Tax Exempt Borrowing- Reasons for Declarations of Intent to Reimburse After Fact

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Why this reimbursement is different

Prior use of the liquidity facilities have either used taxable proceeds, which are not subject to IRS rules related to reimbursement, or used tax exempt proceeds to reimburse costs paid within 60 days of the draw of funds, which is an exception of the reimbursement resolution requirement.

In using tax exempt status, the JPB is able to borrow at rates below market due to the earnings received not being taxed at the federal, and in many instances, the state level.

Note: the JPB adopted a similar resolution on December 2,2021 sop that it could be reimbursed for costs prior the issuance of the 2022 Series A bonds.

Arbitrage Restrictions

1986 saw the IRS enact amendments to reduce and eliminate arbitrage opportunities

Part of these new Requirement include:

1) New Reporting of earnings on proceeds of bonds
2) Yield restriction limits related to how tax-exempt proceeds can be invested

The part of that law that the actions sought here are related to are:

Reimbursements of previous expenditures with tax exempt proceeds

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Expenditure Reimbursement with tax exempt proceeds

Previous reimbursements have been made using taxable proceeds. Treasury Regulation Section 1.150-2(d) requires Issuers to meet three requirements when allocating bond proceeds to a prior expenditure:

1) Demonstrate an official intent to reimburse
2) Reimbursement allocation (handled in tax certificate included in the financing documents)
3) The expenditures must generally be capital in nature and have a life exceeding the financing period.

The attached Resolution satisfies the first of the three Requirements, which was not already met elsewhere.

Recommendation

Adopt the Resolution declaring the intent of the PCJPB to reimburse expenditures made prior to funding availability on Notes issued for the Capital improvements made to the Caltrain system.

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