

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council

From: Michael Rock, Town Manager 
Laurie Ireland-Ashley, Finance Director

Date: October 7, 2009

Subject: Request for authorization to proceed with Securitization of Proposition 1A Bond Program

RECOMMENDATION

That Council receive the staff report on the California Communities' Prop 1A Securitization Bond and direct staff to proceed with program enrollment, and move forward with the securitization bond program.

DISCUSSION

Council adopted the 2009-10 budget with the anticipated reduction of 8% in property taxes, estimated during this process as between \$218,000 and \$250,000. The Town of Fairfax used the Dry Period Fund Reserves to cover this expected shortfall in the revenues generated by the State's property tax grab. This property grab has become a reality that will take effect in December, 2009.

During this same time period the possibility of participating in a statewide securitization bond issue became available. This would provide the Town with the borrowed amount (8% of the property taxes) immediately, thus making the reduction in budgeted revenue for property tax collection complete for this year.

Prop 1A

On September 11th, staff participated in a webinar on the Prop 1A Securitization Bond presented by California Communities. This is the same group that facilitates the TRAN every year for the Town. The Prop 1A securitization program is a pooled bond program. All of the cities participating will be included in the single bond sale.

The highlights of the program detailed in the webinar are as follows:

- The program provides the Town with 100% of its reduced property tax allocations (in our case \$218,000 to \$250,000) for 2009-10. All the costs associated with the bond issuance and interest will be paid by the State.
- If the Town chooses not to participate in the program, we would receive a rate of interest 2% and will be paid back in 2013, or earlier at the State's discretion.

"The Department of Finance today announced an interest rate of 2.00 percent per annum on repayment of the property tax loan under the 2009 Proposition 1A suspension.

"Pursuant to Section 100.06(e)(1)(B)(ii) of the Revenue and Taxation code, the Department of Finance hereby establishes an interest rate of 2.00 percent for t...he repayment of Proposition 1A borrowable to local governments that do not assign their Proposition 1A receivables to the joint powers agency"

- Once the bonds are sold the cash receivable distribution of the funds will be 50% on January 15, 2010; and 50% on May 3, 2010. In regards to the bonds themselves, the Town has no ongoing obligations with regards to the use of proceeds or repayment of the bonds (and therefore no credit exposure to the State).
- In order to participate in this program the Council must pass an authorizing resolution prior to November 6th that approves the execution and delivery of the Sale Resolution, Purchase and Sale Agreement and other associated documents. The Town is not legally committed to participation until these documents have been received by California Communities on or before November 6th.

In Fairfax's case, the compelling need for cash flow and to repay the Dry Period reserves makes the benefit of receiving the funds this year clear. The 2% interest earned by choosing not to receive the funds until 2013 is not in the Town's best fiscal interest if there is another option which Prop 1A securitization provides us with.

The limitations of the program are that while the underwriters expect the bond to be issued without difficulty, the entire bond package for *all* cities must be sold as a unit. If the entire bond package is not sold, then the purchase would not go forward. Therefore, even though the Town chooses to participate in the program, there is no guarantee that the Town will receive the funds.

Secondly, the program is dependent upon the passage of SB 67, which hopefully would be enacted soon. The Town may proceed to adopt and execute the documents assuming the enactment of SB 67, and the documents would be held in escrow by the program counsel. When SB 67 is enacted the program will go forward as planned, but should for any reason SB 67 fail to become law the transaction would not go forward and program counsel would destroy all of the documents pursuant to the escrow instructions.

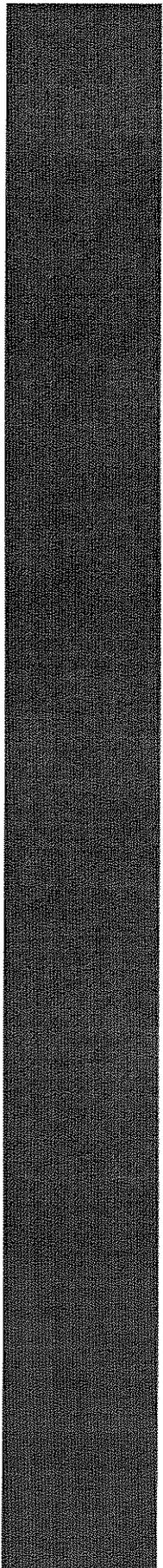
It is staff's opinion that it is in the Town's best fiscal interest to move forward with the Prop 1A Securitization Program.

