



DATE: October 23, 2018

CATEGORY: Unfinished Business

DEPT.: Finance and Administrative Services

TITLE: **Authorization to Execute and Deliver an Installment Sale Agreement and Assignment Agreement to Fund Wastewater Infrastructure Capital Projects**

RECOMMENDATION

City of Mountain View Actions:

1. Adopt a Resolution Approving an Installment Sale Agreement and Approving Final Form of Financing Documents and Official Actions, to be read in title only, further reading waived (Attachment 1 to the Council report).
2. Appropriate up to \$300,000 in the Wastewater Fund for interest expense for Fiscal Year 2018-19 and other related costs for the loan. (Five votes required)

City of Mountain View Capital Improvements Financing Authority Actions:

3. Adopt a Resolution of the Board of Directors of the City of Mountain View Capital Improvements Financing Authority Approving an Installment Sale Agreement and Assignment Agreement and Approving Final Form of Financing Documents and Official Actions, to be read in title only, further reading waived (Attachment 2 to the Council report).
4. Adopt a Resolution of the Board of Directors of the City of Mountain View Capital Improvements Financing Authority Setting Time and Place of Regular Meetings, to be read in title only, further reading waived (Attachment 3 to the Council report).

BACKGROUND

The Wastewater Fund is the utility fund that accounts for the costs and revenues associated with the City's system of collecting, transporting, treating, and disposing of wastewater generated from all residences and businesses in the City (the "Wastewater System"). The Wastewater System includes the Hazardous Materials Permit Program and the Industrial Liquid Waste Management Program. Expenditures in the

Wastewater Fund include the construction and maintenance of sanitary sewer lines, stormwater lines, and pump stations; the City's share of costs associated with the operation of the Palo Alto Regional Water Quality Control Plant (Treatment Plant) under an agreement with the City of Palo Alto and the City of Los Altos (the "Treatment Plant Agreement"); and personnel costs for the operation and maintenance of the Wastewater System. This Wastewater Fund is affected by costs associated with stringent requirements for the Treatment Plant, stormwater discharges into San Francisco Bay, and fluctuations in water usage. Revenues are partially governed by the amount of water used by commercial dischargers in the City each fiscal year.

The Wastewater Fund currently has no debt issued by the City. It does, however, have responsibility under the Treatment Plant Agreement for the City's share of debt issued by the City of Palo Alto to finance improvements to the Treatment Plant ("Palo Alto Treatment Plant Debt").

The majority of the trunk main infrastructure was installed in the 1950s and 1960s. Staff has previously indicated through the budget and Capital Improvement Program (CIP) process that there are major City sewer main replacement projects necessary over the next 10 years, and the possibility of issuing debt for these projects has been identified as an option. Approximately \$15.0 million of major capital projects is included in Fiscal Years 2019-20 and 2020-21 of the Five-Year CIP. While capacity and development impact fees are providing a source of funding for some projects, at this time, it is insufficient to fund all projects and staff proposed debt be issued to fund some of the additional capital projects.

ANALYSIS

The Five-Year CIP includes discretionary projects totaling \$13.0 million for Fiscal Year 2019-20 and \$9.0 million for Fiscal Year 2020-21 to be funded by the Wastewater Fund. Of that, the projects related to infrastructure replacement and repairs total \$15.4 million and are as follows:

<u>CIP#</u>	<u>Title</u>	<u>Amount</u>
20-37	Middlefield Road Sewer Replacement	\$ 5,750,000
20-53	Interceptor Force Trunk Main Rehabilitation	1,500,000
20-54	San Antonio Sewer Improvements	1,500,000
20-55	Long-Term Sewage Pump Station Repairs	1,500,000
20-56	Water/Sewer Main Repl. Crossing Hwy. 101	1,521,000 ⁽¹⁾
21-34	Central Sewage Trunk Main Rehabilitation	<u>3,600,000</u>
 TOTAL		 <u>\$15,371,000</u>

(1) Total project \$8.0 million funded from different sources.

The City has received over \$10.0 million in capacity fees in the last three fiscal years which have been used to fund infrastructure projects, including \$6.5 million in the current fiscal year for the Wastewater Fund’s share of the Leong Drive Water and Sewer Main Replacement, Project 19-41. It is anticipated additional capacity fees will be received over the next two fiscal years to assist with funding some of the \$15.4 million needed for the above projects; however, there is not adequate funding at this time to pay for the necessary infrastructure and repair projects listed above.

A typical public bond issue may take three to four months and require the preparation and distribution of an official statement that describes the bonds and the underlying security (in this case, net revenues generated by the Wastewater System), preparation of legal documents, obtaining a rating from Standard & Poor’s and/or Moody’s, and annual continuing disclosure requirements. This is what is proposed for the Shoreline Regional Park Community. A private placement bank loan consists of an internal credit review by the lender and drafting of loan agreements, without preparation of a formal disclosure document. Private placements often also have less restrictive prepayment provisions than publicly offered bonds. Given limited staff resources, the shorter term, and the potential to collect funds from other sources that could be used for prepayment (i.e., Capacity Fees), staff believes the private placement option is the better alternative

for the Wastewater debt. Council provided preliminary direction to utilize this strategy on June 12, 2018.

Working with PFM Financial Advisors LLC (PFM) as municipal advisor, and Jones Hall as bond counsel, a Request for Proposals (RFP) was prepared with proposed terms and parameters for a bank financing. The RFP was distributed on August 27, 2018 and 11 proposals were received by the deadline of September 7, 2018. Opus Bank was deemed to have the most attractive proposal.

