



CITY OF HAYWARD AGENDA REPORT

AGENDA DATE 2-10-98

AGENDA ITEM 5

WORKSESSION ITEM _____

TO: Mayor and City Council

From: Director, Finance and Internal Services

Subject: AUTHORIZATION TO EXECUTE A LEASE AGREEMENT IN CONNECTION WITH THE STREET LIGHTING ACQUISITION PROJECT AND STREET LIGHTING ASSOCIATED WITH THE MISSION BOULEVARD UNDERGROUNDING PROJECT:

Recommendation:

It is recommended that the City Council adopt the attached resolution authorizing the execution of a lease purchase agreement with the Association of Bay Area Governments (ABAG) for two street lighting projects.

Background/Discussion:

The City is currently working on two street lighting projects. One is the acquisition of streetlights from Pacific Gas & Electric Company (PG&E). The other is the installation of street lighting associated with the Mission Boulevard Undergrounding Project. Council approved both of these projects as part of the 1996-97 Capital Improvement Program (CIP) Budget. In the CIP Budget, staff indicated that the two projects were to be funded with the proceeds of borrowing. Repayment of the borrowing, for both projects, is to be made from savings that will be generated by the City's purchase and operation of streetlights, located in Hayward, from PG&E.

Staff is recommending that the City join the ABAG financing pool for the financing of the projects. Given the size of the City's financing needs, for the two projects, the ABAG pool offers the most cost effective approach. In addition, ABAG has been working on the streetlight acquisition project since it began and has developed the various legal documents necessary to accomplish the borrowing. With respect to the borrowing, the amount required for the PG&E streetlight acquisition is \$1,618,000 and \$500,000 for the Mission Boulevard Undergrounding Project, totaling \$2,118,000. The term of the lease is for 10 years, the annual lease payments are not to exceed \$280,000 and the interest rate may not exceed 5.6%.

The individual projects are discussed in greater detail as follows:

PG&E Streetlight Acquisition. On December 7, 1993 the City Council authorized the execution of a Joint Powers Agreement with Alameda County and several other cities/agencies for the purpose of determining the feasibility and cost of acquiring streetlights from PG&E. Negotiations between

PG&E and the JPA began in January of 1995. On February 13, 1996 staff submitted an Agenda Report to Council indicating that the negotiations were at a standstill. Also, in that report, staff requested that the City exercise its right of Eminent Domain and proceed with condemnation of the street lighting system. Council then adopted a Resolution of Necessity for the purpose of acquiring the street lighting system. In December of 1997 a settlement agreement was reached with PG&E, which will be approved by the Court as a stipulated judgement. As a result of the agreement the cost of the street lighting system being acquired by the City of Hayward is \$1,507,500. This is slightly under the maximum estimated cost of \$1,540,000, which was communicated to Council earlier. The difference between the purchase price of \$1,507,500 and the amount to be borrowed, \$1,618,000, is interest expense. Part of the interest is owed to the Sewer Capital Improvement Fund for a loan of \$700,000 that was made to fund the deposit on the acquisition of the streetlights and the remainder is due to PG&E. A copy of the February 13, 1996 Agenda Report is attached for Council's reference.

Mission Boulevard Undergrounding Project. One of the major projects underway in the City is the undergrounding of utilities on Mission Boulevard from Sycamore Avenue to Industrial Boulevard. As was discussed in the City Manager's letter of transmittal for the 1997-98 CIP, Rule 20A monies are funding this project and PG&E is doing most of the work. The Rule 20A dollar amount allocated to the project is \$5.3 million. In connection with this project, Council has approved, in the CIP, the expenditure of City funds for the installation of new streetlights on standard aluminum poles. The City funding requirement is \$800,000 of which \$500,000 must be financed.

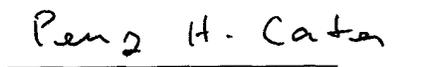
Authorization to Proceed:

In order for staff to proceed with the financing, it is necessary for the City Council, to take certain actions. Specifically, Council must adopt a resolution authorizing the issue of debt, approving the form of documents, authorizing the issuance of an Official Statement, and authorizing staff to take such steps, as are necessary, to complete the financing. The necessary resolution is attached. All documents relating to the financing are available in the City Clerk's Office.

Prepared by:


Diane Lewis, Accounting Manager

Recommended by:


Perry H. Carter, Finance Director

Approved by:


Jesus Armas, City Manager

Attachments



CITY OF HAYWARD AGENDA REPORT

AGENDA DATE 2/13/96

AGENDA ITEM 6

WORK SESSION ITEM _____

To: Mayor and City Council
From: Director of Public Works
Subject: ALAMEDA COUNTY JOINT STREET LIGHT ACQUISITION - INITIATION OF CONDEMNATION

Recommendation:

It is recommended that the City Council authorize acquisition of the City's street lights, through condemnation, by taking the following actions:

- (1) Conduct the public hearing;
- (2) Adopt a Resolution of Necessity, and a Resolution to Issue Bonds to enable the City to exercise its right of Eminent Domain to acquire utility-owned street lights; and
- (3) Authorize a temporary loan of \$700,000 from the Sewer Capital Improvement Fund to the Street Lighting Fund to obtain an Order of Immediate Possession.

Background/Discussion:

On December 7, 1993, the City Council authorized execution of a Joint Powers Agreement (JPA) for the Alameda County Joint Street Light Acquisition (ACJSLA). The purpose of the agreement was to jointly study the feasibility and cost of acquisition of street lighting, which is currently owned by Pacific Gas & Electric (PG&E), and located within the jurisdictions of the participating agencies. Agencies participating in the JPA are: the County of Alameda, and the cities of Albany, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Piedmont, Pleasanton, San Leandro, and Union City. The other three agencies in Alameda County (Alameda, Berkeley, and Oakland), already own their street lights and therefore are not participants. With the JPA, all costs involved with the acquisition are proportionally divided amongst the participating agencies.