FISCAL IMPACT

The only cost to the Town is the expense of the Town Attorney to obtain the required legal opinion and staff time.

ATTACHMENTS

Prop 1A Securitization Program Webinar Handout.

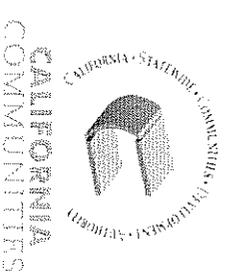
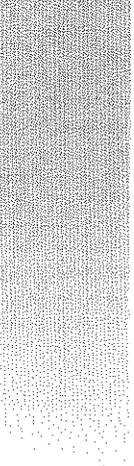


CALIFORNIA
COMMUNITIES

Proposition 1A Securitization Program Webinar

September 10, 2009 – 10:00 AM

September 11, 2009 – 10:00 AM



Agenda

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Executive Summary

- The Proposition 1A Securitization Program provides all program participants 100% of its reduced property tax allocations for the 2009-2010 Fiscal Year
- California Communities has structured a "user-friendly" securitization program for impacted local governments
- Once bonds are sold, local agencies have no ongoing obligations with regards to use of proceeds or repayment of the bonds (and therefore no credit exposure to the State)
- If local agencies choose not to participate in the CSCDA securitization, they will receive a rate of interest to be determined by the Department of Finance, and will be paid back by the State in 2013 (or earlier at the State's discretion)
- The purpose of this presentation is to address the mechanics of the offered securitization program, review the timeline and discuss the commitment process

