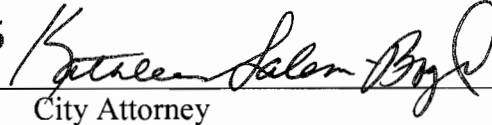


FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

2013 APR 25 PM 2: 26


City Attorney

CITY OF OAKLAND
84351
RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING LEASE FINANCING OF THE LED STREETLIGHT PROJECT AUTHORIZED BY RESOLUTION NO. 84186 C.M.S. WITH A FINANCIAL INSTITUTION SELECTED BY COMPETITIVE PROCESS, IN AN AMOUNT NOT TO EXCEED \$16,500,000 THROUGH: (1) EXECUTION AND DELIVERY OF CITY OF OAKLAND 2013 CERTIFICATES OF PARTICIPATION (LED STREETLIGHT ACQUISITION), COMPRISED OF SERIES A (FEDERALLY TAXABLE QUALIFIED ENERGY CONSERVATION BONDS – DIRECT PAYMENT) AND SERIES B (TAX EXEMPT); OR (2) EXECUTION OF LEASE/PURCHASE AGREEMENTS AND RELATED AGREEMENTS AND DOCUMENTS; AND (3) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER SUCH LEASE FINANCING ARRANGEMENTS IN SUBSTANTIALLY THE FORM OF THE AGREEMENTS AND DOCUMENTS ON FILE WITH THE CITY CLERK RELATING TO THE SELECTED LEASE FINANCING ARRANGEMENT, WHICH DOCUMENTS MAY INCLUDE ONE OF MORE OF THE FOLLOWING: A TRUST AGREEMENT, A LEASE, SUBLEASE, A LEASE/PURCHASE AGREEMENT, A PAYING AGENT AGREEMENT AND ANCILLARY SECURITY DOCUMENTS; (4) CONFIRMING THE SELECTION OF SPECIAL COUNSEL AND FINANCIAL ADVISOR; (5) AUTHORIZING PAYMENT OF RELATED COSTS; (6) DECLARING INTENTION TO REIMBURSE EXPENDITURES; (7) AUTHORIZING MODIFICATION TO AGREEMENTS AND DOCUMENTS; AND (8) RATIFYING PRIOR ACTIONS AND AUTHORIZING THE CITY ADMINISTRATOR TO TAKE NECESSARY ACTIONS IN CONNECTION THEREWITH.

WHEREAS, on January 22, 2013, this City Council adopted Resolution No. 84186 C.M.S. accepting a proposal for the provision and installation of new LED streetlights (the “Streetlight Project”); and,

WHEREAS, the City of Oakland (the “City”) conducted a bid process to identify a financial institution to provide financing for the Streetlight Project; and

WHEREAS, the City desires to finance the Streetlight Project by entering into lease financing arrangements (the “Financing Arrangements”) (a portion of which will be QECBs (defined below)), comprised of either (i) the execution and delivery of certificates of participation (the “Certificates of Participation”) representing undivided, fractional interests in payments made under a sublease by the City of the City’s 26 foot, eight inch streetlights (the “Existing Streetlights”) from the Oakland Joint Powers Authority (the “Authority”), or (ii) lease/purchase agreements, a paying agent agreement and related agreements relating to the Existing Streetlights and the Streetlight Project; and,

WHEREAS, pursuant to the American Recovery and Reinvestment Act of 2009 ; the City received from the federal government an initial allocation of authority to issue qualified energy conservation bonds (“QECBs”) within the meaning of Section 1400U-2 to the Internal Revenue Code of 1986, as amended (the “Code”) in the aggregate principal amount of \$4,165,214.52; and,

WHEREAS, on July 20, 2010 this City Council adopted Resolution No. 82917 C.M.S. approving the application of the City’s original QECB allocation of \$4,165,214.52 to the City’s downtown energy efficient streetlight project; and,

WHEREAS, the City, pursuant to a reallocation process undertaken by the California Debt Limit Allocation Committee, has applied for an additional allocation of authority to issue QECBs in the amount of \$8,605,765; and,