Opus Bank proposed an interest rate of 3.36 percent with a structure to draw funds monthly as needed with all funds drawn by 18 months from the issue date. This structure lowers interest costs in the first 18 months by allowing the City to only pay interest on the funds that have been drawn. Based on the current estimate of draws, net debt service would be approximately \$116,000 lower than the next best proposal, which would not have allowed draws over time. The all-in true interest cost is estimated to be 2.93 percent for the life of the loan based on the expected draw schedule. Staff believes this draw structure of the loan matches more closely with when funds will be needed. In addition, 10 percent of the balance outstanding can be prepaid each year without penalty, and the loan can be paid off in full after 10 years with no prepayment penalty. This provides flexibility should more Capacity Fees be collected to pay off the loan earlier.

The proposed financing is for \$10.1 million, \$10.0 million proceeds and \$100,000 cost of issuance, and a maximum term of 15 years. The financing is structured as an installment payment transaction, which is a common structure for enterprise financings of this type, and involves the following documents:

- Installment Sale Agreement. Under this agreement between the City and the Mountain View Capital Improvements Financing Authority (the “Financing Authority”), the City agrees to initially sell the financed improvements to the Financing Authority and immediately repurchases the improvements from the Financing Authority. The Financing Authority pays a purchase price equal to the financing proceeds loaned by Opus Bank, and the City pays a purchase price in installments that are functionally equivalent to debt service payments on the Opus Bank loan (Installment Payments). The Installment Sale Agreement also includes the following terms:
 - The City pledges the net revenues of the Wastewater System as security for its obligation to pay the Installment Payments. Because the City previously pledged the net revenues as security for its obligation to pay a share of the

- Palo Alto Treatment Plant Debt, the Installment Sale Agreement provides that the Installment Payments will be payable on a parity basis with the City's payment obligation related to the Palo Alto Treatment Plant Debt.
- The Installment Sale Agreement establishes a prioritized “waterfall” of authorized uses of the Wastewater System's gross revenues: briefly, gross revenues are first used to pay operation and maintenance expenses and then to pay the City's share of the Palo Alto Treatment Plant Debt, the Installment Payments, and any future debt of the Wastewater System.
 - The City promises to establish Wastewater System rates and charges that will be sufficient for the City to pay operation and maintenance expenses, the City's share of the Palo Alto Treatment Plant Debt, the Installment Payments, and any future debt with a sufficient coverage cushion (the “rate covenant”).
 - The City agrees it will not incur additional indebtedness payable from Wastewater System net revenues without complying with certain conditions. These conditions are the same as those established under the Treatment Plant Agreement.
- Assignment Agreement. Under the Assignment Agreement between the Authority and Opus Bank, the Authority assigns its right to receive the City's Installment Payments to Opus Bank.

The draft Installment Sale Agreement and Assignment Agreement are included as Attachments 4 and 5. These draft agreements incorporate the terms of the RFP received from Opus Bank and subsequently negotiated. Staff is recommending City Council and the Board of the City of Mountain View Capital Improvements Financing Authority authorize the execution of the draft agreements attached and delegate authority to make any changes deemed necessary to conform the agreements to the proposal by Opus Bank.

In addition, effective January 1, 2010, California Government Code Section 6592.1 (CGCS 6592.1) requires Joint Power Authorities (JPAs) such as the Financing Authority to approve bonds at regular meetings. Although installment sale agreements are not included in the definition of bonds in CGCS 6592.1, staff believes it would be prudent for the Financing Authority to adopt a resolution setting a time and place of regular meetings corresponding to regular City Council meetings (Attachment 3) at this time. It is anticipated there will be bond issues involving the Financing Authority in the near

future related to Hope Street and the Police/Fire Administration Building. The resolution provides that if a meeting agenda is not posted, it is automatically cancelled.

FISCAL IMPACT

The proposed financing is for \$10.1 million, at an interest rate of 3.36 percent and a maximum term of 15 years. Annual debt payments are estimated to be \$852,000 annually. This is equivalent to an approximate 4.0 percent rate increase. However, a full 4.0 percent rate increase may not be required, and staff would recommend phasing in any rate increase needed over multiple fiscal years. Staff will return during the Fiscal Year 2019-20 budget process with a recommendation for rates.

CONCLUSION

Staff requests authorization to execute the documents necessary to complete the structured loan with Opus Bank to fund Wastewater Infrastructure Capital Projects. The financing is structured as an installment sale transaction.

Bond counsel and staff have reviewed the financing agreements and concur that they are appropriate. Staff is recommending the City Council and Board of Directors authorize and direct the execution of related documents as follows:

- Installment Sale Agreement.
- Assignment Agreement.
- Agreement with Jones Hall for bond counsel services.
- Agreement with PFM for municipal advisor services.

The loan is for \$10.1 million, at an interest rate of 3.36 percent and a maximum term of 15 years. The final documents will be in substantially the same form as the drafts attached.

ALTERNATIVES

1. Modify the terms of the Installment Sale Agreement and Assignment Agreement.
2. Issue public debt in lieu of the structured loan agreement.

3. Do not issue debt.
4. Provide other direction.

PUBLIC NOTICING – Agenda posting.

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- Attachments:
1. Resolution Approving an Installment Sale Agreement and Approving Final Form of Financing Documents and Official Actions
 2. Resolution of the Board of Directors of the City of Mountain View Capital Improvements Financing Authority Approving an Installment Sale Agreement and Assignment Agreement and Approving Final Form of Financing Documents and Official Actions
 3. Resolution of the Board of Directors of the City of Mountain View Capital Improvements Financing Authority Setting Time and Place of Regular Meetings
 4. Draft Installment Sale Agreement
 5. Draft Assignment Agreement