



# Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: June 23, 2014

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA AMENDING PASADENA MUNICIPAL CODE TITLE 4, CHAPTER 4.08, COMPETITIVE BIDDING ORDINANCE, TO PROVIDE FOR THE SOLICITATION AND ENTERING INTO A LOAN FACILITY WITH A FINANCIAL INSTITUTION DESIGNED TO SERVE AS AN INTERIM FINANCING OF IMPROVEMENTS TO THE ELECTRIC UTILITY, WHICH LOAN FACILITY WILL BE EVIDENCED BY A SUBORDINATE ELECTRIC REVENUE BOND; AND AUTHORIZING THE ISSUANCE BY THE CITY OF NOT TO EXCEED \$75,000,000 AGGREGATE PRINCIPAL AMOUNT OF A CITY OF PASADENA SUBORDINATE ELECTRIC REVENUE BOND PAYABLE OUT OF THE LIGHT AND POWER FUND

## TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING PASADENA MUNICIPAL CODE TITLE 4, CHAPTER 4.08, COMPETITIVE BIDDING ORDINANCE, TO PROVIDE FOR THE SOLICITATION AND ENTERING INTO A LOAN FACILITY WITH A FINANCIAL INSTITUTION DESIGNED TO SERVE AS AN INTERIM FINANCING OF IMPROVEMENTS TO THE ELECTRIC UTILITY, WHICH LOAN FACILITY WILL BE EVIDENCED BY A SUBORDINATE ELECTRIC REVENUE BOND; AND AUTHORIZING THE ISSUANCE BY THE CITY OF NOT TO EXCEED \$75,000,000 AGGREGATE PRINCIPAL AMOUNT OF A CITY OF PASADENA SUBORDINATE ELECTRIC REVENUE BOND PAYABLE OUT OF THE LIGHT AND POWER FUND

## PURPOSES OF THE ORDINANCE:

On December 3, 2013, the City issued its Electric Revenue/Refunding Bonds, 2013A Series in the aggregate principal amount of \$80,485,000, the proceeds of which are expected to be used primarily for the purpose of financing a portion of the Glenarm Repowering Project ("GT-5 Repowering Project"). Staff analyzed additional funding options for the remaining costs of the GT-5 Repowering Project including financing all

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costs with a line of credit ("LOC") and subsequently refinancing the LOC upon project completion. Staff believes that the LOC is a low-cost way of funding the balance of the GT-5 Repowering Project as it greatly reduces the financing risks for the project. The recommended LOC will facilitate the issuance of the correct amount of fixed rate bonds without any insufficiencies or overages, minimizing long-term costs to ratepayers.

Bond Counsel to the City has determined that the contemplated LOC evidenced by a revenue bond would be authorized under Article XIV of the City's Charter. A revenue bond needs to be sold at a public sale (Section 1414 of the Charter). However, Section 1414 does not provide guidance on what constitutes a public sale. Because the final terms of the LOC are expected to be negotiated once a provider is selected, there should be more assurance that what is being contemplated is in fact a public sale.

The proposed ordinance amends the competitive bidding ordinance and also acts as the authorizing ordinance under Section 1412 of the Charter.

**REASONS WHY LEGISLATION IS NEEDED:**

The City's competitive bidding ordinance, which is codified as Chapter 4.08 of the Pasadena Municipal Code, does not adequately address a LOC as contemplated. Bond Counsel recommends that the City amend the competitive bidding ordinance to specifically allow for the competitive bidding of a LOC, and that the selection of a provider in compliance with such competitive bidding process would then constitute a public sale satisfying Section 1414 of the Charter.

**PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:**

The Water and Power Department in conjunction with the Finance Department will administer the request for loan facility. Upon project completion, Light and Power customers are expected to save approximately \$3.4 million.

**FISCAL IMPACT:**

Repayments associated with the loan facility will be made from the Light and Power Fund. Interest on the loan facility will be addressed by utilization of current and future appropriations in Power Capital Improvement Program Budget number 3194-Local Generation Repowering Project. Under current market conditions, the structure of financing all remaining GT5 Repowering Project costs with a LOC and subsequently refinancing the LOC upon project completion with fixed rate bonds is expected to save ratepayers approximately \$3.4 million.