WHEREAS, the City intends to finance not to exceed \$16,500,000 for the Streetlight Project by entering into lease financing arrangements in an amount equal to the City’s aggregate QECB allocation and tax-exempt lease financing arrangements in an amount equal to the balance needed to fund the Streetlight Project; and,

WHEREAS, The City has paid and expects to pay certain expenditures in connection with the Streetlight Project to be financed by the Financing Arraignments prior to the commencement thereof, and the City intends to reimburse itself and to pay third parties for such prior expenditures from the proceeds of the Financing Arraignments; and,

WHEREAS, Section 1.150-2 of the Treasury Regulations promulgated under the Internal Revenue Code of 1986, as amended (the “Code”) requires the City to declare its reasonable official intent to reimburse prior expenditures with the proceeds of a subsequent tax-exempt borrowing and Section 54A(d)(2)(D) of the Code requires the City to declare its intent to reimburse expenditures with the proceeds of QECBs; and,

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

Section 1. Conditions Precedent. All conditions, things and acts required by law to exist, to happen and to be performed precedent to and in connection with the Financing Arraignments exist, have happened and been performed in due time, form and manner, in accordance with applicable law, and the City is now authorized to enter into the Financing Arraignments in the manner and form provided in this Resolution, as may be supplemented from time to time.

Section 2. Financing Arraignments. The City Council hereby authorizes the City Administrator or the City Treasurer (each, an Authorized Officer”), each acting alone, or the designee of either, to enter into Financial Arraignments with a financial institution selected by the Authorized Officers based on a competitive bid process (the “Bank”). The aggregate amount of the Financing Arraignments shall not exceed \$16,500,000. The Financing Arraignments may involve both the Existing Streetlights and the Streetlight Project. A lease under the Financing Arraignments shall be payable from the City’s general fund and shall have a term not to exceed 15 years, provided that it may contain one extension for 5 years. The interest rate applicable to the Financing Arraignments shall not exceed five percent (5%) per annum. The obligaiotns represented by the amount of the Financing Arraignments equal to the amount of the aggregate

City QECB allocation received are hereby designated as “qualified energy conservation bonds” under the Code.

Section 3. Approval of Agreements and Documents. The City Council hereby approves and adopts each of the following agreements and documents, to the extent and in the form such agreements and documents are filed with the City Clerk in connection with the Financing Arrangements selected by the Authorized Officers. The City Council hereby authorizes the Authorized Officers, each acting alone, or the designee of either to execute, and the City Clerk is authorized to attest to each of such agreements and documents, in each case with such changes, additions, amendments or modifications that are approved by the Authorized Officer executing the same, in consultation with the City Attorney, as being in the interest of the City, such approval to be conclusively evidenced by said execution. The City hereby agrees to comply with, or cause to be complied with, all covenants of the City set forth in each such agreement and document. The agreements and documents on file with the City Clerk are as follows:

(a) In the event the Authorized Officers select to cause the delivery of Certificates of Participation:

(i) Trust Agreement. AA trust agreement, among the City, the Authority and the trustee named therein (selected by the City by competitive bid), authorizing the execution, delivery and sale of City of Oakland Certificates of Participation LED Streetlight Acquisition), Series A (Federally Taxable Qualified Energy Conservation Bonds – Direct Payment) and 2013 City of Oakland Certificates of Participation (LED Streetlight Acquisition), Series B (Tax-Exempt).

(ii) Lease. A lease, between the Authority and the City relating to the Existing Streetlights.

(iii) Sublease. A sublease, between the Authority and the City relating to the Existing Streetlights and the Streetlight Project.

(b) In the event the Authorized Officers select Lease/Purchase Agreements:

(i) Lease/Purchase Agreements. One or more lease purchase agreements (the “Lease/Purchase Agreements”) between the City and the Bank (or affiliates thereof) relating to the Streetlight Project.

(ii) Acquisition Fund Deposit/Escrow Agreements. One or more deposit or escrow agreements providing for the deposit of proceeds of the financing pending disbursement to, or upon the order of, the City.

