy bonds can elect to receive direct subsidy payments equal to the lesser of (1) the amount of interest the issuer pays on each interest payment date; or (2) seventy percent (70%) of the amount of interest that would have been payable if such interest had accrued at the applicable credit rate under the tax credit option. These changes apply to bonds issued after March 18, 2010.

ANALYSIS

CDLAC Requirements

The California Debt Limit Allocation Committee ("CDLAC") was appointed as the program administrator for QECBs in California. On April 19, 2010, CDLAC issued a Plan of Issuance Requirement and Guidelines for QECBs which requires issuers to submit the following documentation to CDLAC no later than August 15, 2010 in order to retain the allocations awarded in July 2009:

- A resolution from the City Council approving the use of QECBs for the list of potential projects;
- A legal memo from bond counsel which states that the QECB projects that will potentially be funded will qualify under the federal guidelines; and
- Evidence of a minimum of "A" bond credit rating if the bonds are expected to be sold in a public offering or, a commitment letter from the credit enhancement provider or purchaser of the bonds in the case of a private placement.

Issuers who are unable to provide the above documentation by August 15, 2010 will lose their QECBs allocation which will be returned to CDLAC and be subject to CDLAC's QECBs reallocation process. To meet CDLAC's requirements the Council and Authority Board must each adopt a resolution approving the proposed financing structure and potential projects prior to August 15, 2010. Upon approval of the financing structure and scope of projects, staff will work with the City Attorney's Office to prepare all the required documentation for submission to CDLAC on or prior to August 15, 2010.

A description of the potential projects, financing structure and the financing schedule is summarized below.

Potential Projects

Staff is recommending Council approval of the list(s) of potential projects in Attachments 1 and 2 for funding through the QECBs. Attachment 1 contains the thirty-eight (38) priority-one sites identified for consideration in Solar Energy Request for Proposal (RFP 09-10-30). Attachment 2 contains sites with projects previously identified by staff for consideration for QECB funding. All of the projects/sites on both lists qualify as eligible projects for QECB financing under the Energy Improvement and Extension Act of 2008, as amended. However, further analysis related to the eligibility for financing through tax exempt lease revenue bonds, including private activity issues, will need to be performed for these potential projects.

The potential projects at these sites are currently undergoing further analysis that will help determine the projects that are best suited for QECB funding. Sites on Attachment 1 are being analyzed by the U.S. Dept. of Energy Solar America Cities (DOE-SAC) Technical Assistance Team to determine their solar feasibility and estimate their power production potential. Additional analysis will also be conducted to determine the impact of the potential California Solar Initiative rebate reductions, as proposed by the California Public Utilities Commission on July 9, 2010. The results from these analyses and the proposals received for the Solar Energy RFP will aid staff in determining which projects/sites to select for QECB funding. The Solar Energy RFP process is expected to be completed early in calendar year 2011.

Proposed Financing Structure

In connection with the issuance of the QECBs, the City and the City of San José Financing Authority (the "Authority") will enter into a lease agreement pursuant to which the City will lease the Project to the Authority, and the Authority will lease the Project back to the City. The Project will be financed through the issuance of QECBs by the Authority in the form of lease revenue bonds secured by and payable solely from the lease payments to be made by the City pursuant to the Project lease. The lease payments are expected to be paid in such amounts and on such dates as will enable the Authority to pay the principal of and interest on the QECBs when due and payable. The bonds are expected to be sold in a public offering.

The proposed resolution of the City Council also declares the City Council's intent to reimburse qualified project costs from tax-exempt bond proceeds for project expenses it has advanced and for expenses it may advance in the future.

Financing Schedule

The proposed financing schedule is summarized below.