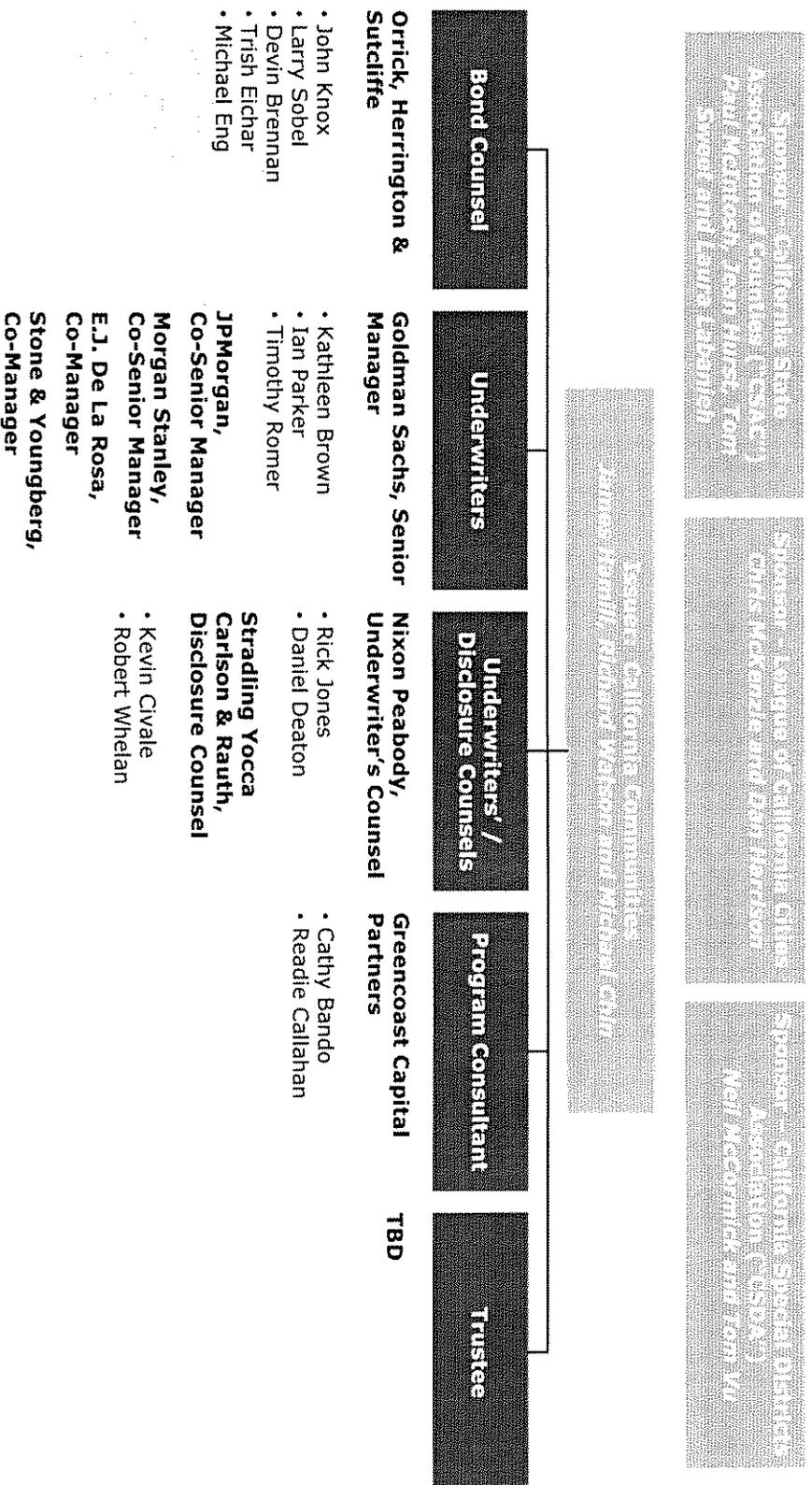
California Communities - Overview

- California Statewide Communities Development Authority, known as "California Communities," is a joint powers authority
- Sponsored by
 - League of California Cities ("League") and
 - California State Association of Counties ("CSAC")
- Created in 1988 to enable local government and eligible private entities access to low-cost, tax-exempt financing

California Communities - Overview

- Completed over 1,200 financings totaling more than \$42 billion since 1988
- Consistently ranked in the top 10 of tax-exempt issuers nationwide (of more than 3,000)
- 2005 Vehicle License Fee (“VLF”) Program
 - Similar bond securitization program
 - State borrowed VLF revenues from cities and counties
 - \$455 million in advance repayments to
 - 146 participating cities and counties

Introduction to the Finance Team



Overview of the Prop. 1A Suspension

- The emergency suspension of Proposition 1A was passed by the Legislature and signed by the Governor as ABX4 14 and ABX4 15 as part of the 2009-10 budget package
- The legislature is currently reviewing a clean-up bill, SB67
- Impact to the local agencies:
 - **Reduction in local agency property tax allocations for the 09-10 fiscal year of 8% of prior year taxes collected and allocated**
- The county auditors will be calculating the 8% reduction amounts for purposes of the borrowing
- The state must repay the withholding between June 6-13, 2013 with interest

Overview of the Prop. 1A Securitization Program

- California Communities is the only issuer authorized to sell bonds to finance the State's obligation to repay the property tax payments
- State's obligation to repay the 8% property tax borrowing is the only security pledge for the repayment of the bonds
- Each participating local agency will sell their state repayment obligation to California Communities
- California Communities will issue tax-exempt bonds and provide each local agency with the cash proceeds in two equal installments, on **January 15, 2010 and May 3, 2010** (to coincide with the dates that the State will be shifting property tax from local agencies)

Overview of the Prop. 1A Securitization Program

- The purchase price paid to the local agencies will equal 100% of the amount of the property tax reduction
- No cost to participating local agencies as all interest and issuance costs will be paid by the state
- Participating local agencies will have no obligation on the bonds and no credit exposure to the State
- Bondholders will be paid principal and interest by the State on the bonds' interest payment dates and at maturity
- The bonds will mature between June 6 and 13, 2013

Options available to local agencies

1) Participate in the Securitization

- Receive half of suspended amount on January 15, 2010
- Receive remaining half on May 3, 2010

2) Choose not Participate in the Securitization Program

- Forego property tax revenues (8% of prior year taxes allocated and collected) for 2009-10
- Receive withheld property tax repayment plus interest from the state between June 6 and June 13, per the clean up bill
- Interest rate will be set by the Director of Finance on or before September 28, 2009. The interest rate must be no less than the current Pooled Money Investment Account rate, but no higher than 6%

3) Sell Receivable to another Local Agency

- The market for local agencies purchasing other agency receivables may be limited

