

Council/Agency Meeting Held: _____	_____ City Clerk's Signature
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: 9/6/2005	Department ID Number: FN 05-006

**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

SUBMITTED TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

SUBMITTED BY: *Penelope Culbreth Graft*
PENELOPE CULBRETH-GRAFT, DPA, CITY ADMINISTRATOR

PREPARED BY: DANIEL T. VILLELLA, CPA, FINANCE OFFICER *DTV*

SUBJECT: ADOPT RESOLUTION NO. 2005-59 DECLARING A SURPLUS OF FUNDS FROM ASSESSMENT DISTRICT NO. 88-1 (RESERVOIR HILL) AND ORDERING THE DISPOSITION OF SAID FUNDS

RECEIVED
 CITY CLERK
 CITY OF
 HUNTINGTON BEACH, CA
 2005 AUG 26 P 4:20

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue:

A City Council Resolution (Attachment 1) is required to declare the balance of the remaining Reservoir Hill Debt Service Fund to be surplus and order the disposition of the surplus to the City's General Fund.

Funding Source:

Unappropriated Fund Balance, Reservoir Hill Debt Service Fund (Fiscal Impact Statement Attachment 2).

Recommended Action:

- MOTION to Adopt Resolution No. 2005-59, *A Resolution Of The City Council Of The City of Huntington Beach Declaring A Surplus Of Funds From Assessment District No. 88-1 (Reservoir Hill) And Ordering The Disposition Of Said Funds.*
- Appropriate remaining Unappropriated Fund Balance in the amount of approximately \$62,500 from the Reservoir Hill Debt Service Fund as a transfer to the City's General Fund.

Alternative Action(s):

Distribute the funds to the 2,169 parcel owners, at an average amount of \$29 per owner.

Analysis:

On December 19, 1988, the city authorized the issuance of Improvement Bonds under the provisions of the Improvement Bond Act of 1915 to fund the acquisition and improvement proceedings of the Assessment District No. 88-1, otherwise known as Reservoir Hill. Payments for all Bonds and Interest have been completed and the remaining Fund Balance is approximately \$62,500.

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REQUEST FOR ACTION

MEETING DATE: 9/6/2005

DEPARTMENT ID NUMBER:FN 05-006

Analysis (continued):

The City Consultant on this issue, NBS/District Closeout Consultant, has submitted a formal *District Closeout Analysis & Findings Report* (Attachment 3). They recommend that the city concur with Section 8784 of the Streets and Highways Code of California in declaring the balance of the remaining funds to be declared surplus and distributed using one of the following options:

1. Repayment to the City of any funds advanced, less its recovery on the sale or redemption of the properties assessed and costs incurred.
2. Repayment to persons paying supplemental assessments.
3. Proportional credit to the final annual assessment levies with a refund given to paid-off assessments.
4. The balance transferred to the general fund of the city instead of number 3 above.

Option 1 does not apply because there are no advance funds to be repaid. Staff is not recommending Option 2 since the refund amounts are less than the cost of processing the payments. Also, the refunds would be paid to the existing parcel owners, and not necessarily to the individuals that paid the assessments. Option 3 does not apply since final assessment has already been collected. Therefore, **staff recommends Option 4, which will enable the city to order the surplus funds transferred to the General Fund.**

Environmental Status:

Not applicable.

Attachment(s):

City Clerk's Page Number	No.	Description
3	1.	Resolution No. 2005- <u>59</u> , A Resolution Of The City Council Of The City Of Huntington Beach Declaring A Surplus Of Funds From Assessment District No. 88-1 (Reservoir Hill) And Ordering The Disposition Of Said Funds.
5	2.	Fiscal Impact Statement dated July 12, 2005.
7	3.	<i>District Closeout Analysis & Findings Report</i> prepared by NBS/District Closeout Consultant.

