

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2004 JUL -1 PM 6:52

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Budget Office, Public Works Agency and Mayor's Sustainability Office  
DATE: July 13, 2004

RE: **REPORT AND TWO RESOLUTIONS AUTHORIZING THE CITY ADMINISTRATOR TO: 1) ACCEPT AND APPROPRIATE \$3,500,000 FROM THE WILLIAMS ENERGY SETTLEMENT, FOR ACTIVITIES THAT PROMOTE ALTERNATIVE ENERGY PRODUCTION OR IMPROVE ENERGY EFFICIENCY IN THE CITY, AND; 2) ALLOCATE \$24,500 OF WILLIAMS SETTLEMENT FUNDS FOR A PROFESSIONAL SERVICES AGREEMENT WITH NAVIGANT CONSULTING, INC. SO THAT OAKLAND CAN JOIN THE BAY AREA COMMUNITY CHOICE AGGREGATION DEMONSTRATION PROJECT TO ASSESS THE FEASIBILITY FOR OAKLAND TO AGGREGATE THE ELECTRIC LOADS OF ALL RATEPAYERS AND TO PROCURE ENERGY ON THEIR BEHALF**

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**SUMMARY**

This report and resolution request authority for the City Administrator to accept and appropriate \$3.5 million in payments from the Williams Energy Settlement. Under the terms of the Williams Settlement agreement reached in 2002 (see Attachment A), this funding source can only be used for "activities that promote alternative energy production or improved energy efficiency in the City." As of June 30, 2004, the City has received \$1.5 million of the \$3.5 million from the settlement. The remaining \$2 million will be received over a several year period ending in January, 2007.

A second resolution requests authority to use \$24,500 of the Williams Settlement for a professional services agreement with Navigant Consulting, Inc. (NCI). NCI is the technical consultant for a Bay Area Community Choice Aggregation (CCA) demonstration project, and the \$24,500 appropriation is Oakland's share of the cost for the Base Case Feasibility Study portion of the Project. This Feasibility Study will assess the feasibility, opportunities and impacts of implementing a CCA in Oakland. A CCA combines the electric loads of ratepayers and procures energy on behalf of ratepayers, with the intent of lowering electricity rates and increasing the use of renewable energy sources.

A separate report and resolution is scheduled on the July 13, 2004 Finance Committee that requests authority to expend \$1,475,500 of the \$3.5 million Williams Settlement on a solar power project.

Item: 5  
Finance Committee  
July 13, 2004

**FISCAL IMPACT**

Approval of this resolution authorizes the City Administrator to accept and appropriate \$3.5 million from the Williams Settlement into a distinct “Williams Energy Settlement” project (C256510), in the Self Insurance Liability Fund (1100).

Per the Settlement Agreement, the funds from the Williams Settlement will be received on the following schedule:

<b>AMOUNT</b>	<b>DATE RECEIVED</b>
\$1,000,000	January, 2003
\$500,000	January, 2004
\$500,000	January, 2005
\$1,500,000	January, 2007
\$3,500,000	TOTAL

Approval of the second attached resolution will allocate \$24,500 of the total \$3.5 million from the Williams Settlement to a contract with Navigant Consulting, Inc. to assess the feasibility and impacts of Community Choice Aggregation (CCA) in Oakland. The complete fiscal impact of implementing the recommendations of Navigant’s CCA report is unknown at this time, and will be addressed in Navigant’s final report.

**BACKGROUND**

Under the terms of the settlement agreement reached in 2002 (see Attachment A for a copy), the State of California receives and distributes Williams settlement money to the plaintiffs. As a required condition of the settlement, this funding source can only be used for activities that promote alternative energy production or improved energy efficiency in the City.

Mayor Brown, City Council members and other leaders in Oakland have expressed interest in alternative energy production and use for many years. With the onset of the 2001 energy crisis, the California Public Utilities Commission (CPUC) the California Energy Commission (CEC) and PG&E developed programs to encourage Community Choice Aggregator programs. The second resolution proposes utilizing the Williams Settlement funds for a study of the potential benefits and risks for Oakland.