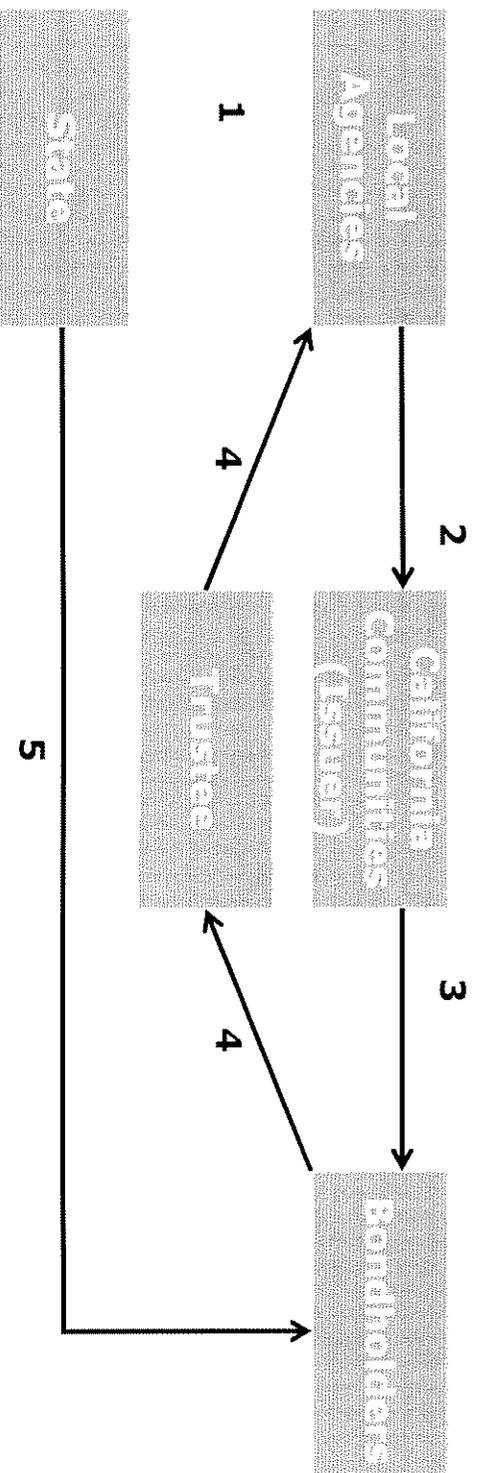
Options available to local agencies

- **Hardship Application**
 - For those local agencies experiencing extreme fiscal hardship, upon written request, the Director of Finance may decrease the reduction amount
 - Prior to submitting a hardship application, local agencies must first submit a completed application to the California Communities Proposition 1A Securitization Program

Options available to local agencies

- **Hardship Application (continued)**
 - The Director of Finance may permit a reallocation of the property tax reduction amount only to the extent that the agency did not receive bond proceeds
 - Decreased amounts cannot exceed 10% per county
 - Decreased amounts are reallocated on a pro rata basis to remaining local agencies in respective county
 - Extreme fiscal hardship may include local agencies:
 - in bankruptcy proceedings
 - that would be forced to seek bankruptcy protection
 - that do not have sufficient reserves
 - that would not be able to provide a basic level of core services

Prop. 1A Securitization Structure Overview



- 1) State suspends local government revenue protections under Proposition 1A resulting in a property tax reduction for FY 2009-10
- 2) Local agencies sell their state repayment obligations to California Communities
- 3) California Communities issues tax-exempt bonds
- 4) Cash proceeds from the transaction flow through the Trustee to the Local Agencies on January 15, 2010 and May 3, 2010
- 5) The State pays Principal and Interest to the Bondholders by June 30, 2013

Local Agency Documents Overview

- Document Review Process – Participation by League, CSAC and CSDA
- Authorizing Resolution
 - Approves execution and delivery of Purchase and Sale Agreement and related certificates and documents
 - Must be adopted no later than November 6, 2009
 - Need to indicate identity of “Authorized Officers” for purpose of executing documents

Local Agency Documents Overview

- Purchase and Sale Agreement
 - Provides for Sale of Prop 1A Receivable to California Communities
 - Contains various Representations and Covenants
 - Provides for payment of purchase price
 - Exhibits include forms of opinions and certificates
 - Irrevocable instructions to Controller re: Payment to Bond Trustee
 - Escrow of Documents
- All documents, certificates and opinions are in PDF format and no changes are permitted
- With scale of this program, must have uniformity
- Transaction Counsel and other team members are available to answer questions

Clean-up Legislation

- Introduced as SB 67/AB 185 (Committee bills)
- Allows financing to occur in November
- Provides for county auditor certification of amount of Prop 1A receivable
- Accommodates tax-exempt structure
- Clarifies that California Communities is the only issuer
- More flexibility on bond structure (interest payments, state payment date and redemption features)
- Provides for sales among local agencies
- Revises hardship mechanism