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ATTACHMENT 1

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RESOLUTION NO. 2005-59

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF HUNTINGTON BEACH DECLARING
A SURPLUS OF FUNDS FROM ASSESSMENT DISTRICT
NO. 88-1 (RESERVOIR HILL) AND ORDERING THE
DISPOSITION OF SAID FUNDS

WHEREAS, the City Council of the City of Huntington Beach adopted Resolution No. 59-26 which declared its intention to order the acquisition and improvement proceeding of the Assessment District No. 88-1, under the provisions of the Municipal Improvement Act of 1913; and

By its bond indenture, adopted on December 19, 1988, the City Council authorized the issuance of improvement bonds under the provisions of the Improvement Bond Act of 1915 to represent unpaid assessments in the amount of \$1,653,904.59; and

The payment of all bonds and interest has been completed, and as of December 31, 2004, the remaining fund balance is \$62,545.71,

NOW, THEREFORE, the City Council declares the balance of the remaining funds to be surplus, and in accordance with Section 8784 of the Streets and Highways Code of California, orders disposition of the surplus to the City's General Fund.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 200__.

Mayor

REVIEWED AND APPROVED:

Renee Cullum
City Administrator

APPROVED AS TO FORM:

Jennifer M. Rath
City Attorney *8/15/05* *KE 8/15/05*

INITIATED AND APPROVED:

Roy T. Villalva
Finance Officer *8/22/05*

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ATTACHMENT 2

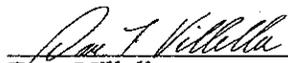


CITY OF HUNTINGTON BEACH
INTERDEPARTMENTAL COMMUNICATION

TO: PENELOPE CULBRETH-GRAFT, DPA, CITY ADMINISTRATOR
FROM: DAN T. VILLELLA, CPA, FINANCE OFFICER
SUBJECT: FIS 2005 – 24 ADOPT RESOLUTION NO. 2005- 59 DETERMINING
SURPLUS FUNDS AND DISPOSITION OF SURPLUS AMOUNT FOR
THE CITY OF HUNTINGTON BEACH ASSESSMENT DISTRICT NO. 88-
1 (RESERVOIR HILL)
DATE: JULY 12, 2005

As required by Resolution 4832, this Fiscal Impact Statement has been prepared for
"Adopt Resolution No 2005- 59 Determining Surplus Funds and Disposition of Surplus
Amounts for the City of Huntington Beach Assessment District NO. 88-1."

If the City Council approves this action (total appropriation \$62,500) , the fund balance of
the Reservoir Hill Debt Service Fund will be reduced to zero.



Dan Vilella,
Finance Officer

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ATTACHMENT 3

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**City of Huntington Beach
Assessment District No. 88-1
(Reservoir Hill)**

**District Closeout Analysis &
Findings Report**

FINAL VERSION: April 2005

Prepared by
N|B|S

Corporate Office
41661 Enterprise Circle North, Suite 225
Temecula, CA 92590
(800) 676-7516 phone
(951) 296-1998 fax

Regional Office
870 Market Street, Suite 901
San Francisco, CA 94102
(800) 434-8349 phone
(415) 391-8439 fax

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City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648
Phone - (714) 536-5511
Fax - (714) 374-1571

CITY COUNCIL

Jill Hardy, Mayor
Dave Sullivan, Mayor Pro Tem
Keith Bohr, Council Member
Gil Coerper, Council Member
Debbie Cook, Council Member
Cathy Green, Council Member
Don Hansen, Council Member

CITY STAFF

Arnold Ross, Senior Accountant Finance Division

BOND COUNSEL

Brown & Diven
Santa Fe, California

DISTRICT CLOSEOUT CONSULTANT

NBS
41661 Enterprise Circle North, Suite 225
Temecula, CA 92590
(800) 676-7516
www.nbsgov.com

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NBS has relied upon information provided by sources which are believed to be reliable without independent verification, and we express no opinion as to the completeness, accuracy or suitability of such information.

EXECUTIVE SUMMARY

The City of Huntington Beach retained NBS to perform a district closeout analysis and prepare an Analysis and Findings Report for Assessment District No. 88-1 (Reservoir Hill).

NBS compared projected District funds available in the amount of \$65,545.71 to projected fund uses of \$3,000 to arrive at a surplus balance of \$62,545.71. Remaining 2003/04 levy collections, Rebate Fund monies, as well as minimal Redemption and Reserve Fund monies were the sources of revenue used in this analysis. Projected expenditures included administration costs and report preparation fees.

An opinion was provided by Bond Logistix with respect to the arbitrage rebate liability of the District. The opinion stated that the City of Huntington Beach (the "Issuer") is not required to make payment for arbitrage liability to the United States; due to this fact arbitrage rebate payments were not included in the projected expenditures used to calculate the surplus amount. The opinion letter is included in this report for reference purposes.

This report determines the best use of surplus funds in accordance with the applicable laws and directs the City in the process required for the expenditure of these funds. Any actions taken from the information or recommendations in this report should first be reviewed and approved by legal Bond Counsel.

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BONDLOGISTIX LLC
INSIGHT. INNOVATION. INTEGRATION.

2711 North Haskell Avenue
Suite 2600 SW
Dallas, Texas 75204

Phone 214 989-2723
Fax 214 989-2712
www.bondlogistix.com

February 13, 2004

City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Re: \$1,653,904.59
City of Huntington Beach
(Orange County, California)
Limited Obligation Improvement Bonds
Assessment District No. 88-1
(Reservoir Hill)
Computation Period: January 26, 1989 through January 25, 2004

Ladies and Gentlemen:

This report (the "Report"), which is being delivered to you pursuant to our engagement letter, consists of computations and the assumptions on which such computations are based with respect to the rebate liability of the City of Huntington Beach (the "Issuer") in connection with the above-captioned issue (the "Bonds") for the above-referenced period (the "Interim Computation Period").

The computations herein are based on an analysis of existing laws, regulations, and rulings. The Department of the Treasury ("Treasury") may publish additional regulations and supplement, amend, or interpret such laws, regulations, and rulings from time to time, with the result that the amount of rebate liability described in the Report may be subject to adjustment under such future pronouncements.

The scope of our engagement was limited to preparing the Report, based on information supplied to us by you. In addition, this Report is largely based upon information as set forth in the prior arbitrage rebate report dated March 17, 2002, prepared by First Southwest Asset Management, Inc (the "Prior Report") which we have relied upon without independent confirmation, verification or investigation of the information set forth therein. Except as specifically noted herein, we have not recalculated or reconfirmed any calculations, assumptions, or tax analyses as set forth in such Prior Report, nor have we consulted with the Issuer or bond counsel or examined source documents or materials with respect to the matters or information set forth in the Prior Report. As such, the scope of our engagement was limited to making calculations of rebate liability from the last computation date as set forth in the Prior Report, September 30, 2001 (the "Prior Computation Date"). Among other matters, we relied upon information regarding the cumulative rebate liability as set forth in the Prior Report, and the value of nonpurpose investments as of the Prior Computation Date were relied upon as fact. Consequently, the only investments treated as being subject to the rebate requirement with respect to the Bonds were those valued (by treating such investments as nonpurpose receipts) on the Prior Computation Date as set forth in the Prior Report. Unless specifically addressed herein, no other proceeds or amounts were treated as gross proceeds of the

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Bonds by consequence of transferred or replacement proceeds since the Prior Computation Date as set forth in the Prior Report.

In accordance with our engagement letter (which is incorporated herein by reference), our engagement did not include determination of whether securities allocable to proceeds of the Bonds were purchased at fair market value within the meaning of the Treasury Regulations, or an audit or review of the investments acquired with gross proceeds or the payment of debt service on the Bonds. With your permission, we have relied entirely on information provided by you and contained in the Prior Report without independent verification, and we express no opinion as to the completeness, accuracy, or suitability of such information for purposes of calculating rebate liability with respect to the Bonds. We have undertaken no responsibility to audit or review the tax-exempt status of interest on the Bonds or any other aspect of the Bond program. We are under no obligation to consider any information obtained by us pursuant to this engagement for any purpose other than determining such rebate liability. Also, we have no obligation to update this Report because of any events occurring, changes in existing laws, regulations, or rulings or interpretations thereof, or data or information received, subsequent to the date hereof.