A separate and related report and resolution requesting authorization to expend \$1,475,500 of the \$3.5 million Williams Settlement for a solar power project is also included on the July 13, 2004 Finance Committee Agenda.

## KEY ISSUES AND IMPACTS

The attached resolution requests Council approval to accept and appropriate the entire amount of the Williams Settlement funds. The resolution also states that staff will seek Council approval for projects to be funded by the Williams Settlement prior to actual distribution of the funds. To this end, included with this report is a separate resolution to expend \$24,500 of the \$3.5 million settlement on a contract with Navigant Consulting, Inc. A separate report and resolution — also on the July 13, 2004 Finance Committee agenda — requests authority to expend another \$1,475,500 of the \$3.5 million settlement on a solar power project. Additional resolutions will be brought before the Council in the future to expend the remaining \$2 million of the Settlement funding.

The benefits to Oakland residents and businesses if the City becomes an Aggregator will be determined through Navigant's Base Case Feasibility Study. Preliminary findings from the analyses Navigant has done for other Bay Area Demonstration Project participants indicate that it is likely that through aggregation, jurisdictions could almost immediately increase their use of renewable energy, ultimately aspiring to a 40% or even 50% goal, while at the same time decreasing utility rates to ratepayers.

## PROJECT DESCRIPTION

The Community Choice Aggregation statute, approved by Governor Gray Davis on September 24, 2002, allows a municipality to combine ratepayer's electrical loads and purchase (but not distribute) electricity, and to administer energy efficiency and renewable energy programs using public goods charge funds (2.87% of every utility bill) collected by Pacific Gas and Electric Company (PG&E) on behalf of electricity users.

There are numerous potential benefits to implementing a CCA, including: 1) More stable and reliable power supplies; 2) Lower electricity rates for City residents and businesses; 3) Operational cost savings; 4) Potential general fund revenue stream; 5) Greater latitude for increased use of renewable energy resources; 6) Ratepayer access to the democratically elected governance; and, 7) Access to Public Goods Charge monies for local energy efficiency and conservation programs.

The Base Case Feasibility Study conducted by Navigant for the City of Oakland will create a detailed preliminary assessment of the opportunities and risks to Oakland of becoming an aggregator. The report will also include an assessment of the composite opportunities if the electrical load of all the participants in the Bay Area were combined.

Navigant is the technical consultant for a CCA demonstration project funded by the California Energy Commission, U.S. Department of Energy, the Local Government Commission, and participating municipalities. The requested \$24,500 allocation is the cost share portion for the

Base Case Feasibility Study. Other jurisdictions committed to participating include: Cities of Pleasanton, Vallejo, Berkeley, Richmond, Emeryville, among others.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The Williams Settlement funds will be used to increase energy efficiency and decrease energy costs for the City.

**Environmental:** The use of renewable energy sources has a profound environmental impact as it reduces greenhouse gas and other toxic emissions.

**Social Equity:** Employment will be created in renewable energy and energy efficiency businesses. In addition, reduction in fixed energy costs is especially helpful to lower income families.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

This report and resolution will not have an effect on disability and senior citizen access.

### **RECOMMENDATION(S) AND RATIONALE**

Staff recommends that the City Council adopt the attached resolutions to: 1) accept and appropriate the \$3.5 million in Williams Settlement funds, and 2) allocate \$24,500 from the Williams Settlement to Navigant Consulting, Inc. for a study of the costs and benefits of implementing a *Community Choice Aggregation project in Oakland*.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests Council approval of the attached resolutions.

