

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2005 MAY 12 AM 11:50

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: May 24, 2005

RE: REPORT AND RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO CITY COUNCIL, TO NEGOTIATE AND ENTER INTO A CONTINUING AGREEMENT WITH ABAG POWER, THE CITY'S CURRENT NATURAL GAS SUPPLIER, TO PURCHASE NATURAL GAS SUPPLIES AND TRANSPORTATION FOR CITY BUILDINGS AND VEHICLES

SUMMARY

This report recommends that the City Council adopt the attached resolution authorizing the Oakland City Administrator to negotiate and enter into an agreement to continue to buy natural gas supplies from the Association of Bay Area Governments Publically Owned Energy Resources (ABAG POWER) Natural Gas Aggregation Program for use in City-owned buildings and vehicles. The agreement requires 37 months notice prior to terminating the City's participation in the program. Pacific Gas and Electric Company (PG&E) would continue to transport and distribute these supplies locally, maintain the natural gas infrastructure and provide related services, such as metering, billing and customer service.

Although ABAG POWER does not guarantee savings, if their future performance follows the trend of the last three years, the City of Oakland would save an estimated \$22,000 per year on estimated purchases of \$613,000 per year.

FISCAL IMPACT

Approval of the attached resolution would save the City an estimated \$22,000 per year, compared to PG&E rates, on estimated purchases of \$613,000 per year. Funds for natural gas purchasing are appropriated in the Comprehensive Clean-up Fund (1720), and the City Facilities Fund (4400). Estimated expenditures for Fiscal Year 2005-2006 purchases from ABAG POWER are \$613,000¹.

ABAG POWER's natural gas prices during calendar years 2002, 2003 and 2004 have averaged 3.5% lower than PG&E's prices for the same supplies, saving the City of Oakland an estimated \$72,000. ABAG POWER does not guarantee that costs will be lower, if they achieve similar savings in the future.

Prices in the natural gas supply market change frequently in an uncertain manner. Therefore, cost savings compared to purchasing the same natural gas supplies from PG&E are not guaranteed.

¹ Based on expenditures and price trends during Fiscal Year 2003-2004, the most recent full fiscal year of data.

Item: _____
Public Works Committee
May 24, 2005

BACKGROUND

ABAG POWER currently provides all natural gas for City buildings, except the Feather River Camp, and for 218 vehicles in the City fleet. ABAG POWER is a Joint Powers Authority (JPA) formed under the auspices of the Association of Bay Area Governments comprised of over 67 local government agencies, 39 of which buy natural gas supplies from the natural gas program. Its purpose is to provide professionally managed purchasing of natural gas supplies from non-PG&E sources and to arrange for the transportation of these supplies to PG&E's system, where PG&E subsequently distributes them to City facilities. ABAG POWER charges the City directly for these natural gas supplies. PG&E continues to provide and charge the City for natural gas distribution, metering, billing and other ancillary services associated with the safe natural gas use.

ABAG POWER's principal aims are to achieve a balance of price stability and relatively low prices, seeking to save members money relative to PG&E prices, but as a slightly lower priority compared to offering stability.

The City of Oakland signed its first agreement to purchase natural gas from the ABAG POWER on March 15, 1996. The current agreement for these purchases was initiated on July 1, 2002, and will terminate on June 30, 2005. ABAG POWER requires the City to provide notice by July 31, 2005, that it will sign a new agreement in order to remain in the program.

KEY ISSUES AND IMPACTS

The proposed new contract term is continuous, requiring that the City give at least 37 months of advance notice before terminating its participation in the natural gas purchasing program. This long notice period creates potential benefits to the City by allowing ABAG POWER to commit to multi-year purchase agreements that can cost less than PG&E supplies.

However, 37 months is a very long notice period if the program's actions and results do not continue to meet the City's needs. Therefore, City staff asked the ABAG POWER Executive Committee to consider options for a shorter notice period before leaving the program. ABAG POWER did not agree to a shorter notice period, but did clarify their position by stating that the JPA and bylaws allow the Executive Committee and Board of Directors the flexibility to modify, suspend or terminate the program according to market conditions and the interests of the members. ABAG POWER also has flexibility to allow a shorter notice period before departing the program, provided that the City of Oakland compensates the remaining members for the costs associated with departing early.

The City of Oakland has the opportunity to add input to the program through its participation on the ABAG POWER Board of Directors and through the participation of three City Council members on the board of the Association of Bay Area Governments, ABAG POWER's parent organization. The City has declined an offer to sit on the Executive Committee due to limited staff availability.

According to the proposed new agreement, if ABAG POWER fails to pay suppliers, the City is obligated to pay the suppliers, even if the City has already paid ABAG POWER for the same supplies. Under these circumstances, the City will have paid twice for the same supplies and would need to seek recovery from ABAG POWER. ABAG POWER stated that they have never failed to make payments, and explained how members' payments are sent directly to a bank account where funds may only be paid out to power suppliers. Furthermore, ABAG POWER has a bond to protect its members if funds are taken illegally by ABAG POWER representatives. Other ABAG POWER members have not raised this issue.

