TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DEPARTMENT: UTILITIES

DATE: JUNE 6, 2005

CMR:245:05

SUBJECT: APPROVAL OF A BUDGET AMENDMENT ORDINANCE FOR SETTLEMENT AGREEMENT BETWEEN CITY OF PALO ALTO AND ENRON FOR A TOTAL AMOUNT OF $21.5 MILLION WITH $18.06 MILLION OF THE TOTAL COMING FROM THE ELECTRIC ENTERPRISE SUPPLY RATE STABILIZATION RESERVE AND $3.44 MILLION COMING FROM THE GAS ENTERPRISE SUPPLY RATE STABILIZATION RESERVE

RECOMMENDATION
Staff recommends that the City Council adopt the attached Budget Amendment Ordinance (BAO) for the purpose of the settlement agreement between the City and Enron for a total amount of $21.5 million with $18.06 million of the total coming from the Electric Utility Supply Rate Stabilization Reserve and $3.44 million coming from the Gas Utility Supply Rate Stabilization Reserve.

DISCUSSION
In 2001, the City entered into several contracts with Enron Power Marketing Inc and Enron North America (Enron). The City cancelled these contracts in November 2001. Enron filed for bankruptcy protection on December 2, 2001. In 2003, Enron filed two complaints against Palo Alto. In its complaints, Enron contended that the City was required to make payments, including interest, in excess of $50 million, in connection with Palo Alto's termination of power and gas contracts that were negotiated in 2001.

On March 28th, 2005, the City entered into a settlement agreement with Enron and on April 21, 2005, Judge Arthur Gonzalez of the United States Bankruptcy Court for the Southern District of New York approved the settlement. The settlement, reached through a Bankruptcy Court-ordered mediation process, fully resolves the respective claims of the parties. The news release related to this issue is attached (Attachment B).
**RESOURCE IMPACT**
The City has agreed to pay $21,500,000 to Enron in two installments. The first installment of $15,000,000 was paid on May 4, 2005. The second installment of $6,500,000 is payable on or before October 1, 2005. In accordance with generally accepted accounting principles, the entire $21,500,000 will be recognized as an expense during the current fiscal year 2004-05.

The Electric Fund Supply Rate Stabilization Reserve will cover 84 percent of the settlement amount, and the Gas Fund Supply Rate Stabilization Reserve will cover 16 percent. This transaction will reduce the Supply Rate Stabilization Reserve in the Electric Fund by $18,060,000 from $52,954,000 to $34,894,000. This transaction will also reduce the Supply Rate Stabilization Reserve in the Gas Fund by $3,440,000 from $6,652,000 to $3,212,000.

**POLICY IMPLICATIONS**
These recommendations do not represent a change in existing City policies.

**ENVIRONMENTAL REVIEW**
The adoption of the resolution does not constitute a project under the California Environmental Quality Act, therefore, no environmental assessment is required.

**ATTACHMENTS**
A: Budget Amendment Ordinance  
B: News Release

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