Council approval of the financing structure and scope of project	August 3, 2010
Project scope refinement/feasibility analysis	Fall 2010
Solar Energy RFP Process	Winter 2011
Bond Issuance	Spring/Summer 2011

EVALUATION AND FOLLOW-UP

Although adoption of a resolution by the City Council and Authority approving the potential project list for financing from the QECB allocation by the City and the Authority, respectively, is recommended, it is important to note that completion of the additional analysis may lead staff to conclude that the QECBs should not be issued and/or new projects/sites may be identified for the QECBs. Upon completion of the project feasibility analysis, staff will return to Council and the Authority Board in spring or summer 2011 to report on the results of its analysis. Assuming issuance of the QECBs is feasible, staff will also obtain approval of the issuance of the QECBs upon completion of the project feasibility analysis.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This staff report has been prepared by the Finance Department and Environmental Services Department in coordination with the City Attorney's Office and City Manager's Office.

COST IMPLICATIONS

Costs associated with the QECB financing, to the extent permitted by law, will be paid from bond proceeds. As noted above, a funding source for (i) the reserve fund for the bonds and (ii) costs of issuance, if any, in excess of 2% of the principal amount of the bonds will need to be identified.

CEQA

Not a project – File No. PP10-067 Non-Project Specific Funding Mechanism.

/s/
JOHN STUFFLEBEAN
Director, Environmental Services
Department

/s/
SCOTT P. JOHNSON
Director, Finance Department
Treasurer, City of San José Financing Authority

For questions please contact Julia H. Cooper, Assistant Director of Finance at 408-535-7011.

Attachments

1. Priority 1 Solar Sites from RFP 091030
2. Previously Identified Sites Eligible for QECB Funding

Attachment 1 - Priority 1 Solar Sites from RFP 091030

Group 1: Facilities with Potential Generation Capacity of 0.5 MW or More

Facility Name	Site Address	PG&E Rate Schedule	Energy Use (kWh)	Roof Area (s.f.)	Parking Lot and other (s.f.)	Potential MW (red = DOE-SAC)	Potential Annual kwh
POLICE-POLICE ADMINISTRATION & COMMUNICATIONS BLDGS	201 WEST MISSION STREET/ 855 NORTH SAN PEDRO STREET SAN JOSE 95110	E20P	7,505,110	89,193	155,083	2.18	2,962,814
SANTA TERESA LIB - NEW	290 INTERNATIONAL CIR SAN JOSE 95119	N/A	275,442	22,000	90,743	0.90	1,218,636
KELLEY PARK	1300 SENTER RD SAN JOSE 95112	A1	477,774	N/A	7,157,135	0.83	1,123,350
SEVEN TREES CC & LIB- Under Construction	3590 CAS DR SAN JOSE 95111	N/A	589,390	29,000	58,000	0.69	940,380
SOUTH SERVICE YARD	4420 MONTEREY HWY SAN JOSE 95111	A1P	262,580	18,124	63,658	0.61	832,467
EDUCATIONAL PARK LIB - Under Construction	1772 EDUCATIONAL PARK DR., SAN JOSE 95133	N/A	253,731	18,000	50,452	0.54	739,896
POLICE SUBSTATION - Under Construction	6807 GREAT OAKS PARKWAY, SAN JOSE, CA 95119	N/A	1,356,000	1,156	61,722	0.50	679,648
			Total	10,720,026	177,473	6.25	8,497,190
						6.2	MW potential

