

OAKLAND CITY COUNCIL

Kathleen Shanley
City Attorney

RESOLUTION NO. 82454

C.M.S.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Introduced by Councilmember _____

2009 NOV 18 PM 5:56

A RESOLUTION 1) PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED THREE MILLION EIGHT HUNDRED THIRTY THOUSAND DOLLARS (\$3,830,000.00) OF IMPROVEMENT BONDS PURSUANT TO THE IMPROVEMENT BOND ACT OF 1915 FOR UTILITY UNDERGROUND ASSESSMENT DISTRICT NO. 2007-232, PIEDMONT PINES PHASE 1; 2) APPROVING A FISCAL AGENT AGREEMENT; 3) AUTHORIZING SERVICES FOR THE BONDS; 4) APPROVING A BOND PURCHASE AGREEMENT AND SALE OF THE BONDS; 5) APPROVING PRELIMINARY OFFICIAL STATEMENT; 6) APPROVING CONTINUING DISCLOSURE AGREEMENT; 7) AUTHORIZING CONTRACTING WITH A FIRM TO ASSIST WITH THE ADMINISTRATION OF THE ASSESSMENT DISTRICT; AND 8) AUTHORIZING RELATED ACTIONS

WHEREAS, the City Council (the "Council") of the City of Oakland (the "City") has heretofore undertaken proceedings pursuant to the Improvement Bond Act of 1915, being Division 10 of the Streets and Highways Code of the State of California (the "Bond Law"), for and has confirmed assessments (the "Assessments") upon lands within an assessment district described in Resolution No. 81272 C.M.S. adopted by the Council on May 6, 2008 (the "Resolution of Intention") expressing the intention of the Council to establish the City of Oakland Utility Underground Assessment District No. 2007-232, Piedmont Pines Phase 1 (the "Assessment District"); and

WHEREAS, said proceedings provided for the issuance of bonds pursuant to the Bond Law, and it is necessary to establish terms and provisions of such issuance; and

WHEREAS, it is also desired to establish the denominations of the bonds to represent assessments and the amount to mature each year, and to otherwise approve the documents necessary to issue the bonds and all actions necessary in connection therewith.

RESOLVED, by the City Council of the City of Oakland as follows:

1. Issuance of the Bonds. Pursuant to the Bond Law, the issuance of the City of Oakland Utility Underground Assessment District No. 2007-232, Piedmont Pines Phase 1 Limited Obligation Improvement Bond (the "Bonds"), as set forth in the Fiscal Agent Agreement (as described below), is hereby authorized. The Bonds shall be in a principal amount not to exceed the lesser of \$3,830,000.00 or the aggregate principal amount of the unpaid Assessments levied in the Assessment District, and shall mature in the principal amounts and on the dates, and pay interest at the rates, set forth in the Fiscal Agent Agreement.
2. Execution of Bonds. The Bonds shall be executed by the Finance Director/City Treasurer and by the City Clerk, by manual or facsimile signature, and the corporate seal of the City

shall be imprinted on the Bonds in a similar manner. The Bonds shall then be delivered to the Fiscal Agent for authentication and registration.

