

RESOLUTION NO. R- 253048

RESOLUTION CONCERNING THE ISSUANCE OF  
REVENUE BONDS TO FINANCE THE EXPANSION  
AND RENOVATION PROGRAM OF CHILDREN'S  
HOSPITAL--SAN DIEGO.

NOV 3 1980

WHEREAS, The City of San Diego (the "City") is a municipal corporation and charter city duly organized and existing under a freeholders' charter pursuant to which the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs and certain other matters in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 2 of the Charter of the City (the "Charter"); and

WHEREAS, the City Council of the City acting under and pursuant to the powers reserved to the City under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 2 of the Charter, has enacted the City of San Diego Health Facility Revenue Bond Law, constituting Article 7 of Chapter IV of the San Diego Municipal Code (the "Law"), establishing a program and procedure for the authorization, sale and issuance of revenue bonds by the City for the purpose, inter alia, of providing financing for health facilities; and

WHEREAS, in connection with its expansion and renovation program (the "Project"), Children's Hospital--San Diego (the "Hospital") has requested the financial assistance of the City and has presented to the City a description of the

Project (including a statement of estimated cost), all as more fully set forth in a report prepared by Amherst Associates, Inc., on file in the office of the City Clerk as Document No. RR-253048; and

WHEREAS, the City desires to assist the Hospital in the financing of the Project; and

WHEREAS, the City deems it necessary and essential and a proper public purpose that the Project be financed at the earliest practicable date, the Hospital requires satisfactory assurance from the City that the proceeds of the sale of bonds of the City will be made available to assist in the financing of the Project, and the City requires satisfactory assurance from the Hospital that certain costs of issuing such bonds will be paid by the Hospital and that the Hospital, as part of the consideration for such financial assistance, will provide certain health services for and within the City during the term of such bonds; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. The City shall proceed to prepare, or cause to be prepared, the documentation necessary for the City to issue, at one time or from time to time, an aggregate of not to exceed \$15,000,000 principal amount of hospital revenue bonds of the City (the "Bonds") to finance the Project; provided that, prior to commencing such preparation, the City and the Hospital shall have entered into a letter agreement in the form attached hereto as "Exhibit A."

2. The Bonds shall be payable solely from the revenues to be received by the City pursuant to a loan or other agreement(s) to be entered into by the City and the Hospital in connection with the financing of the Project, and shall not be deemed to constitute a debt or liability of the City under any constitutional, charter or statutory debt limitation. Neither the faith and credit nor the taxing power of the City shall be pledged to be payment of the principal of or interest on the Bonds.

3. Issuance of the Bonds shall be subject to the conditions and provisions of the attached letter agreement authorized by paragraph 1 and the following: (a) the City and the Hospital shall have first agreed to mutually acceptable terms for the Bonds and the sale and delivery thereof and mutually acceptable terms and conditions for the loan or other agreement(s) for the financing of the Project, and (b) all requisite governmental approvals shall have first been obtained.

4. Orrick, Herrington & Sutcliffe is hereby designated bond counsel to the City in accordance with the terms of their proposal dated October 9, 1980, a copy of which is attached hereto as "Exhibit B"; provided, however, as a condition precedent Children's Hospital--San Diego has executed the letter agreement authorized by paragraph 1 above.

5. Merrill Lynch White Weld Capital Markets Group is hereby designated underwriter of the Bonds for the City in

accordance with the terms of its proposal dated October 13, 1980, a copy of which is attached hereto as "Exhibit C"; provided, however, as a condition precedent Children's Hospital--San Diego has executed the letter agreement authorized by paragraph 1 above.

6. The City Manager be and he is hereby authorized to signify the City's agreement to the foregoing by executing, for and on behalf of the City, the foregoing instruments, copies of which are attached hereto as "Exhibits A, B and C."

7. This resolution shall take effect immediately upon its passage.

APPROVED: JOHN W. WITT, City Attorney

By Stuart H. Swett  
Stuart H. Swett  
Chief Deputy City Attorney

SHS:rc:502.1.6  
10/28/80 REVISED 10/31/80  
Or.Dept.: City Manager



THE CITY OF

**SAN DIEGO**

CITY ADMINISTRATION BUILDING • 202 C STREET • SAN DIEGO, CALIF. 92101

OFFICE OF THE  
CITY MANAGER  
236-6363

October 28, 1980

Children's Hospital - San Diego  
8001 Frost Street  
San Diego, CA 92123Re: Children's Hospital - San Diego  
Expansion and Renovation Program

Ladies and Gentlemen:

The purpose of this letter is to set forth certain terms and conditions under which the City of San Diego (the "City") will assist in the financing of your expansion and renovation program (the "Project") as requested by your Chief Executive Officer, Blair L. Sadler, in discussions with City staff members.