Group 2: Facilities with Potential Generation Capacity of Less than 0.5 MW

Facility Name	Site Address	PG&E Rate Schedule	Energy Use (kWh)	Roof Area (s.f.)	Parking Lot and other (s.f.)	Potential MW	Potential Annual kwh
BASCOM CC & LIB- Under Construction	1000 S. BASCOM SAN JOSE 95128	N/A	408,045	20,000	37,940	0.46	626,272
ROOSEVELT CC	901 E SANTA CLARA ST SAN JOSE 95116	A10S	113,440	30,000	24,815	0.44	692,494
PRUSCH PARK	647 S. KING RD., SAN JOSE 95122	A10S	119,482	24,067	309,528	0.42	569,472
SOUTHSIDE SC	5585 COTTLE RD SAN JOSE 95123	A10S	328,343	23,771	27,306	0.37	506,497
PAL SPORTS CENTRE	680 SOUTH 34TH STREET, SAN JOSE CA 95116	E19SX	577,077	N/A	74,200	0.34	463,914
BERRYESSA CC	3050 BERRYESSA RD SAN JOSE 95132	A10S	264,204	13,700	62,404	0.30	403,039
PEARL LIB	4270 PEARL AVE SAN JOSE 95136	A1P	135,981	14,000	20,900	0.28	377,233
VINELAND LIB	1450 BLOSSOM HILL RD SAN JOSE 95118	A10S	335,113	24,000	20,000	0.26	354,458
BERRYESSA NEW LIB	3355 NOBLE AVE # A SAN JOSE 95132	A10S	461,351	26,000	22,000	0.26	353,259
EDENVALE CC - Under Construction	330 BRANHAM LANE E SAN JOSE 95111	N/A	185,146	24,204	7,030	0.25	337,807
JOYCE ELLINGTON LIB	491 E EMPIRE ST SAN JOSE 95112	A1P	176,760	15,000	12,757	0.22	300,025
EDENVALE LIB	101 BRANHAM LN. EAST SAN JOSE 95111	A10S	374,960	11,000	16,442	0.22	296,620
TULLY LIB	880 TULLY ROAD SAN JOSE 95111	A10S	445,559	24,000	47,500	0.22	298,680

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ALUM ROCK LIB	3090 ALUM ROCK AVE SAN JOSE 95127	A10S	452,632	26,000	20,000	0.20	272,891
ANIMAL CARE CENTER	2760 MONTEREY HWY SAN JOSE 95111	E19SX	1,135,817	46,867	17,608	0.18	251,000
WEST VALLEY LIB	1243 SAN TOMAS AQUINO RD SAN JOSE 95117	A10S	268,172	20,123	22,000	0.15	202,119
CAMBRIAN LIB	1780 HILLSDALE AVE SAN JOSE 95124	A10S	357,712	27,000	25,482	0.15	202,419
MUNI OFFICE	3025 TUERS RD SAN JOSE 95121	A10S	204,798	6,457	40,000	0.14	191,623
E SJ CARNEGIE LIB	1102 E SANTA CLARA ST SAN JOSE 95116	A10S	115,488	11,658	5,580	0.14	186,325
HILLVIEW NEW LIB	1800 HOPKINS DR SAN JOSE 95122	A10S	355,247	21,000	30,500	0.13	170,632
STABLES-POLICE BRIEFING	2525 KENOGA DRIVE SAN JOSE 95121	E19SV	87,710	N/A	17,565	0.12	157,760
WILLOW GLEN LIB	1157 MINNESOTA AVE SAN JOSE 95125	A1P	97,181	13,000	0	0.10	140,517
ALVISO LIB & CC	5050 N 1ST ST ALVISO 95002	A10S	119,012	5,850	14,000	0.09	120,852
WEST SJ CC & POLICING CTR	3707 WILLIAMS RD SAN JOSE 95117	A10S	119,078	5,171	7,320	0.04	52,479
GUADALUPE RIVER PARK	W JULIAN 100' WEST OF GUADALUPE RIVER SAN JOSE 95110	A1	77,232	6,000	5,227,200	0.03	38,984
Total			7,295,538	438,858	6,110,077	5.49	7,467,170
						5.5	MW potential

Group 3: Facilities Not Eligible for Site Leases of More than 3 Years

Facility Name	Site Address	PG&E Rate Schedule	Energy Use (kWh)	Roof Area (s.f.)	Parking Lot and other (s.f.)	Potential MW	Potential Annual kwh
CAMDEN CC	3369 UNION AVE SAN JOSE 95124	A10S	465,149	42,000	178,058	0.60	821,971
ALMADEN CC & LIB	6445 CAMDEN AVE SAN JOSE 95120	A10SX	947,937	32,575	42,158	0.44	594,662
WILLOW CC & SC	2175 LINCOLN AVE SAN JOSE 95125	A1P	175,634	14,715	46,293	0.30	408,137
EVERGREEN CC	4860 SAN FELIPE RD SAN JOSE 95135	A10S	270,303	13,000	37,000	0.29	399,932
MAYFAIR CC	2039 KAMMERER AVE SAN JOSE 95116	A10S	53,195	27,303	5,950	0.26	359,431
Total			2,243,211	151,093	339,459	2.13	2,898,706
						2.1	MW potential