For the Interim Computation Period January 26, 1989 through January 25, 2004:

Allowable Yield on Investments:	7.908153%
Rebate Payment Due:	<u>\$0.00</u>

As set forth on Schedule A hereof, no payment is required to be made to the United States on or before March 25, 2004 (60 days after January 25, 2004, the end of the fifteenth Bond Year). As no payment is due to the United States, no Internal Revenue Service Form 8038-T need be filed. The next rebate installment payment will be due not later than March 25, 2009 (60 days after January 25, 2009, the end of the twentieth Bond Year). Should the Bonds be retired prior to January 25, 2009, 100% of the Cumulative Rebate Liability (reduced by any applicable computation date credits) as of such retirement date will become due and payable within 60 days.

This Report is not to be used, circulated, quoted, referred to, or relied upon by any other person without our express written permission.

Very truly yours,

Bond Logistix LLC

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CITY OF HUNTINGTON BEACH
Assessment District No. 88-1
Close Out Analysis

District Funds Available

City-held Funds (levy revenues) 12/31/04	\$51,307.92
Trustee-held Funds Balance 12/31/04:	
Rebate Funds	14,147.31
Redemption Funds	6.70
Reserve Funds	<u>83.78</u>
<i>Subtotal District Funds</i>	\$65,545.71

Total Funds Available

\$65,545.71

Fund Uses

Arbitrage Liability	\$0.00
Estimated NBS Administration Costs	0.00
Estimated City Administration Costs	(1,000.00)
Arbitrage Fee	0.00
NBS Closeout Fee	<u>(2,000.00)</u>
<i>Subtotal Fund Uses</i>	(\$3,000.00)

Total Funds Used

(3,000.00)

Remaining Funds after District retirement

\$62,545.71

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SURPLUS FUNDS RECOMMENDATION

According to the Bond Indenture the Fiscal Agent was instructed to transfer investment earnings from the various funds created pursuant to the Indenture, to the Rebate Fund, for purposes of ultimate rebate to the United States. As evidenced in the Arbitrage Rebate Opinion of this report, the City of Huntington Beach is not required to make payment for arbitrage liability.

The Bond Indenture sets forth: "except as provided in Section 18 with respect to the Reserve Fund and Section 19 with respect to the Rebate Fund, all investment earnings on monies held under this Indenture shall, prior to the earlier of: (i) substantial completion of the works of improvement, which shall be established by receipt by Fiscal Agent of a written notice signed by the Treasurer of the Issuer stating that the authorized improvements have been completed; (ii) February 15, 1992; or (iii) the date of which an amount equal to the Bond proceeds allocable to the works of improvement and authorized incidental expense have been expended ("Completion Date"), be deposited into the Improvement Fund. After the Completion Date, all such investment earnings shall be deposited in the Redemption Fund".

All monies which are City held are levy collections distributed from Orange County and shall be transferred to the Assessment District No. 88-1 Redemption Fund to be declared surplus and expended in the following manner.

Per Section 8784 of the Streets and Highways Code of California, surplus in the Redemption Fund after the payment of all bonds and interest should be distributed in the following order:

1. Repayment to the City of any funds advanced, less its recovery on the sale or redemption of the properties assessed and costs incurred.
2. Repayment to persons paying supplemental assessments.
3. Proportional credit to the final annual assessment levies with a refund given to paid off assessments.
4. The balance transferred to the general fund of the City instead of number 3 above.

Based on the aforementioned Section of the Code and per verbal discussion with legal counsel, the City of Huntington Beach may transfer available Rebate, Reserve, and Redemption surplus funds to the City's general fund upon approval by City Council. Please note no formal legal opinion was provided in writing regarding the use of available funds.

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