**POLICY CHANGES:**

This ordinance expressly prescribes a procedure for the competitive bidding of a loan facility such as a LOC.

Respectfully submitted,

  
Michele Beal Bagneris  
City Attorney

Prepared by:

  
Lisa Hosey  
Deputy City Attorney

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PASADENA AMENDING PASADENA MUNICIPAL CODE TITLE 4, CHAPTER 4.08, COMPETITIVE BIDDING ORDINANCE, TO PROVIDE FOR THE SOLICITATION AND ENTERING INTO A LOAN FACILITY WITH A FINANCIAL INSTITUTION DESIGNED TO SERVE AS AN INTERIM FINANCING OF IMPROVEMENTS TO THE ELECTRIC UTILITY, WHICH LOAN FACILITY WILL BE EVIDENCED BY A SUBORDINATE ELECTRIC REVENUE BOND; AND AUTHORIZING THE ISSUANCE BY THE CITY OF NOT TO EXCEED \$75,000,000 AGGREGATE PRINCIPAL AMOUNT OF A CITY OF PASADENA SUBORDINATE ELECTRIC REVENUE BOND PAYABLE OUT OF THE LIGHT AND POWER FUND

WHEREAS, pursuant to Article X of the Charter (the "Charter") of the City of Pasadena (the "City"), the City Council of the City (the "City Council") is authorized to prescribe by ordinance a system of competitive bidding for all contracts, subject to certain specified exceptions, for supplies, materials, labor or other valuable consideration to be furnished to the City; and

WHEREAS, pursuant to the City's competitive bidding ordinance, codified as Chapter 4.08 of the Pasadena Municipal Code (the "competitive bidding ordinance"), the City has prescribed a procedure for the competitive bidding of certain contracts to be furnished to the City; and

WHEREAS, the City is authorized pursuant to Article XIV of the Charter to issue revenue bonds for the purpose of providing moneys for the acquisition and construction of additions to, extensions, improvements, or repairs of the water works and electric works of the City, or the purchase for intertie purposes of undivided joint interests or rights of use in other generation or transmission facilities, constructed either by governmental agencies or investor-owned companies, which revenue bonds shall be sold only at public sale following such notice as the City Council by resolution or order may prescribe; and

WHEREAS, the City Council has determined that opportunity exists to obtain interim financing of improvements to the City's electric utility through a loan facility (the "Loan") with a financial institution that will enable the City to realize more efficiencies in financing of improvements, which Loan will be evidenced by a subordinate electric revenue bond (the "Subordinate Electric Revenue Bond"); and

WHEREAS, Article XIV of the Charter requires the public sale of revenue bonds; and

WHEREAS, the City Council has determined that the issuance of the Subordinate Electric Revenue Bond would constitute a public sale so long as the City complies with the competitive bidding ordinance in obtaining the Loan; and

WHEREAS, the current competitive bidding ordinance does not expressly prescribe a procedure for the competitive bidding of such a Loan; and

WHEREAS, the City Council has determined to prescribe such procedures for the competitive bidding of such a Loan as are to be established in a resolution of the City Council authorizing such Loan;

NOW, THEREFORE, the People of the City of Pasadena ordain as follows:

SECTION 1. Determinations; Findings. The City Council hereby finds and determines that the City's existing competitive bidding procedures established pursuant to Chapter 4.08 of the Pasadena Municipal Code may not adequately prescribe procedures for the competitive bidding of a Loan, and it is in the best interest of the City to explicitly provide for a competitive bid process that will allow the City to obtain such a Loan.

SECTION 2. Amendment of Competitive Bidding Ordinance. Title 4, Chapter 4.08 of the Pasadena Municipal Code is hereby amended by adding a new Section 4.08.056 to read as follows:

“Section 4.08.056. Alternate Competitive Bidding Process for Loan Facilities. In lieu of the competitive bidding process specified in this chapter, the city council may direct a competitive bidding process for any loan facility evidenced by a subordinate revenue bond. The competitive bidding process shall include, at a minimum, the following elements: (i) a notice of request for such loan facility shall be published at least once, no fewer than 10 days prior to the date of receipt of quotations for the loan facility in a financial publication generally circulated throughout the State of California reasonably designed to reach potential providers; (ii) no fewer than three qualified providers shall be issued a request for the loan facility; (iii) firm price quotations shall be requested in the time frame and manner reasonably designed to foster competition, to prevent fraud and collusion and to secure the most favorable terms for the city; (iv) the loan facility shall be awarded to the qualified provider quoting the best quote as determined by the city, which quote need not necessarily be the lowest quote, as reasonably determined in accordance with the criteria specified by the city; and (v) the results of the competitive bidding process shall be reported to the finance committee of the city council following the award of the loan facility. All other administrative procedures governing any particular financing and the award of any particular loan facility may be set forth in a resolution adopted by the city council otherwise consistent with state law, the city Charter and this code.”

SECTION 3. Authorization to Issue a Subordinate Electric Revenue Bond; Purpose; Principal Amount.

(a) Pursuant to Article XIV of the Charter, the City Council does hereby authorize to be issued, upon the terms and conditions as hereinafter set forth, a Subordinate Electric Revenue Bond in the aggregate principal amount not to exceed \$75,000,000 for the primary purpose of financing improvements to the City's Electric System, funding a deposit to a debt service reserve fund if so required in connection therewith and paying the costs and expenses incidental to the issuance of the Subordinate Electric Revenue Bond.

(b) This Ordinance shall constitute complete authority to issue the Subordinate Electric Revenue Bond as provided herein.

SECTION 4. Issuance of Subordinate Electric Revenue Bond. The Subordinate Electric Revenue Bond shall be issued pursuant to and in accordance with the terms and conditions set forth in this Ordinance, and more specifically in the credit agreement or other documentation relating to the Loan (the "Loan Document"), which shall be brought to the City Council for final approval.

SECTION 5. Date of Issuance; Maximum Interest Rate. The Subordinate Electric Revenue Bond shall be dated its date of delivery. The maximum interest rate to be payable on the Subordinate Electric Revenue Bond shall not exceed 12%.

SECTION 6. Maturity Date. The maximum term for the Subordinate Electric Revenue Bond shall not exceed 6 years. Subject to the preceding sentence, the Subordinate Electric Revenue Bond shall mature and be payable on such date as specifically set forth in the Loan Document.

SECTION 7. Source of Payment. The Subordinate Electric Revenue Bond shall not constitute an indebtedness of the City but shall constitute obligations which shall be payable as to both principal and interest, and any premiums upon the redemption of any thereof prior to maturity, only from the Light and Power Fund of the City, as provided in Article XIV of the Charter, and certain other funds as authorized by Article XIV and provided in the Loan Document.

SECTION 8. Official Action. All actions heretofore taken by the officers and agents of the City with respect to the issuance of the Subordinate Electric Revenue Bond and the negotiation and execution of related agreements are hereby approved, confirmed and ratified. The City Manager, the Director of Finance, the City Treasurer, the City Clerk and any and all other officers of the City 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, including, without limitation, the execution and delivery of any and all certificates, requisitions, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the issuance, sale and delivery of the Subordinate Electric Revenue Bond pursuant to the agreements described herein.

SECTION 9. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published once in the Pasadena Star-News, a daily newspaper of general circulation published in the City.

SECTION 10. Effective Date. This Ordinance shall take effect on the date of publication pursuant to Section 9.

Signed and approved this       day of \_\_\_\_\_ 2014.

\_\_\_\_\_  
Mayor of the City of Pasadena, California

I HEREBY CERTIFY that the foregoing Ordinance was adopted by the City Council of the City of Pasadena at its regular meeting held \_\_\_\_\_, 2014 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Published: \_\_\_\_\_, 2014, Pasadena Star News

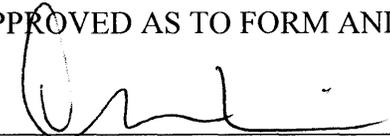
APPROVED AS TO FORM:

ATTEST:

  
\_\_\_\_\_  
Lisa Hosey  
Deputy City Attorney

\_\_\_\_\_  
Mark Jomsky  
City Clerk

APPROVED AS TO FORM AND CONTENT:

  
\_\_\_\_\_  
Danny Kim, Partner  
Fulbright & Jaworski LLP  
Bond Counsel