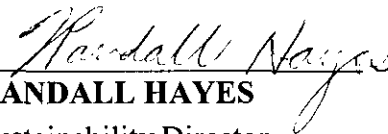
Respectfully submitted,



**RAUL GODINEZ, II**  
Director  
Public Works Agency



**MARIANNA MARYSHEVA**  
Director  
Budget Office



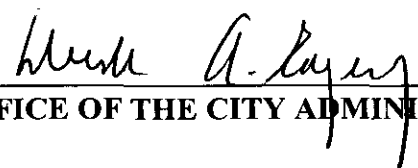
**RANDALL HAYES**  
Sustainability Director  
Mayor's Office

Prepared by:

Deb Spaulding, Analyst  
Budget Office

Carol Misseldine  
Senior Staff, Sustainability  
Mayor's Office

APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE:

  
**OFFICE OF THE CITY ADMINISTRATOR**

**Schedule 4.7(d)**

**Distribution of Cash Consideration by AG**

As set forth in the Settlement Agreement, Williams will pay cash consideration directly to the AG. The AG will distribute the cash consideration, as soon as reasonably practicable after receipt of payments from Williams, as set forth in this Exhibit. If any payments are accelerated and paid in an amount reduced by NPV as set forth in the Settlement Agreement, distributions will be made by the AG as soon as reasonably practicable after receipt, equivalently reduced by NPV.

**First Payment (\$42 M. due at execution)**

1. \$17 million to the Northwest AG s (\$8.5 million to Oregon AG and \$8.5 million to Washington AG) for the benefit of energy consumers at the sole discretion of the Northwest AG s. At the Northwest AG's discretion, such benefit may be direct or indirect. Up to 6% of the total amount of the Northwest AG's apportionment may be used by the Northwest AG's to pay for costs, attorneys' fees and administrative expenses incurred in pursuing the Litigation claims, including, but not limited to, costs, attorneys' fees, and administrative expenses related to implementation of this settlement;
2. \$2 million to the Energy Oversight Board for costs;
3. \$2.75 million to the AG for costs;
4. \$2.75 million to the California PUC for costs;
5. \$1 million to the City of Oakland, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the City;
6. \$1 million to the County of Santa Clara, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the County;
7. \$1 million to the County of Contra Costa, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the County;
8. \$2.1 million to the California Water Districts identified by name in paragraph 1.13 of the Settlement Agreement, to be paid to an account administered by their attorneys Best, Best & Krieger (with payments prorated to each Water District by agreement of the Water Districts) and for the use of those districts restricted to the construction of energy efficiency and/or reduction of pollution associated with the consumption of energy;
9. \$4,000 to County of Contra Costa for costs;

## ATTACHMENT A

10. \$30,000 to County of Santa Clara for costs;
11. \$250,000 to City and County of San Francisco for costs;
12. \$16,000 to the Water Districts identified by name in paragraph 1.13 of the Settlement Agreement for costs
13. \$15,000 to the City of Oakland for costs;
14. \$4 million to a fund to be created in the California Power Authority for costs associated with siting and installation of the LM6000 units obtained through this Settlement;
15. \$8.085 million to the Alternative Energy Retrofit Account at the Power Authority for retrofit of schools and public buildings.

### Second Payment (\$30 M. due 1/04):

1. \$10 million to the Northwest AG s (\$5 million to Oregon AG and \$5 million to Washington AG) for the benefit of energy consumers at the sole discretion of the Northwest AG s. At the Northwest AG's discretion, such benefit may be direct or indirect. Up to 6% of the total amount of the Northwest AG's apportionment may be used by the Northwest AG's to pay for costs, attorneys' fees and administrative expenses incurred in pursuing the Litigation claims, including, but not limited to, costs, attorneys' fees, and administrative expenses related to implementation of this settlement;
2. \$1 million to the Energy Oversight Board for costs;
3. \$1.75 million to the AG for costs;
- 4 \$1.75 million to the California PUC for costs;
5. \$.5 million to the City of Oakland, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the City;
6. \$.5 million to the County of Santa Clara, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the County;
7. \$.5 million to the County of Contra Costa, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the County;

## ATTACHMENT A

8. \$1.6 million to the California Water Districts identified by name in paragraph 1.13 of the Settlement Agreement, to be paid to an account administered by their attorneys Best, Best & Krieger (with payments prorated to each Water District by agreement of the Water Districts) and for the use of those districts restricted to the construction of energy efficiency and/or reduction of pollution associated with the consumption of energy;
9. \$250,000 to City and County of San Francisco for costs;
10. \$4 million to a fund to be created in the California Power Authority for costs associated with siting and installation of the LM6000 units obtained through this Settlement;
11. \$8 million to the Alternative Energy Retrofit Account at the Power Authority for retrofit of schools and public buildings.

