



RESOLUTION NO. 2012-29

RESOLUTION OF THE FRESNO CITY COUNCIL ESTABLISHING A POLICY ENTITLED "STREETLIGHT FUNDING ACT" TO IDENTIFY FUNDING SOURCES, POLICY PRIORITY AND IMPLEMENTATION OF A PROACTIVE CITYWIDE STREETLIGHT THEFT DETERRENT CONCRETE ENCASUREMENT PROGRAM

WHEREAS, Copper theft of streetlight ground pull boxes is an epidemic citywide;
and

WHEREAS, the widespread theft of copper wire from City streetlights has entire blocks dark at night, creating a major public safety issue; and

WHEREAS, past and recently enacted state legislation to combat copper theft in both public and private facilities has been largely unsuccessful; and

WHEREAS, over crowded conditions at the Fresno County Jail has resulted in the early release of non-violent offenders including copper thieves; and

WHEREAS, Fresno City Charter Section 1206 requires a super majority of five votes for Council to make appropriation changes to a mid-year budget line item; and

WHEREAS, a global solution to the City has been developed through a proactive program of installing anti-theft concrete encasements on ground pull boxes; and

WHEREAS, a funding source(s) has been identified to finance the implementation of the proactive concrete encasement:

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF FRESNO, as follows:

SECTION 1. The Council adopts the "Streetlight Funding Act" set forth in attached Exhibit "A"

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Adopted 3/11/12
Approved 3/12/12
Effective 3/12/12



SECTION 2. This resolution shall become effective and in full force upon its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 1st day of March, 2012.

AYES : Baines, Borgeas, Brand, Quintero, Westerlund, Olivier
NOES : Xiong
ABSENT : None
ABSTAIN : None

Mayor Approval: _____ N/A _____, 2012
Mayor Approval/No Return: _____ March 12 _____, 2012
Mayor Veto: _____ N/A _____, 2012
Council Override Vote: _____ N/A _____, 2012

~~REBECCA E. KLISCH~~ Yvonne Spence
City Clerk

BY: Yvonne Spence
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: [Signature]
City Attorney

DATE: 2-24-12

No Return



March 2, 2012

Council Adoption: 3/17
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR ASHLEY SWEARENGIN

FROM: YVONNE SPENCE, CMC *Ys*
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 3/1/12, Council adopted the attached Resolution No. 2012-29, or took legislative action entitled **Establishing a policy entitled "Streetlight Funding Act"**, Item No. 9:00 A.M. B-1, by the following vote:

Ayes : Baines, Borgeas, Brand, Quintero, Westerlund, Olivier
Noes : Xiong
Absent : None
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before March 12, 2012. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Ashley Swearengin, Mayor

Date: _____

COUNCIL OVERRIDE ACTION:

Ayes :
Noes :
Absent :
Abstain :

Date: _____



CITY OF FRESNO

STREETLIGHT FUNDING ACT



MARCH 1, 2012

The following policies are enacted to help insure that City streetlights have all been properly secured to prevent copper theft from ground pull boxes



ARTICLE I DEFINITIONS

AIG Financial Products Corporation et. al. Litigation

The City of Fresno is engaged in a class action lawsuit joining other public entities against AIG and other financial institutions and brokers over allegations of fraud and bid rigging related to past issuance of municipal bonds.

City

"City" means the City of Fresno, a municipal corporation.

City Crew

For the purposes of this Act, a City Crew is defined as Public Works permanent or temporary employees consisting of one full time electrician and six full time laborers.

Copper Wire

Copper wire is considered one of the best conductors of electricity used to power streetlights or other electrical devices. Because of high demand worldwide the price has escalated making it an attractive commodity for thieves.

Core Services

Core services are defined as those services that are essential to public safety or other vital concerns that affect the lives of all City residents. Core services are to be given top priority for funding from the City's General Fund.

Fresno City Charter Section 1206

This Charter Section provides that budget appropriations to amend or supplement the budget made at any meeting after the adoption of the budget will require affirmative votes of at least five Council members to authorize the transfer of unused fund balances appropriated for one purpose to another purpose or to appropriate available funds not included in the budget.

GASB 54

GASB 54 defines fund balance reporting and governmental fund type definitions. The City's CAFR statements are required to comply with GASB 54.

Proactive Theft Deterrent for Ground Pull Boxes at Streetlight Poles Program

To prevent future copper theft on city streetlight poles fed from underground wiring, a procedure has been developed by the City's Public Works Department to secure the copper wire and prevent future vandalism. The procedures are as follows:

1. The City crew will check wiring and seal wiring
2. After the wiring has been sealed, about 6-12 inches of Pea Gravel will be poured into the box



3. The final step is to pour approximately 6 inches of concrete to seal the box.

At the discretion of the City Manager, one or two City Crews (as defined above) shall be used to implement this program.

Restricted Funds

Restricted Funds are those funds which have constraints placed on the use of the resources either externally (e.g. by creditors, grantors or contributors) or by laws or regulations (e.g. constitution or legally enforceable language).

Risk Management Contingency Fund

The Risk Management Contingency Fund is an assigned fund balance for liability, property and workers compensation claims. This fund is funded to a level in an equal amount to 100% of the self-insured retention established by the City, although, at times, this fund may fall below the 100% level.

Unrestricted Funds

Unrestricted funds are those funds that have not been restricted, committed, or assigned.

ARTICLE II PURPOSE OF ACT

The purpose of this Act to address a major public safety and risk management concern. For the past few years, copper wire theft has been epidemic in our City and in many cities across the nation. Of the approximately 41,000 streetlight in Fresno, about 25,000 are ground pull boxes where copper wiring is fed to the poles from underground. These types of streetlights can have their wiring easily stolen by simply lifting an unsecured 15-pound lid and pulling the copper wires out. The City is paying out thousands of dollars in claims for copper wire theft.

Objectives of Act:

1. To identify a funding source(s) to be used exclusively for the financing of the streetlight anti-theft deterrent program.
2. To outline a comprehensive, cost-efficient program to implement the streetlight anti-theft deterrent program citywide.
3. To establish a timeline for the completion of a citywide program to be completed in 12 months or sooner.



4. To affirm the City's commitment to always maintaining streetlights as a matter of public safety.

Accomplishing the above stated objectives will help ensure that a major public safety and risk management liability issue has been resolved on a citywide basis, in a timely manner.

ARTICLE III IDENTIFYING A FUNDING SOURCE (S)

Based on recent City success in the City of Fresno vs. AIG Financial Products Corp. et al. case (AIG litigation), a General Fund revenue source is available to address impacted streetlights citywide. These are Unrestricted Funds and can be used for any General Fund purpose. The current AIG litigation settlement will generate a net payment to the City of approximately \$232,800. These funds are to be used exclusively for the proactive streetlight copper theft deterrent concrete encasement program as defined in Article I.

In the event, there are unexpended funds for this item, all unexpended funds shall be carried over into the next fiscal year.

ARTICLE IV ALLOCATION OF FUTURE SETTLEMENT FUNDING

Additional settlement or litigation award proceeds of approximately \$1,000,000 or more are anticipated from the AIG litigation. As these unrestricted funds become available to the City, they shall be used exclusively for the proactive streetlight copper theft deterrent concrete encasement program as defined in Article I.

To insure that this policy commitment is carried forward, Council strongly recommends that City Manager direct staff to take all appropriate actions to include a \$500,000 line item in the proposed FY2012-13 budget for continuation of the proactive streetlight copper wire anti-theft deterrent program, with funding coming from AIG litigation settlement awards.

ARTICLE V DELAYS IN FUNDING OR GAP FINANCING

In the event that there are delays in the AIG litigation settlement funding or there are insufficient funds to continue the financing of the proactive streetlight copper theft deterrent program, funds may be allocated from the following sources:



- 1) Public Works, Streets Maintenance, Concrete Strike Team Fund;
- 2) Other sources identified by the City Manager; or
- 3) Other sources identified by the Council.

The City Manager shall make recommendations to the Council regarding the choice of which fund (s) to use to finance the streetlight theft deterrent program. The above sources, as established in accordance with Article VI, will be available to finance operations until such time that funds become available from the AIG litigation settlement.

As proceeds are received from the AIG litigation settlement, the Concrete Strike Team Fund or any other fund selected by the City Manager or Council shall be reimbursed for any funds spent on this project plus interest calculated using the pool interest rate at the time funds were borrowed.

ARTICLE VI COSTS EXCEEDING REVENUES

Based on preliminary testing of a proactive approach to installing the streetlight theft deterrent program, the cost should run between \$20 to \$50 per ground pull box. This would bring the total cost between approximately \$500,000 to \$1,000,000. The AIG litigation settlement should yield at least \$1,000,000 net to the City. In the event the AIG litigation settlement funds are insufficient to cover the total costs or the receipt of such funds is beyond a reasonable time frame (e.g. over 2 years) to implement the citywide streetlight copper theft deterrent program:

- 1) The City Manager shall estimate the total cost to complete the program;
- 2) The City Manager shall identify an alternative funding source to pay for the remaining costs;
- 3) The City Manager shall place an agenda item for a future Council meeting with the managers recommendations; and
- 4) The Council shall consider a vote to approve the alternative funding source to complete the citywide program or may independently identify and approve a funding source. If this vote occurs after the adoption of the FY 2012-13 budget, it shall take five affirmative votes to approve, pursuant to Charter Section 1206.

ARTICLE VII CITYWIDE PLAN IMPLEMENTATION

The Public Works Director shall lay out a comprehensive citywide plan to implement the proactive streetlight anti-theft deterrent program described herein in the most cost-efficient, expeditious manner. The goal of the plan is to develop a "production line"



procedure that will reduce overall costs and expedite the implementation plan. No one area of the City shall receive priority over another and the plan will be completely objective and based upon the most logical manner to implement.

ARTICLE VIII TIMELINE FOR PROGRAM

The proactive streetlight anti-theft deterrent program shall commence operations no later than 15 days from the effective date of this resolution or sooner, depending on when settlement funds arrive. Every effort will be made to complete the citywide program as expeditiously as possible with the end goal to complete the proactive protection of streetlights no later than one year from the starting date.

ARTICLE IX REPAIRING EXISTING STREETLIGHTS

There are approximately 4,000 streetlights out, with an estimated cost of up to \$1.6 million to complete. When the citywide proactive program is complete, as determined by the Public Works Director, the City Manager shall do the following:

- 1) Estimate the cost and time to complete the remaining streetlight repairs within 30 days from completion of the proactive citywide program;
- 2) Confer with the City Attorney to determine if any further AIG litigation funds are still expected including the anticipated amounts and timetable for receiving the funds;
- 3) If there is a reasonable probability that additional AIG litigation funds will be available in a timely fashion, these funds will be designated for streetlight repairs and finance a second crew to work on streetlight repairs to accelerate the completion of all streetlight repairs;
- 4) In the event, there is not a reasonable expectation of receiving additional AIG litigation funds, the City Manager will examine the General Fund to determine if there is a funding source (s) to pay for a second crew to expedite the streetlight repairs; and
- 5) Report the findings and any recommendations to the Council.

ARTICLE X PRIORITIZATION OF CITY STREETLIGHTS

It shall be the policy of the City to continue to place streetlights maintenance as a core service that is at the top of City services priority list. Once the proactive streetlight copper wire anti-theft deterrent program is complete, every effort shall be made to find



the funding to accelerate the completion of repairing existing streetlights that are out. Future maintenance issues with streetlights beyond a normal maintenance cycle shall be addressed in a timely and efficient manner.

**ARTICLE XII
EFFECTIVE DATE**

This Act shall take effect March 1, 2012.