(iii) Paying Agent Agreement. A paying agent agreement between the City and the paying agent named therein (selected by the City by competitive bid) facilitating payments by the City of amount due under the lease/purchase agreements and receipt by the City of the federal subsidy applicable to the QECBs.

(iv) Ancillary Security Documents. Ancillary security documents executed by the City in favor of the Bank (or affiliates thereof) in connection with the Lease/Purchase Agreements, which may include lease or security instruments relating to the Existing Streetlights.

Section 4. Special Counsel and Financial Advisor. The City Council hereby confirms the selection of Lofton & Jennings as special counsel with respect to the Certificates and KNN Public Finance as financial advisor, each of which firms was selected by a competitive bid process.

Section 5. Payment of Costs of Issuance. The Agency Treasurer is hereby authorized and directed to pay, or cause to be paid on behalf of the Agency, the costs associated with the entering into the Financial Arrangements, including Bank fees, and fees of special counsel, the financial advisor fees and other fees and costs.

Section 6. Modification to Agreements and Documents. Any City official authorized by this Resolution to execute any agreement or document is hereby further authorized, in consultation with the City Administrator, the City Treasurer and the City Attorney, to approve and make such changes, additions, amendments or modifications to the agreements or documents the official is authorized to execute as may be necessary or advisable (provided that such changes, additions, amendments or modification shall not authorize an aggregate principal amount of the Financing Arrangements in excess of \$16,500,000. The approval of any change, addition, amendment or modification to any of the aforementioned documents shall be evidenced conclusively by the execution and delivery of the document in question.

Section 7. Reimbursement. The City declares its official intent to reimburse prior expenditures of the City incurred prior to entering into the Financing Arrangements in connection with the Streetlight Project or portions thereof financed thereby. This City Council declares the City's intent to reimburse the City with the proceeds of the Financing Arrangements for the expenditures with respect to the Streetlight Project (the "Expenditures" and each, an "Expenditure") made on and after that date that is no more than 60 days prior to adoption of this Resolution. The City reasonably expects on the date of adoption of this Resolution that it will reimburse the Expenditures with the proceeds of the Financing Arrangements.

Each Expenditure was and will be either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Certificates, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the City so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the City.

Section 8. Ratification. All actions heretofore taken by the officials, employees and agents of the City with respect to the Financing Arrangements are hereby approved, confirmed and ratified.

Section 9. General Authority. The City Administrator, the City Treasurer, the City Clerk or each such person's duly authorized designee and agent, and any other officials of the Agency and their duly authorized designee and agents are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents including a tax certificate and agreement, which they, or any of them, may deem necessary or advisable in order to consummate the Financing Arrangements, and to effectuate the purposes thereof and of the documents herein approved in accordance with this Resolution. The City Administrator and the City may designate in writing one or more persons to perform any act, which such persons are hereby authorized by this Resolution to perform.

Section 10. Effect. This Resolution shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA MAY 7 2013, 2013

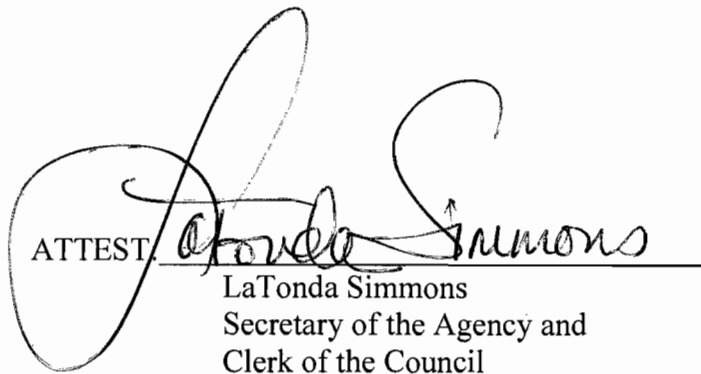
PASSED BY THE FOLLOWING VOTE:

AYES: ~~BROOKS~~, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID,
SCHAAF and PRESIDENT KERNIGHAN - 7

NOES: 0

ABSENT: Brooks - 1

ABSTENTION: 0

ATTEST. 
LaTonda Simmons
Secretary of the Agency and
Clerk of the Council
of the City of Oakland, California