3. Fiscal Agent Agreement. The Fiscal Agent Agreement, by and between Wells Fargo Bank, National Association, as fiscal agent (the “Fiscal Agent”) and the City (the “Fiscal Agent Agreement”), in the form on file with the City Clerk, is hereby approved. The Fiscal Agent Agreement shall be executed by the Finance Director/City Treasurer and attested to by the City Clerk, in the form on file with the City Clerk, together with such additions thereto and changes therein as are recommended by the City Attorney and Bond Counsel, and approved the officer executing the same, with such approval to be conclusively evidenced by the execution and delivery by the City of the Fiscal Agent Agreement.
4. Performance of Duties by Officers. Each and every officer of the City is authorized to perform his or her services on behalf of the City required under the Fiscal Agent Agreement and otherwise required in connection with the establishment and administration of the Assessment District. The Finance Director/City Treasurer is authorized to pay the costs of such services as are necessary to affect the issuance of the Bonds. Such services shall include, but are not limited to, printing the Bonds, printing the disclosure documents, legal services, financial consultant’s services, Fiscal Agent’s services and any other services appropriate for the issuance of the Bonds. These costs shall be paid from Bond proceeds out of the Costs of Issuance Fund established by the Fiscal Agent Agreement.
5. Bond Purchase Contract. The Bond Purchase Agreement (the “Purchase Contract”), in the form on file with the City Clerk, is hereby approved. The Finance Director/City Treasurer is hereby authorized and directed, for and in the name and on behalf of the City, to accept the offer of Stone and Youngberg, LLC (the “Underwriter”) to purchase the Bonds contained in the Purchase Contract (provided that the aggregate principal amount of the Bonds sold thereby is not in excess of the principal amount approved in Section 1 above, the true interest cost on the Bonds is not in excess of 8.0% per annum and the underwriter’s discount is not in excess of 1.5% of the principal amount of the Bonds) and to execute and deliver the Purchase Contract in said form, with such additions thereto or changes therein as are recommended or approved by the officer executing said document for the City upon consultation with the City Attorney and Bond Counsel, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Purchase Contract.
6. Official Statement. The City Council hereby approves the preliminary official statement for the Bonds (the “Preliminary Official Statement”) in the form on file with the City Clerk, together with any changes therein or additions thereto deemed advisable by the Finance Director/City Treasurer upon consultation with Disclosure Counsel. The City Council authorizes and directs the Finance Director/City Treasurer, on behalf of the City, to deem “final” pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the “Rule”) the Preliminary Official Statement prior to its distribution by the Underwriter to prospective purchasers of the Bonds.

The Underwriter, on behalf of the City, is authorized and directed to cause the Preliminary Official Statement to be distributed to such municipal bond broker-dealers, to such banking institutions and to such other persons as may be interested in purchasing the Bonds.

The Finance Director/City Treasurer is authorized and directed to assist the Disclosure Counsel in causing the Preliminary Official Statement to be brought into the form of final official statement (the “Final Official Statement”), and the City Administrator is hereby

authorized and directed to execute the Final Official Statement. The Finance Director/City Treasurer is hereby authorized and directed to execute a statement that the facts contained in the Final Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Bonds, true and correct in all material respects and that the Final Official Statement did not, on the date of sale of the Bonds, and do not, as of the date of delivery of the Bonds contain any untrue statement of material fact or omit to state material facts required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. The execution and delivery by the City of the Final Official Statement, which shall include such changes and additions thereto deemed advisable by the Finance Director/City Treasurer and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Final Official Statement by the City.

The Final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Bonds.

7. Disclosure Document. The Finance Director/City Treasurer is hereby authorized and directed to approve and execute a continuing disclosure certificate for the Bonds in the form described in the Preliminary Official Statement. The execution by the City of such disclosure certificate shall be conclusive evidence of approval by the City of any such disclosure certificate.
8. The Treasury Manager of the City is hereby authorized to contract with a firm to assist in the administration of the Assessment District and the levy of the assessments therein; provided that any compensation due to such firm shall be payable as a cost of issuance of the Bonds or from administrative charges collected with the Assessments.
9. Ratification of Previous Actions; Future Actions. All actions heretofore taken by officers and agents of the City with respect to the authorization of the construction of the improvements to be funded by the Assessment District and the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the Mayor, the City Administrator, the City Director of Public Works, the City Electrical Services Manager, the Finance Director/City Treasurer, the Treasury Manager and the City Clerk and the other officers of the City are hereby authorized and directed to take any actions and execute and deliver any and all documents as are necessary to accomplish the issuance, sale, and delivery of the Bonds in accordance with the provisions of this Resolution and the documents herein approved.
10. Other Officers. The officers responsible for the execution of any of the agreements, orders, or covenants contained in any of the foregoing Sections or in any other document heretofore approved in these proceedings are hereby authorized and directed to take any actions and execute and deliver any and all further documents, agreements or certificates as are necessary to accomplish the issuance and sale of the Bonds.
11. Appropriations of Funds as per Exhibit A: Appropriations to Cover City Costs and the Repayment of Seed Monies.