Marketing of the Bonds

- The California Proposition 1A bonds will be structured according to the general provisions set forth in the legislation
 - Final structure to be approved by the Department of Finance and the State Treasurer's Office
- The bonds will be secured by the State's constitutionally-mandated obligation to repay the receivable
 - This payment will take priority over all other obligations of the State except support to schools and GO debt service
- Due to this security structure, and the overall strength of the markets in general, we believe that the proposed financing will be well received by investors

What it means to Enroll

- Agencies who are interested in participating in the securitization and those applying for hardship should enroll in the program
- FAQs, the timeline and sample legal documents are available at www.cacommunities.org through the Proposition 1A Securitization Program link
- **Enrollment does not commit the local agency to the program**
- Each local agency is not committed to the program until all executed documentation is returned to the finance team on or prior to **November 6, 2009**

Enrollment Process

- Program Enrollment will be available after cleanup legislation is enacted
 - Friday September 11, 2009 is the date we expect the Legislature to approve
 - Week of September 14, 2009 is when we expect the Governor to sign it
- E-mail notification will be sent to:
 - CSAC List
 - League of California Cities List
 - CSDA Lists
 - Webinar participants
 - Agencies that have registered to receive additional information about the program

Enrollment Process

After availability of Enrollment is announced, please follow these steps:

- 1) Go to the California Communities website:
www.cacommunities.org
- 2) Navigate to the Proposition 1A Securitization Program page
- 3) Click on "Enroll Now"
 - *Note: the Enrollment form is different than the "Request for More Information"*
- 4) Fill out the Enrollment Form online and click "Submit"
- 5) Sale Resolution, Purchase and Sale Agreement and sample staff report will be E-mailed or mailed to each local agency contact including legal counsel

Enrollment Process

Required Enrollment Form Information

1. Local Agency Name and Primary Address
2. Type of Governing Body (City Council, Board of Supervisors, etc.)
3. Title of Governing Body (Clerk or Secretary)
4. Name and Title of Signatory to Resolution (Mayor, Chairman, President, etc.)
5. Type of Board/Council Meeting (regular or special)
6. Primary Contact Information
7. Legal Counsel Contact Information
8. Name and Title of Authorized Officers (2 required)

Enrollment Process

Optional Enrollment Form Information

1. Date of Board/Council approval
2. Additional Contacts (up to 2 may be added)
3. 3rd Authorized Officer
4. Wire Instructions for proceeds
 - *Proceeds will be mailed by check, 50% on January 15, 2010 and 50% on May 3, 2010, if wire instructions are not provided*

Commitment Process

- Board or City Council Approval
 - Sale Resolution
 - Purchase and Sale Agreement

- Submit signed documents to Orrick, Herrington & Sutcliffe **by November 6, 2009**
 - Adopted Sale Resolution with Clerk's Certificate
 - Executed Purchase and Sale Agreement
 - Certificate of Local Agency
 - Opinion of Local Agency Counsel
 - Bill of Sale and Bringdown Certificate
 - Bringdown Opinion of Local Agency Counsel
 - Escrow Instruction Letter
 - Irrevocable Instructions to Controller

Commitment Process

- Once the signed documents are returned to Orrick, Herrington & Sutcliffe (transaction counsel), the local agency is committed to the securitization
- **November 6, 2009 – Commitment Deadline**
- Participating local agencies will receive cash receivable
 - 50% on **January 15, 2010**
 - 50% on **May 3, 2010**

Timeline

August							September							October							November										
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa				
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23	24	25	26	27	28	29	27	28	29	30	25	26	27	28	29	30	31	29	30												
30	31																														

Date	Event
Thursday, September 10, 2009	Webinars
Friday, September 11, 2009	
Week of September 14, 2009	Enrollment Begins (after cleanup bill approved)
Thursday, September 17, 2009	Earliest date Enrolled Agencies will receive documents
Friday, November 6, 2009	Signed Participant documents due to Orrick Final Commitment date for Participating Local Agencies
Tuesday, November 10, 2009	Pricing
Thursday, November 19, 2009	Closing
Friday, January 15, 2010	Local Agencies Receive Funds
Monday, May 3, 2010	



Additional Information

- Go to the California Communities website:
www.cacommunities.org
- Specific questions may be directed to:
 - prop1A@cacommunities.org
 - 1-800-635-3993 x260