### Third Payment (\$15M due 1/05):

1. \$3 million to the Northwest AG s (\$1.5 million to Oregon AG and \$1.5 million to Washington AG) for the benefit of energy consumers at the sole discretion of the Northwest AG s. At the Northwest AG's discretion, such benefit may be direct or indirect. Up to 60/0 of the total amount of the Northwest AG's apportionment maybe used by the Northwest AG's to pay for costs, attorneys' fees and administrative expenses incurred in pursuing the Litigation claims, including, but not limited to, costs, attorneys' fees, and administrative expenses related to implementation of this settlement;
2. \$.5 million to the City of Oakland, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the City;
6. \$.5 million to the County of Santa Clara, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the County;
7. \$.5 million to the County of Contra Costa, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the County;
8. \$1.1 million to the California Water Districts identified by name in paragraph 1.13 of the Settlement Agreement, to be paid to an account administered by their attorneys Best, Best & Krieger (with payments prorated to each Water District by agreement of the Water Districts) and for the use of those districts restricted to the construction of energy efficiency and/or reduction of pollution associated with the consumption of energy;
9. \$3.4 million to a fund to be created in the California Power Authority for costs associated with siting and installation of the LM6000 units obtained through this Settlement;



**ATTACHMENT A**

10. \$6 million to the Alternative Energy Retrofit Account at the Power Authority for retrofit of schools and public buildings.

Fourth Payment (\$15 M due 1/07):

1. \$1.5 million to the City of Oakland, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the City;
2. \$1.5 million to the County of Santa Clara, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the County;
3. \$1.5 million to the County of Contra Costa, the use of which funds, as a required condition of this Settlement, are restricted to activities that promote alternative energy production or improved energy efficiency in the County;
4. \$2.5 million to a fund to be created in the California Power Authority for costs associated with siting and installation of the LM6000 units obtained through this Settlement;
5. \$8 million to the Alternative Energy Retrofit Account at the Power Authority for retrofit of schools and public buildings.

Fifth, Sixth, Seventh Payments (\$15M due 1/08, 1/09, 1/10):

For each payment:

1. \$2 million to a fund to be created in the California Power Authority for costs associated with siting and installation of the LM6000 units obtained through this Settlement;
5. \$13 million to the Alternative Energy Retrofit Account at the Power Authority for retrofit of schools and public buildings.

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**FINANCE & MANAGEMENT CMTE.**

**JUL 13 2004**

*A. Gordon*

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C. M. S. JUL -1 PM 6:53

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND APPROPRIATE \$3,500,000 FROM THE WILLIAMS ENERGY SETTLEMENT, TO BE USED FOR ACTIVITIES THAT PROMOTE ALTERNATIVE ENERGY PRODUCTION OR IMPROVED ENERGY EFFICIENCY IN THE CITY**

**WHEREAS**, the Williams Energy Settlement is derived from a settlement agreement between Williams Corporation (Williams) and several plaintiffs, including the State of California and the City of Oakland (see Attachment A), and

**WHEREAS**, the use of the Williams Settlement funds is restricted to activities that promote alternative energy production or improved energy efficiency in the City; and

**WHEREAS**, Mayor Brown, City Council members and other Oakland leaders have expressed interest in alternative energy and energy efficiency for many years; and

**WHEREAS**, the City has received \$1.5 million in Williams Settlement funds to-date, and will receive the remaining funds in two installments: \$500,000 in January, 2005 and \$1.5 million in January 2007; and

**WHEREAS**, the receipt and appropriation of these funds into a project will allow the city to track and allocate revenues and expenditures; now, therefore, be it

**RESOLVED:** That the City Administrator is authorized to accept and appropriate \$3.5 million from the Williams Settlement into a distinct Williams Energy Settlement project (C256510) in the Self Insurance Liability Fund (1100); and be it

**FUTHER RESOLVED:** That staff will seek Council approval for allocation of funds from the Williams Settlement to specific projects / activities prior to distribution and expenditure of the funds.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

CERA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California

FINANCE & MANAGEMENT CMTE.