13.9 TOTAL MW Potential

Attachment 2 - Previously Identified Sites Eligible for QECB Funding

Project Description	Est. Project Cost	Qualifying Project Type	Timeline for all local actions/ approvals	Local approvals obtained to date	Anticipated Construction Start Date
<p>1. Environmental Innovation Center Solar System (HHW only)</p> <p>105 kW Solar installation on roof and parking lot at Environmental Innovation Center</p> <p>Savings: Solar estimated to generate 157,350 kWh (annual output) or an estimated 30% of the site's electrical load</p>	\$2,124,388	Qualified facilities under Section 54D(f)(1)(A)(iv) and Section 45(d)(iv) of the Internal Revenue Code of 1986	Prior to June 2011	None	After July 2011
<p>2. Energy-efficiency at Environmental Innovation (HHW only)</p> <p>Energy-efficiency improvements including 18 skylights, LED task lighting, daylighting controls, integrated office lighting system, bi-level smart LED bollard, low glare wall pack, air flow and measurement controls, insulation, energy-saving windows</p> <p>Savings: About 32% reduction in energy usage</p>	\$349,100	20% reduction in building energy consumption	Prior to June 2011	None	After July 2011
<p>3. Police Substation Solar System</p> <p>499.7 kW Solar installation on Main Roof/ Main Roof East and parking lot of the Police Substation</p> <p>Savings: TBD</p>	\$2,998,440	Qualified facilities under Section 54D(f)(1)(A)(iv) and Section 45(d)(iv) of the Internal Revenue Code of 1986	Prior to June 2011	None	After July 2011
<p>4. Police Administration Building Solar System</p> <p>151.2 kW Solar installation on roof and parking lot of Police Administration Building</p> <p>Savings: TBD</p>	\$907,200	Qualified facilities under Section 54D(f)(1)(A)(iv) and Section 45(d)(iv) of the Internal Revenue Code of 1986	Prior to June 2011	None	After July 2011
<p>5. Police Communications Buildings Solar System</p> <p>87 kW Solar installation on parking lot of Police Communications Buildings</p> <p>Savings: TBD</p>	\$522,000	Qualified facilities under Section 54D(f)(1)(A)(iv) and Section 45(d)(iv) of the Internal Revenue Code of 1986	Prior to June 2011	None	After July 2011
<p>6. Convention Center Solar System</p> <p>496.5 kW Solar installation on roof at Convention Center</p> <p>Savings: Solar would generate 8% of site's electrical load (\$83,600 savings)</p>	\$2,979,000	Qualified facilities under Section 54D(f)(1)(A)(iv) and Section 45(d)(iv) of the Internal Revenue Code of 1986	Prior to June 2011	None	After July 2011
<p>7. Convention Center Lighting retrofit</p> <p>Savings: 724,200 kWh (\$90,000); about 1% of energy usage</p>	\$750,000	20% reduction in building energy consumption (when bundled with BIC)	Prior to June 2011	None	After July 2011
<p>8. Yerba Buena Pump Station Solar System</p> <p>504 kW Solar installation on the Yerba Buena pump station and land</p> <p>Savings: 70% or 40-50% of site's electrical load</p>	\$3,024,000	Qualified facilities under Section 54D(f)(1)(A)(iv) and Section 45(d)(iv) of the Internal Revenue Code of 1986	Prior to June 2011	None	After July 2011
TOTAL PROJECTS	\$13,654,128				