The City intends to enter into agreements with the law firm of Orrick, Herrington & Sutcliffe as bond counsel, and Merrill Lynch White Weld Capital Markets Group as underwriter, to advise and assist the City in the sale of bonds (the "Bonds") for the financing of the Project. Said agreements are in the form of letters from Orrick, Herrington & Sutcliffe and Merrill Lynch White Weld Capital Markets Group to both yourself and the City, copies of which are enclosed herewith. By signing and returning a copy of said letter agreements as well as the enclosed copy of this letter, you hereby agree to the following on behalf of Children's Hospital - San Diego (the "Hospital"):

1. The Hospital agrees to pay all costs involved in the issuance of the Bonds, including by way of example and not limitation, bond counsel's fee and disbursements, fees and disbursements of any other experts engaged by the Hospital or by the City in connection with the issuance of the Bonds, bond printing and other printing costs, publication costs and costs incurred in order to obtain ratings for the Bonds. Such costs may be paid from proceeds of the Bonds. In the event that Bonds are not issued for any reason, the Hospital agrees to assume the City's obligations, if any, for payment of such costs.

2. The Hospital agrees to pay the cost of preparation of any studies, reports or other documents necessary to be prepared by or for the City to comply with the California Environmental Quality Act.

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3. The Hospital agrees to pay any and all costs incurred by the City in connection with any legal action challenging the issuance or validity of the Bonds or use of the proceeds thereof.

4. The Hospital shall have the right to approve any contract not attached hereto which the City proposes to execute and for payments under which the Hospital will be responsible pursuant to this letter agreement.

The City agrees to proceed, and to direct the aforementioned bond counsel and underwriter to proceed, with the planning and preparation of the necessary proceedings for the offering of the Bonds for sale to finance the Project. The Hospital understands and agrees that this letter agreement does not exempt it from any requirements of the City, or any department or agency thereof or other governmental body, that would apply in the absence of the proposed Bond financing, and compliance with such requirements is an express precondition to the issuance of the Bonds by the City.

The Hospital further understands and agrees that the issuance of any Bonds by City is contingent upon an agreement between the City and Hospital on the following:

1. The form and kinds of security which will secure the Hospital's promise to pay on behalf of the City all principal and interest on the Bonds, whether mortgage, deed of trust, negative pledge, or without limitation any other type or kind.

2. The form and kinds of health services which the hospital will perform on behalf of and at no cost to the City for the full term of the Bonds.

The Hospital also understands and agrees that the City is in no way obligated legally, morally or otherwise to proceed with the issuance of Bonds until the City Council is satisfied with all the terms and conditions of the sale thereof and is satisfied that such sale is in the best interests of the City. If for any reason, Bonds are not issued, Hospital understands and agrees that all costs incurred in anticipation of the sale of the Bonds shall be at no expense to the City.

The Hospital also understands and agrees that the Bonds will not be issued unless payment of principal and interest on the Bonds is insured or guaranteed, or the Bonds are rated "A" or better by an established rating service.

If the foregoing is satisfactory, signify your agreement by kindly executing the enclosed copy of this letter as well as the letter agreements with Orrick, Herrington & Sutcliffe and Merrill Lynch White Weld Capital Markets Group and returning them to The City of San Diego, City Administration Building, San Diego, California, Attention: City Manager.

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This letter is signed pursuant to authorization granted by Resolution No. \_\_\_\_\_ adopted \_\_\_\_\_, 1980.

Very truly yours,

THE CITY OF SAN DIEGO

By \_\_\_\_\_  
RAY T. BLAIR, JR.  
City Manager

APPROVED AS TO FORM  
AND LEGALITY:

JOHN W. WITT, City Attorney

By \_\_\_\_\_  
STUART H. SWETT  
Chief Deputy City Attorney

Dated: \_\_\_\_\_

CONFIRMED AND ACCEPTED:

CHILDREN'S HOSPITAL - SAN DIEGO

By: \_\_\_\_\_

Dated: \_\_\_\_\_

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LAW OFFICES

## ORRICK, HERRINGTON &amp; SUTCLIFFE

A PROFESSIONAL CORPORATION

600 MONTGOMERY STREET

SAN FRANCISCO, CALIFORNIA 94111

TELEPHONE (415) 398-1122

October 9, 1980

CABLE "ORR.HC"  
TELEX 34-0873

City of San Diego  
City Administration Building  
San Diego, CA 92101

Children's Hospital -  
San Diego  
8001 Frost Street  
San Diego, CA 92123

Re City of San Diego Insured Hospital Revenue  
Bonds (Children's Hospital - San Diego)

Ladies and Gentlemen:

We have been advised that the City of San Diego is considering the issuance of hospital revenue bonds in connection with a contemplated expansion and renovation program at Children's Hospital - San Diego, and we have been asked if we would serve as bond counsel for such a financing. We understand that the bonds would be issued pursuant to the City's powers as a charter city, and that the principal amount of the issue would be approximately 15 million dollars. We would be pleased to act as bond counsel to the City in these proceedings.