JUL 13 2004

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# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_

*J. Jordan*  
FILED  
OFFICE OF THE CITY CLERK  
C.M.S. OAKLAND

2004 JUL -1 PM 6:53

**RESOLUTION AUTHORIZING ALLOCATION OF WILLIAMS SETTLEMENT FUNDS FOR A PROFESSIONAL SERVICES AGREEMENT WITH NAVIGANT CONSULTING, INC., TO JOIN THE BAY AREA CONSORTIUM COMMUNITY CHOICE AGGREGATION DEMONSTRATION PROJECT TO ASSESS THE FEASIBILITY, OPPORTUNITIES AND RISKS FOR OAKLAND TO BECOME AN AGGREGATOR, IN AN AMOUNT NOT TO EXCEED \$24,500**

**WHEREAS**, AB 117, adopted as California state law in 2002, permits Cities, Counties, or City and County JPAs to aggregate residential, commercial, industrial, municipal and institutional electric loads through Community Choice Aggregation (CCA); and,

**WHEREAS**, In 1999, the Oakland City Council adopted a resolution encouraging the adoption of an early version of the CCA legislation, and in 2001 the Council passed a resolution commending then-Governor Gray Davis for signing AB 117; and,

**WHEREAS**, There are numerous potential benefits that accrue to Cities that aggregate including: 1) More stable and reliable power supplies; 2) Lower electricity rates for City residents and businesses; 3) Operational cost savings; 4) Potential general fund revenue stream; 5) Greater latitude for increased use of renewable energy resources; 6) Ratepayer access to a democratically elected governance; and, 7) Access to Public Goods Charge monies for local energy efficiency and conservation programs; and,

**WHEREAS**, The California Public Utility Commission is currently engaged in a rulemaking proceeding for CCA. Open issues include cost responsibility fees (exit fees); access to electric load data within City boundaries; customer service costs (credits) and re-entry fees, among others. A proceeding decision is expected in the early fall. Understanding the implication of these complex issues is essential before the decision about whether or not Oakland should become an aggregator can be considered; and,

**WHEREAS**, Navigant Consulting, Inc. (NCI), is the technical consultant for a Bay Area CCA demonstration project, funded by the California Energy Commission and participating municipalities, which is examining precisely these issues on behalf of participating communities; and,

**WHEREAS**, Other jurisdictions already committed to participating in this study are: Cities of Pleasanton, Vallejo, Berkeley, Richmond, Emeryville, San Marcos, Beverly Hills, West Hollywood and Torrance; Counties of Los Angeles, Marin, Sonoma (pending) and El Dorado. Affiliated but not participants are: East Bay Municipal Utility District; Marin Municipal Utility District; North Marin Utility District and the El Dorado County Water and Power Authority; and,

**WHEREAS**, Oakland's participation in this study will result in the completion of a CCA base-case feasibility study for Oakland's prospective CCA program, as well as a Final Report

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that will evaluate the City's ability to deliver lower electricity rates while increasing the use of environmentally friendly renewable energy sources; and,

**WHEREAS**, the city must pay \$24,500 to cover its share of the cost of the base-case Feasibility Study for Oakland's prospective CCA program as well as a final report that will evaluate the City's ability to deliver lower electricity rates as described above; and

**WHEREAS**, the City Council finds and determines that the performance of the services under contract is in the public interest; and

**WHEREAS**, the City Council finds that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; and

**RESOLVED**: that the Oakland City Council authorizes the City Administrator or her designee to allocate and expend \$24,500 from the Williams Settlement (funding source: Fund 1100, Project C256510) to enter into an agreement with NCI so that the City can join the Bay Area Consortium in the CCA Demonstration Project, and be it

**FURTHER RESOLVED**: that the Contract will be approved by the City Attorney's Office for legality, and a copy will be on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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**JUL 13 2004**