12. California Environmental Quality Act Requirements. The project complies with the requirements of CEQA because, without limitation, it is exempt from review pursuant to CEQA Guidelines section 15302.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 8 2009, 20

PASSED BY THE FOLLOWING VOTE:

AYES - ~~BROOKS~~, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT BRUNNER - 7

NOES - 0

ABSENT - 0

ABSTENTION - Brooks - 1

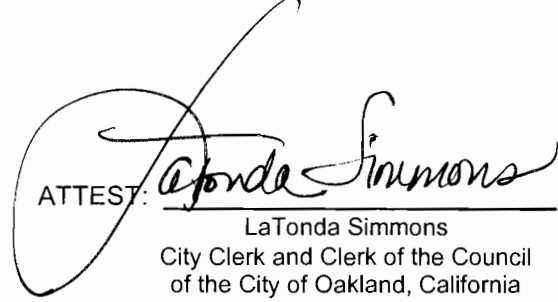
ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A: Appropriations to Cover City Costs and the Repayment of Seed Monies

Exhibit A

October 20, 2009

Appropriations to Cover City Costs and Repayment of Seed Monies

UNDERGROUND UTILITY DISTRICT NO. 232 (PIEDMONT PINES AREA) PHASE 1

Project Number: C254410

Streetlights funding Code: 92228 C254410 W740

Payee Name and Address	Date Funds are Needed	Purpose of Obligation	Amount
PWA Electrical, 7101 Edgewater Dr., Bldg. 2, Oakland, CA 94621	2/15/2010	City Material, PG&E permits, Recapture, Design, Assessment Engineer, City Process Management, Construction Management PWA Electrical	
92228 52511 C254410 W740		Streetlight Material	\$ 240,000
92228 53511C254410 W740		PG&E Engineering Deposit	\$ 17,500
		Subtotal	\$ 257,500
		20% Contingency	\$ 51,500
		Subtotal with Contingency	\$ 309,000
30528 51912 C254410 W740		Design	\$ 250,000
2211 92228 78811 C321610 IN07		Incidental Expenses - Assessment Engineer	\$ 60,000
2211 92228 78811 C321610 IN07		Recapture Electrical Report, District Formation, Coordination, etc. From 1987 to 2007	\$ 225,000
30528 51912 C254410 W740		City Process Management	\$ 100,000
30528 51912 C254410 W740		Construction Management - PWA Electrical	\$ 300,000
		Subtotal to PWA Electrical on 1/15/2010	\$ 1,244,000
PWA Electrical, 7101 Edgewater Dr., Bldg. 2, Oakland, CA 94621	8/15/2010	City Substructure, Labor, ROW Inspector, City portion of Composite Cost	
92228 54919 C254410 W740		Trenching	\$ 624,000
92228 54919 C254410 W740		Surface Restoration	\$ 48,000
92228 54919 C254410 W740		Streetlight Foundation	\$ 144,000
92228 54919 C254410 W740		Streetlight Curb Box	\$ 144,000
30528 56611 C254410 W740		PWA Electrical construction of streetlights	\$ 170,000
88343 56611 C254410 W740		ROW Inspector	\$ 100,000
92228 54919 C254410 W740		City portion of Composite Engineering Cost	\$ 200,000
		Subtotal	\$ 1,430,000
		20% Contingency	\$ 286,000
		Subtotal to PWA Electrical on 7/15/2010	\$ 1,716,000
		Total to PWA for Engineering & Construction Costs	\$ 2,960,000
Treasury Department, 150 Ogawa, Oakland, CA 94612	2/15/2010	Incidental Expenses - City Treasury	\$ 258,000
		Financing Costs	\$ 612,000
		Total to Treasury for Finance Costs	\$ 870,000
		Total Project Costs	\$ 3,830,000