In connection with such a financing, our services would include the following:

(1) consultation with the City, the Hospital, their counsel and their financial consultant or underwriter concerning the financing, its timing, terms and structure;

(2) preparation of legal proceedings for the authorization, issuance and sale of hospital revenue bonds, including preparation of the necessary resolutions, indenture and other documents necessary for the issuance of the bonds; preparation of an agreement or agreements between the City and the Hospital specifying terms of the financing, the security for the bonds and other conditions to the financing; preparation of the proceedings for the sale of the bonds, which we understand will be negotiated; and preparation of other proceedings incidental to or in connection with the issuance and sale of the bonds;

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## ORRICK, HERRINGTON &amp; SUTCLIFFE

(3) the rendering of a final legal opinion on the validity and tax status of the bonds; and

(4) such other legal services as may be incidental to the foregoing.

Our fee for the foregoing would be 1% of the first one million dollars of bonds issued, 1/2 of 1% of the next four million dollars of bonds issued, and 1/8 of 1% of the principal amount of bonds issued in excess of five million dollars. If for any reason the City does not issue and sell the bonds, we would be paid a fee determined by the extent of the services rendered by us on an hourly basis at our usual, full hourly rates then in effect. Our fee does not include our out-of-pocket expenses, such as travel expenses, long-distance telephone call charges, reproduction of documents, word processing and secretarial overtime necessary or requested because of the time demands of the transaction, and we will bill separately for such out-of-pocket expenses. This fee does not include representation of the City or the Hospital in any legal action challenging the validity of the transactions contemplated by this letter.

In the event that we are requested by the City or the Hospital to perform any additional or extraordinary services not herein contemplated, we shall be entitled to apply to the City or the Hospital for additional compensation for such additional services, the amount of which shall be subject to the approval of the City and the Hospital, but no such additional compensation shall be paid unless specifically authorized by the City and the Hospital in their discretion.

The City and the Hospital shall be expected to furnish us with certified copies of all proceedings taken by the governing body (or others) of each such entity, respectively, that we deem necessary to render an opinion upon the validity of such proceedings. All legal documents prepared by us will be submitted to the City and the Hospital, as nearly as practicable, in care of their respective counsel, and shall be subject to the approval of such counsel. Upon approval of such proceedings, such counsel will be expected to submit such documents to the City or the Hospital, as the case may be, for approval.

We understand that, pursuant to an agreement between the City and the Hospital, our fees and disbursements are to be paid by the Hospital. We will, however, submit our bills for services and disbursements to the City, with the expectation that such bills will be forwarded to the Hospital for payment.

ORRICK, HERRINGTON & SUTCLIFFE

In addition, we will not be responsible for the preparation or content of the Official Statement or Offering Circular prepared by the City, the Hospital and their financial consultant or underwriter for this transaction; provided, however, that we will review that portion of the Official Statement or Offering Circular that describes the terms of the bond indenture and the details of the bonds themselves. Our employment is limited to a review of the legal proceedings required for the authorization of the bonds and to rendering an opinion as to the validity of the bonds and the exemption of interest on the bonds from taxation. Our opinion will not consider or extend to any documents, agreements, representations, offering circulars or other materials of any kind concerning the bonds, including the Official Statement or Offering Circular, not described above.

The City or the Hospital will be expected to pay all costs and expenses incurred by them incident to the actual issuance and delivery of the bonds, including the cost and expense of preparing certified copies of proceedings required by us in connection with the issuance of bonds, the cost of preparing the bonds for execution and delivery, all printing costs and publication costs, and any other expenses incurred by them in connection with the issuance of the bonds, including fees and expenses of financial or feasibility consultants, accountants or other experts employed by the City or the Hospital.

If the foregoing is satisfactory, please execute the enclosed copy of this letter and return it to me.

Very truly yours,

*John R. Myers*  
John R. Myers

CONFIRMED AND ACCEPTED:

CITY OF SAN DIEGO

CHILDREN'S HOSPITAL -  
SAN DIEGO

By: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**Merrill Lynch  
White Weld  
Capital Markets Group**

October 13, 1980

City of San Diego  
City Administration Building  
San Diego, CA 92101

Children's Hospital - San Diego  
8001 Frost Street  
San Diego, CA 92123

RE: Insured Hospital Revenue Bonds  
(Children's Hospital-San Diego), Series A

Ladies and Gentlemen:

This will confirm our commitment to provide investment banking services to the City of San Diego, California, in connection with the development and implementation of a tax exempt hospital revenue bond financing for Children's Hospital - San Diego (the "Hospital"), located at 8001 Frost Street in San Diego, California. The revenue bonds are to be issued by the City of San Diego (the "City") under its charter powers, subject to all applicable federal, state and local laws and regulations.

We have previously submitted a proposal and materials to the Hospital which outline the principal features of the proposed tax exempt financing, and have held discussions with you on prior occasions concerning the proposed financing. We will, as investment banker to the City in this instance, provide you with the benefit of our experience and advice in developing a financing that results in the lowest practicable financing cost to the Hospital, and perform a number of tasks required for a successful implementation of a financing. Specifically, we will:

1. Meet with City Officers and other interested parties, the City's legal counsel and bond counsel, and review with them the financing and the benefits which can be expected;
2. Participate in discussions and meetings as necessary among City representatives and personnel concerning the Hospital and implementation of the financing;
3. Review applicable federal and state legislation with bond counsel, Orrick, Herrington & Sutcliffe, San Francisco, and our legal counsel, O'Melveny & Myers, Los Angeles, and discuss same with, or present in the

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course of hearings before, the City Council and other governmental bodies with respect to the financing as necessary;

4. Organize the presentation of the Hospital's project, the Hospital, and the financing to Moody's Investor's Service, Inc., and/or Standard & Poor's Corporation to establish credit rating(s) for publicly sold securities in order to obtain the lowest possible borrowing cost, and organize and actively participate in meetings with rating agency personnel;
5. Organize a pre-marketing sales effort and presentations to broker-dealers as necessary to introduce this financing to the investment community and to cultivate investor interest in the bonds;
6. Assist in the preparation of necessary documentation relating to the issuance of the revenue bonds, including responsibility for preparing a Preliminary Official Statement and Official Statement for the City (at the expense of the Hospital, payable from bond proceeds at bond closing as with other costs of issuance); and
7. Act as sole managing underwriter of the City's hospital revenue bonds for the Hospital Project. Our responsibilities as sole managing underwriter include: (a) responsibility for underwriting, pricing and marketing the issue, including organizing as appropriate a syndicate of firms to participate in the marketing of the bonds to the public; (b) "running the books" on the transaction; and (c) speaking for the underwriting syndicate on matters pertaining to the underwriting, pricing and marketing of the bonds.

We are confident of this financing's underlying merit and have shown our good faith by investing considerable time and manpower in this proposed financing on behalf of the Hospital during the past two years. We will provide our services to the City as well as to the Hospital under this agreement with the City and the Hospital that, should a financing of the type under discussion result, we are the sole managing underwriter for the City and the Hospital. Our compensation will be consistent with industry practice and will consist of a percentage discount in purchase price from the face amount of the bonds. The amount of discount and purchase price will be submitted along with coupon interest rates and other finalized terms of the issue in a purchase contract at bond purchase. Our realization of such discount of course is entirely contingent upon bond closing occurring. There

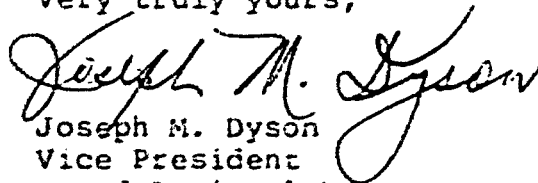
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will be no separate statements for financial advisory services rendered to the City or the Hospital for this financing. The advantage of this arrangement from your point of view is that, if the financing is not in fact implemented, there is no obligation to Merrill Lynch. If the financing is implemented and we receive compensation as described, the compensation is financed long-term from bond proceeds. This minimizes to the greatest extent possible the effective cost to you for our services and eliminates any need for you to contribute funds up front for our services from general resources.

If the above arrangement is satisfactory to you, please sign in the place provided below and return one executed counterpart of this letter to me as soon as possible.

Very truly yours,



Joseph M. Dyson  
Vice President  
and Regional Manager  
Health Care Finance Department

sk

Accepted and agreed to by  
the undersigned for and on  
behalf of the City of San Diego:

By \_\_\_\_\_

Accepted and agreed to by  
the undersigned for and on  
behalf of Children's Hospital - San Diego

By \_\_\_\_\_

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Passed and adopted by the Council of The City of San Diego on NOV 3 1980  
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By Raynell G. Fontenot, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Resolution Number R-253048 Adopted NOV 3 1980