Negotiations between PG&E and the JPA commenced in January of 1995. The JPA's final offer of \$3,439,388 for a total of 34,321 street lights was submitted to PG&E on January 19, 1996, and was not accepted. This figure was based on an appraisal which takes into account a proposal by PG&E to lower the utility-owned (LS-1) street light rates beginning July 1996. A lower street light rate results in less profit to PG&E, and thus, a lower appraised value when calculated on an income stream basis. Hayward's share would be \$695,284 for 6,571 street lights. PG&E's latest offer of \$9,000,000, which was submitted to the JPA in October, 1995, was far above the appraised value, and was therefore, unacceptable to the JPA.

Legal counsel to the JPA has determined that negotiations are at a stalemate. Therefore, it has been recommended that the members of the JPA exercise their right of Eminent Domain, and proceed with condemnation of the street lighting system. The first step towards this is to adopt a Resolution of Necessity and, if future bond financing is likely, a Resolution to Issue Bonds. An Order of Immediate Possession can be filed by each agency upon obtaining funds for their specific deposit amount, which would be equal to their appraised value. Since the final costs to the City for the purchase of its street lights will be not known until completion of the court action, staff recommends that the \$695,284 needed for the Order of Immediate Possession be obtained through a \$700,000 interfund transfer from the Sewer Capital Improvement Fund to the Street

Lighting Fund. In that way, savings would begin to accrue immediately, plus, there would be more flexibility in the amount eventually borrowed. It is anticipated that the interfund transfer would be repaid, with interest, in FY 96/97, after the sale of bonds. This short-term borrowing from the Sewer Capital Improvement Fund will not impact ongoing projects since sufficient funds are available.

Subject to the final cost of acquisition, the annual net savings to the City resulting from the purchase of the street light system is expected to range from \$200,00 to \$314,000, excluding costs for new and replacement lights which will be programmed in the Street Lighting Fund.

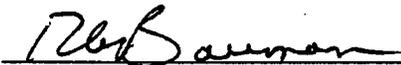
It should be noted that even without the City's purchase of its street lights, an annual savings of approximately \$138,000 would result from PG&E's proposed LS-1 rate reduction. However, by proceeding with the purchase, the City not only will increase that savings, but will have the ability to improve on existing PG&E maintenance service by managing its own street light maintenance program. As Council is aware, there are a very large number of street lights that are not functioning. City staff is in the process of completing a City-wide night-time survey of street lights, so that the non-functioning lights can be identified to PG&E for repair prior to being purchased by the City.

A two-thirds vote of the City Council is required to approve a Resolution of Necessity, pursuant to the Code of Civil Procedure. A Notice of Hearing has been sent to Pacific Gas & Electric Company informing them of the hearing date in the manner required by State law.

Schedule:

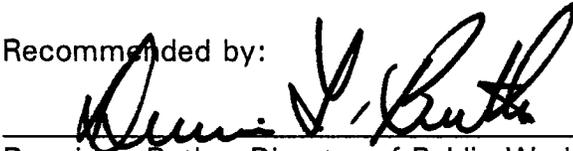
All other agencies in the JPA are also scheduling similar hearings with the intent to pursue purchase of their street lights through Eminent Domain. Assuming Council's approval of the Resolution of Necessity, the City Attorney can immediately file a lawsuit for acquisition by Eminent Domain. Once the initial lawsuits by each agency are filed, the JPA's legal counsel will proceed to consolidate all actions and will pursue either a negotiated or court settlement for all agencies. For Hayward, filing the Order of Immediate Possession will likely occur 30 days after the initial lawsuit, in order to ensure sufficient time to bid and award a maintenance service contract which will be needed 30 days after filing, at which time, the transfer becomes effective.

Prepared by:



Robert A. Bauman, Deputy Director of Public Works

Recommended by:



Dennis L. Butler, Director of Public Works

Approved by:



Jesús Armas, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

**RESOLUTION APPROVING THE EXECUTION OF LEASE-
PURCHASE AGREEMENT WITH MUNICIPAL LEASING
ASSOCIATES, INC. IN CONNECTION WITH STREET
LIGHT ACQUISITION PROJECT**

WHEREAS, the City Council of the City of Hayward has previously authorized the acquisition of street lights from Pacific Gas & Electric and the installation of Street lights along Mission Boulevard from Sycamore Avenue to Industrial Boulevard (the "Street Light Project"); and

WHEREAS, the City Council has determined that it is in the best interests of the City to secure lease-purchase financing for the Street Light Project; and

WHEREAS, Municipal Leasing Associates, Inc., as program administrator of the Association of Bay Area Governments Tax-Exempt Lease Program, has offered to enter into a Lease With Option to Purchase (the "Lease") with the City in order to provide lease financing (the "financing") for the Street Light Project through a competitive bidding process with several financial institutions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward, as follows:

1. The forms, terms, and provisions of the Lease are hereby approved, and the Mayor, City Manager, Finance Director, and the City Clerk are hereby jointly and severally authorized and directed on behalf of the City of Hayward and in its name to execute and deliver the Lease, in substantially the form of the agreement on file in the office of the City Clerk, with such changes as may be approved upon consultation with the City Attorney.
2. The principal amount of the Lease shall not exceed \$2,120,000, and the interest rate shall not exceed 5.6 percent.
3. The Mayor, City Manager, Finance Director, and the City Clerk are hereby jointly and severally authorized and directed to execute and attest such further agreements, documents, instruments and certificates as they may deem necessary or advisable in order to accomplish the purposes of this resolution.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 1998

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward