



Staff Report

CONSIDERATION OF RESOLUTION OF CITY OF BELMONT AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT PURCHASE AGREEMENT, A NOTICE OF SALE AND AN OFFICIAL STATEMENT AND AUTHORIZING CERTAIN RELATED MATTERS

Honorable Mayor and Council Members:

Summary

This is a companion report to the action being considered by the Belmont Joint Powers Authority.

The continuation of capital improvements to the City's sewer and storm drain system requires that the City enter into an Installment Purchase Agreement with the Belmont Joint Powers Financing Authority to effectuate the issuance of bonds with a maximum principal amount of \$8 million.

Approval of the attached resolution will authorize officers of the City to provide for the marketing of the bonds by the Authority by competitive sale through the use of an Official Statement, award the bid to the bidder providing the lowest true interest cost, execute an Installment Purchase Agreement and Indenture and take other actions necessary to close the bond issue.

Background and Discussion

On November 3, staff and the financial advisor, met with the Finance Commission to discuss the funding of improvements. Staff discussed the timeframe required to make recommendations to the City Council regarding the bonds. The Finance Commission recommended that the City Council authorize the sale of the bonds by competitive sale, the distribution of an Official Statement relating to the bonds and the execution of documents necessary to close the bond issue.

Sewer and Storm Drain Capital Improvements. The City has an ongoing plan for the upgrade and capital improvement of the sewer and storm drainage systems. During the next three years, the City proposes to finance the construction and acquisition of improvements to the City's Sewer System including inflow and infiltration remediation and system upgrades.

A bond issue with a principal amount of \$7.5 million (approximate) and a final maturity of 30

years has been structured. The issue includes a reserve fund, sized at the maximum annual debt service and will include capitalized interest for one year. At current rates, the debt service is expected to average approximately \$475 thousand per year.

Staff has been working with Fieldman, Rolapp & Associates, as financial advisor, and Stradling Yocca Carlson & Rauth, as bond counsel and disclosure counsel, to develop the bond issue. The finance team has developed a set of documents for the issue, including the documents referred to in the Resolution. The City has submitted the documents, the Preliminary Official Statement and other related economic and financial information to Moody's Investors Service for a rating and to MBIA, Inc., for bond insurance.

The City and the Authority intend to sell the bonds by competitive sale on February 1, 2006. With that sale date, the City and the Authority will receive proceeds of the bonds on February 16, 2006.

The resolution authorize officials of the City to sell the bonds at competitive sale, so long as the principal amount does not exceed \$8 million and the true interest cost on the bonds does not exceed 7%. The bonds currently are sized to have a principal amount of \$7.5 million and the true interest cost is expected to be less than 6%.

Fiscal Impact

Based on preliminary analysis, the cost of the sewer and storm drain capital improvements is approximately \$6.4 million. Assuming a \$7.5 million bond issue, issuance costs will be approximately \$275,000, including underwriter's discount. With a debt service reserve fund of \$480,000 and approximately \$325,000 of capitalized interest (through February 1, 2007), the net amount is approximately \$6,420,000. The financial advisor's estimate of annual debt service is approximately \$475,000 per year for the 30 year term.

Public Contact

The matter was discussed at the Finance Commission meeting of November 3, 2005. Further public contact was made through posting of City Council agenda.

Recommendation

Adopt the Finance Commission's recommendation. Approve resolutions authorizing the bond issue.

Alternatives

1. With direction, refer the matter back to the Finance Commission for further study.

Attachment

- A. Resolution of City of Belmont Authorizing the Execution and Delivery of an Installment Purchase Agreement, a Notice of Sale and an Official Statement and Authorizing Certain Related Matters

Respectfully submitted,

Thomas Fil, Finance Director

Jack R. Crist, Interim City Manager

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RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT
PURCHASE AGREEMENT, A NOTICE OF SALE AND AN OFFICIAL STATEMENT
AND AUTHORIZING CERTAIN RELATED MATTERS**

WHEREAS, the City of Belmont (the “City”) is duly organized and existing under the laws of the State of California and is authorized to enter into an installment purchase agreement for the purpose of financing the acquisition, construction and improvement of sewer system facilities; and,

WHEREAS, in December 2001, the City entered into an installment purchase agreement with the Authority, as herein after defined, for the purpose of financing the construction of improvements to the City’s sewer system; and,

WHEREAS, the City desires to enter into the Installment Purchase Agreement (the “Installment Purchase Agreement”), by and between the City and the Belmont Joint Powers Financing Authority, a joint exercise of powers agency (the “Authority”), in order to provide for the financing of additional sewer system improvements (the “Project”); and,

WHEREAS, this City Council finds that the financing of the Project will result in significant public health benefits, including but not limited to more efficient delivery of sewer services; and,

WHEREAS, the City desires that the Authority assign the right to receive the Installment Payments under the Installment Purchase Agreement to The Bank of New York Trust Company, N.A., as trustee (the “Trustee”), and that the Trustee enter into an Indenture (the “Indenture”), by and between the Authority and the Trustee and that the Authority issue its Sewer Revenue Bonds, Series 2006 (the “Bonds”) to finance the Project pursuant to the Indenture; and,

WHEREAS, the Bonds shall be issued as Parity Debt (as defined in the Installment Purchase Agreement) to the Authority’s Sewer Revenue Bonds, Series 2001; and,

WHEREAS, the City desires to finance the Project and it is in the public interest and for the public benefit that the City do so; and,

WHEREAS, pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), under certain circumstances, certain obligations the interest on which is exempt from federal income tax under Section 103 of the Code may be designated by the issuer thereof as “qualified tax-exempt obligations,” thereby allowing certain financial institutions that are holders of such qualified tax-exempt obligations to deduct for federal income tax purposes a portion of such institution’s interest expense that is allocable to such qualified tax-exempt obligations, all as determined in accordance with Sections 265 and 291 of the Code; and,

WHEREAS, this City Council wishes to designate the Bonds as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code; and,

WHEREAS, in order to authorize the execution of the Installment Purchase Agreement and the preparation of an Official Statement relating to the Bonds (the “Official Statement”) and to provide for certain related matters, the City Council of the City deems it in the best interests of the City to adopt this Resolution (the “Resolution”);

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belmont authorizes the following:

Section 1. Execution of the Installment Purchase Agreement and the Notice of Sale. The City Manager, the Finance Director of the City or other appropriate officers of the City (the “Authorized Officers”) are hereby authorized and directed to execute for and on behalf of the City the Installment Purchase Agreement, substantially in the form filed with the City, with such changes therein as the Authorized Officers shall approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Invitation for bids for the purchase of the Bonds is hereby authorized, such invitation to be substantially in accordance with the Notice of Sale attached hereto as Exhibit A and by this reference incorporated herein (the “Notice of Sale”). The Notice of Sale attached hereto as Exhibit A and by this reference incorporated herein is hereby approved.

Section 2. Publication of Notice of Intention to Sell Bonds. The City Manager and the Finance Director each are hereby directed to execute a Notice of Intention to Sell Bonds and to cause the Notice of Intention to be published (a) once a week for two successive weeks prior to the date set to receive bids in a newspaper published and of general circulation in the City and (b) once at least fifteen (15) days prior to the date set to receive bids in The Bond Buyer.

Section 3. Terms and Conditions of Sale. The terms and conditions of the offering and the sale of the Bonds shall be as specified in the Notice of Sale. The City Council shall award the sale of the Bonds by acceptance by the City Manager or the Finance Director of the bid with the lowest true interest cost so long as the principal amount of Bonds does not exceed \$8,000,000 and the true interest cost does not exceed 7% per annum.

The obligation of the City to make the Installment Payments under the Installment Purchase Agreement is a special obligation of the City payable solely from the System Net Revenues (as defined under the Installment Purchase Agreement), and does not constitute a debt of the City or of the State of California or of any political subdivision thereof in contravention of any constitutional or statutory debt limitation or restriction.

Section 4. Furnishing of Notice of Sale and Official Statement. The City and the financial advisor are hereby authorized and directed to cause to be furnished to prospective bidders a reasonable number of copies of the Notice of Sale and a reasonable number of copies of the Official Statement.

Section 5. General Authorization. The financial advisor and/or bond counsel are hereby authorized and directed to open the bids at the time and place specified in the Notice of Sale and to present the same to the City. The financial advisor and/or bond counsel are hereby authorized and directed to receive and record the receipt of all bids made pursuant to the Notice of Sale, to cause said bids to be examined for compliance with the Notice of Sale, to cause computations to be made as to which bidder has bid the lowest true interest cost, as provided in the Notice of Sale, along with a report as to the foregoing and any other matters deemed pertinent to the award of the Bonds and the proceedings for the execution thereof.

Section 6. Authorization of Preliminary Official Statement, Execution of Final Official Statement, Execution of Continuing Disclosure Certificate. The City hereby approves the Preliminary Official Statement (the "Preliminary Official Statement") relating to the Bonds in substantially the form filed with the City. The Authorized Officers are hereby authorized to certify that said Preliminary Official Statement, is as of its date "deemed final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission. The Authorized Officers are hereby authorized and directed to execute for and on behalf of the City a final Official Statement, in substantially the form of the Preliminary Official Statement, with such changes therein (and additions thereto to reflect the terms of the sale of the Bonds) as the Authorized Officers shall approve, such approval to be conclusively evidenced by the execution and delivery thereof.

The Authorized Officers are hereby authorized and directed to execute for and on behalf of the City a Continuing Disclosure Certificate, in substantially the form filed with the City, with such changes therein as the Authorized Officers shall approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 7. Other Actions Authorized. The Authorized Officers and such other proper officers of the City are hereby authorized to take all actions and execute any and all documents described in this Resolution and otherwise necessary or desirable to effect the execution and delivery of the Installment Purchase Agreement and to make any changes to the forms of the legal documents approved in this Resolution as necessary or desirable to comply with the terms of municipal bond insurance; to change the dates and the percentages in the rate covenant and additional debt test contained in any documents approved at this meeting from the dates and percentages on the forms submitted to this meeting; and to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the execution and delivery of the Installment Purchase Agreement and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Installment Purchase Agreement, the Preliminary Official Statement, the Official Statement and the Continuing Disclosure Certificate. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 8. Designation as Qualified Tax-Exempt Obligation. Based on the following representations of the City, the Bonds are hereby designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code: (i) the Bonds are not private

activity bonds within the meaning of Section 141 of the Code; (ii) the City, together with all of its subordinate entities, has not issued obligations (other than those obligations described in clause (iv) below) in calendar year 2006 the interest on which is excluded from gross income for federal income tax purposes under Section 103 of the Code; (iii) the City reasonably anticipates that it, together with its subordinate entities, will issue during the remainder of calendar year 2006 obligations (other than those obligations described in clause (iv) below) the interest on which is excluded from gross income for federal income tax purposes under to Section 103 of the Code which, when aggregated with all obligations described in clause (ii) above, will not exceed an aggregate principal amount of \$10,000,000; (iv) and notwithstanding clauses (ii) and (iii) above, the City and its subordinate entities may have issued in calendar year 2006 and may continue to issue during the remainder of calendar year 2006 private activity bonds other than qualified 501(c)(3) bonds as defined in Section 145 of the Code.

Section 9. Action Regarding Qualified Tax-Exempt Obligation. Appropriate officials of the City are hereby authorized and directed to take such other actions as may be necessary to designate the Bonds as “qualified tax-exempt obligations,” including, if either deemed necessary or appropriate, placing a legend to such effect on the form of Bonds in such form as either deemed necessary or appropriate.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on January 10, 2006 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont