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DEPARTMENT OF
FINANCE

BUDGET DIVISION

CITY OF SACRAMENTO
CALIFORNIA

August 22, 1990

CITY HALL
ROOM 14
915 I STREET
SACRAMENTO, CA
95814-2696

916-449-5845

City Council
City Hall
Sacramento, CA 95814

APPROVED
BY THE CITY COUNCIL

AUG 28 1990

OFFICE OF THE
CITY CLERK

AG 90-144

Honorable Members in Session:

**SUBJECT: Agreement With Sherman & Feller, Attorneys at Law,
for Legal Services Relating to Collection of
Assessment District Delinquencies**

SUMMARY

It is recommended that:

- (1) The attached resolution authorizing the City Manager to execute the proposed agreement with Sherman & Feller, Attorneys at Law, for legal services in connection with collection of delinquent assessments, be adopted; and
- (2) The attached resolution ordering judicial foreclosure of the liens of certain assessments which are unpaid and delinquent, be approved.

BACKGROUND

- (1) Contract with Sherman & Feller, Attorneys at Law

In the past, the City Attorney has handled collection of delinquent assessments. Due to the existence of other priorities, the press of other business, and lack of staffing, legal action to collect those assessments which have become delinquent has not always proceeded at the pace it should.



The bond covenants in certain of the City's assessment districts contain "fast foreclosure" covenants which require the City to institute judicial foreclosure within relatively short, defined time periods. Additionally, the City has recently formed a large district in North Natomas, and experienced delinquencies there which remain in part unpaid and will require legal proceedings for collection. The sheer size of this district, and of others which are either contemplated or pending, require quick action in the event of default in order to preserve the City's credit rating for future financing.

The City Attorney's office and the Finance Department have been working together to generate a plan for streamlining the collection process for delinquent assessments. The plan arrived at calls for continued preparation of delinquency foreclosure letters by the City Attorney's office, with all preparatory work and call-fielding covered by the Finance Department. In the event that there is no response to the delinquency foreclosure letter, the case is to be referred to the firm of Sherman & Feller, which specializes in delinquent assessment collection through the use of foreclosure proceedings. This process will enable the City to maintain full administrative control over the proceedings, while ensuring compliance with the fast foreclosure covenants with the bondholders. The result will be continued market confidence in the City's credit rating by effectively eliminating delinquencies such as exist in the North Natomas Assessment District.

(2) Foreclosure of Delinquent Assessment Liens

The second resolution accompanying this report is a resolution ordering foreclosure of the lien of certain delinquent assessments. All possible measures have been undertaken to collect these assessments on an informal basis. The only means left to collect is by way of foreclosure action. The assessment districts involved and the delinquent properties are identified on the attachment to the resolution.

FINANCIAL DATA

(1) Contract with Sherman & Feller, Attorneys at Law

There is virtually no cost to the City in entering into this agreement with Sherman & Feller, because their fees are collected directly from the delinquent property owner. Only in the event of bankruptcy could the City be liable for the fees under the contract. The contract contains an accounting procedure which calls for two separate payments from the property owner--one made payable to the City for the assessment principal, interest and penalties, and one made payable to Sherman & Feller for the attorney fees. The former payment is to be deposited with the City within 48 hours of receipt.



(2) Foreclosure of Delinquent Assessment Liens

Since these foreclosures will be conducted under and pursuant to the contract with Sherman & Feller, if approved by the City Council, there will be no cost to the City.

MBE/WBE EFFORTS

Sherman & Feller is a law firm owned by Susan Feller and Ray W. Sherman, Jr., and qualifies as a Women's Business Enterprise under City Code Section 58.802(b).

POLICY ISSUES

The question of whether or not delinquent assessments should be handled, at the judicial foreclosure stage, by private counsel as opposed to the City Attorney, is an issue of policy. Given the timing, staffing, and other considerations set forth above, staff is recommending having private counsel perform this function.


RECOMMENDATION

It is recommended that:

(1) The attached resolution authorizing the City Manager to execute the proposed agreement with Sherman & Feller, Attorneys at Law, for legal services in connection with collection of delinquent assessments, be adopted; and

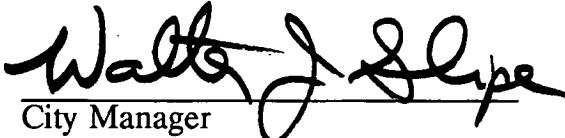
(2) The attached resolution ordering judicial foreclosure of the liens of certain assessments which are unpaid and delinquent, be approved.

JAMES P. JACKSON, City Attorney


WILLIAM P. CARNAZZO
Senior Deputy City Attorney


BETTY MASUOKA
Director of Finance

RECOMMENDATION APPROVED:


City Manager

All Districts
August 28, 1990

RESOLUTION NO. 90-687

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

APPROVED
BY THE CITY COUNCIL

AUG 28 1990

OFFICE OF THE
CITY CLERK

**A RESOLUTION AUTHORIZING THE
CITY MANAGER TO EXECUTE AN
AGREEMENT WITH SHERMAN & FELLER,
ATTORNEYS AT LAW, FOR LEGAL SERVICES
RELATING TO FORECLOSURE OF DELINQUENT
ASSESSMENT LIENS**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

That the City Manager is authorized to execute the attached agreement between the City of Sacramento and Sherman & Feller, Attorneys at Law, for legal services relating to foreclosure of delinquent assessment liens.

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

RESOLUTION NO. 90-688

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

APPROVED
BY THE CITY COUNCIL

AUG 28 1990

OFFICE OF THE
CITY CLERK

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SACRAMENTO ORDERING JUDICIAL FORECLOSURE
OF DELINQUENT ASSESSMENTS PURSUANT TO
THE IMPROVEMENT BOND ACT OF 1915, AND
ORDERING THAT THE TAX COLLECTOR
BE CREDITED WITH THOSE ASSESSMENTS**

WHEREAS, the CITY OF SACRAMENTO ("City") had conducted special assessment proceedings from time to time, resulting in the issuance and sale of improvement bonds pursuant to the provisions of the Improvement Bond Act of 1915 (California Streets and Highways Code Sections 8500 and following; hereafter referred to as the "1915 Act"); and

WHEREAS, pursuant to the 1915 Act, the City has duly and regularly issued and recorded the unpaid assessments, which assessments and each installment thereof and interest and penalties thereon constitute liens against the lots and parcels of land against which they are made, until the same are paid; and

WHEREAS, certain assessments and installments have not been paid when due, and certain installments of those assessments may not be paid in the future; and

WHEREAS, under the provisions of Section 8830 of the Streets and Highways Code of the State of California, this City Council is authorized, not later than four (4) years after the due date of the last installment of principal, to order the same to be collected by an action brought in the Superior Court to foreclose the lien of those assessments; and

WHEREAS, pursuant to certain 1915 Act bond issues, the City is required by covenant with the bondholders authorized by Streets and Highways Code §8830(b) to institute judicial foreclosure proceedings, and

WHEREAS, under the provisions of Section 8833 of the 1915 Act, when such foreclosure action is ordered, the county tax collector is to be credited upon the assessment roll with the amount charged on account of the assessments to be sued on and to be relieved of further duty in regard thereto; and

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

WHEREAS, the City has given written notice to all delinquent property owners of the City's intention to foreclose on delinquent assessments and of the increased costs and fees to them in the event that foreclosure proceedings must be commenced.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Sacramento as follows:

SECTION 1. The City hereby orders that the delinquent assessments listed on Exhibit A attached hereto and incorporated herein, and all future installments of those assessments which are not paid when due, be collected by action brought in the Superior Court of Sacramento County to foreclose the liens thereof.

SECTION 2. The City Attorney is hereby authorized and directed to retain special legal counsel to institute such actions in the name of the City to foreclose the liens of all such delinquent assessments.

SECTION 3. All inquiries regarding payment of the delinquent assessments shall be forwarded to the City's special counsel.

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

<u>PROPERTY OWNER</u>	<u>APN</u>	<u>BILLING YRS DELINQUENT</u>	<u>AMOUNT BILLED</u>
Alvin Y. Dwyer	226-0200-036	83-84 to 89-90	\$ 2182.21
Lorraine Marie Reid	226-0140-041	83-84 to 89-90	2415.54
Waterford Group	031-1170-001	89-90	34930.15
Metalloy Steel Foundry Inc.	062-0070-025	88-89 to 89-90	7853.96
John J. & Frances L. Ferreira	064-0020-049	89-90	11640.04
	064-0020-053	85-86 to 89-90	17269.66
Capital Roofing Co.	064-0110-001	88-89 to 89-90	3506.92
Jack and Mike Nolan	226-0240-016	88-89 to 89-90	9623.26
Emma J. Rutherford	237-0040-046	88-89 to 89-90	5390.10
Valley Hi Village	117-0140-027	88-89 to 89-90	11365.09
Hunters Pointe Partners	117-0140-030	89-90	31770.30
	117-0204-018	89-90	15923.90
Sacramento Realty Investors, Etal	117-0211-023	89-90	4801.00
College Meadow Investors	117-0140-031	88-89 to 89-90	49643.64
Herbert P. and Alice P. Caplan	215-0241-008	89-90	45003.94
		TOTAL	\$ 253319.71



OFFICE OF THE
CITY CLERK

OPERATION SERVICES

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 304
915 I STREET
SACRAMENTO, CA
95814-2671

916-449-5426

August 31, 1990

Sherman & Feller
1970 Broadway Ste 940
Oakland CA 94612-2263

On August 28, 1990, the Sacramento City Council adopted Resolution No. 90-687 authorizing the execution of Agreement No. 90-144 regarding legal services in connection with collection of delinquent assessments.

Enclosed, for your records, is one fully certified copy of said agreement and authorizing resolution.

Sincerely,

Valerie A. Burrowes
City Clerk

mls/3.2

Enclosures

cc: Finance
Risk Management