In City construction contracts, the City is protected from liability for double payments resulting from contractor defaults by using payment bonds. City staff asked the ABAG POWER Executive Committee for an opportunity to add a payment bond to the new agreement at the City's option and expense. The Executive Committee did not agree to offer a payment bond. They expressed concern that a payment bond would require a three party agreement that obligates ABAG POWER to pay administrative and legal fees. These fees would be added to ABAG POWER's reimbursement to the City for duplicate payments from the City to suppliers. The City does have the opportunity to attempt to purchase a payment bond independently from ABAG POWER.

SUSTAINABLE OPPORTUNITIES

This natural gas purchasing agreement provides the following sustainable opportunities.

Economic: Purchasing natural gas for municipal facilities and vehicles at a lower cost allows the City to make better use of the funds it receives.

Environmental: Using compressed natural gas for 218 vehicles in the City's fleet creates significantly less local pollution and greenhouse gas compared to the gasoline and diesel fuels it displaces.

Social Equity: Reducing pollution in Oakland, particularly from the vehicle fleet improves health throughout the City. In West Oakland, where the Pacific Institute studies pollution and its impacts, using natural gas instead of gasoline and diesel fuel can reduce the production of ozone and small particles that harm lung tissue and impair breathing.

DISABILITY AND SENIOR CITIZEN ACCESS

This activity does not have direct impacts on disabled or senior citizens

RECOMMENDATION AND RATIONALE

It is recommended that the City Council adopt the attached resolution authorizing the purchase of natural gas supplies from the ABAG POWER Natural Gas Program in an effort to achieve stable prices that are lower than PG&E rates.

ACTION REQUESTED OF THE CITY COUNCIL

The Public Works Agency recommends that the City Council approve the resolution to continue purchasing natural gas from the ABAG POWER Natural Gas Program.

Respectfully submitted,



RAUL GODINEZ, II, P.E.

Director, Public Works Agency

Reviewed by:

Bruce Saunders

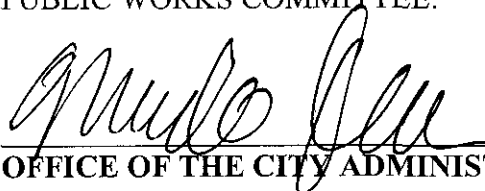
Assistant Director, Public Works Agency

Prepared by:

Scott Wentworth, P.E.

Energy Engineer, PWA

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE:



OFFICE OF THE CITY ADMINISTRATOR

OAKLAND CITY COUNCIL

RESOLUTION NO. _____

OFFICE OF THE CITY CLERK
C.M.S.
2005 MAY 12 AM 11:50

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO CITY COUNCIL, TO NEGOTIATE AND ENTER INTO A CONTINUING AGREEMENT WITH ABAG POWER, THE CITY'S CURRENT NATURAL GAS SUPPLIER, TO PURCHASE NATURAL GAS SUPPLIES AND TRANSPORTATION FOR CITY BUILDINGS AND VEHICLES

WHEREAS, the City joined the Association of Bay Area Governments Publicly Owned Energy Resources (ABAG POWER) Natural Gas Aggregation Program (NGP) on March 15, 1996; and

WHEREAS, the ABAG POWER NGP focuses primarily on providing price stability for natural gas supply purchases while maximizing efforts to saving money; and

WHEREAS, the City's share of NGP program costs for the two fiscal years from July 2002 through June 2004 were approximately 3.5% lower than Pacific Gas & Electric Co. (PG&E) prices for the same natural gas supplies; and

WHEREAS, if the NGP savings continue to follow the same trend as for the period from July 2002 through June 2004 and average market prices remain the same, the City would save an estimated \$22,000 per year in Fiscal Year 2005-2006 compared to PG&E prices; and

WHEREAS, the City Council finds and determines that it is in the best interests of the City to enter into this agreement without going through a formal bidding process, and is therefore exempt pursuant to Section 2.04.050 I of the Oakland Municipal Code; now, therefore, be it

RESOLVED: That the City Administrator or her designee is hereby authorized and directed to notify ABAG POWER by July 31, 2005, that the City intends to enter into a new negotiated agreement with the ABAG POWER NGP; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to execute all documents including but not limited to agreements, amendments and

related actions that may be necessary to enter into and execute a new continuous agreement for an indefinite term with the ABAG POWER NGP subject to no more than a 37 month advance cancellation by notice, and continue purchasing natural gas supplies from the ABAG POWER NGP without an interruption in service.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20 _____

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, BROOKS, NADEL, REID, QUAN, AND
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

LATONDA SIMMONS
Interim City Clerk of the Council and
of the City of Oakland California