

RESOLUTION NUMBER R- 288691

ADOPTED ON MAY 27 1997

BE IT RESOLVED, by the Council of The City of San Diego, that the issuance of Tax Anticipation Notes in up to two (2) series (the "Notes") of the City for Fiscal Year 1997-98 is hereby authorized in an amount not to exceed \$100,000,000 pursuant to the authority of Section 92 of the City Charter, together with Article 7.6 (commencing with Section 53850) of Chapter 4, Part 1, Division 2, Title 5 of the California Government Code (collectively, the "Authorizing Law") and in accordance with the declarations, conditions and terms set forth in that certain document on file in the Office of the City Clerk as Document No. RR- 288691-1 hereinafter referred to as the "Accompanying Document", completed and executed as set forth hereinafter.

BE IT FURTHER RESOLVED, that the City Manager be and is hereby authorized to sell the Notes at negotiated sale in accordance with the Note Purchase Agreement, the form of which is included in the Accompanying Document; provided the total interest cost of the Notes shall not exceed 6.5% and the aggregate principal amount of the Notes shall not exceed the lesser of \$100,000,000, or the amount permitted under the Authorizing Law, as certified by the City Treasurer pursuant to the completed Accompanying Document.

BE IT FURTHER RESOLVED, that the City Manager is further authorized and empowered to execute, for and on behalf of the City, an agreement with Stradling, Yocca, Carlson & Rauth, a professional corporation, to act as Bond Counsel for the issuance of the Notes, under the terms and conditions set forth in the Agreement on file in the Office of the City Clerk as Document Number RR- 288691-2.

BE IT FURTHER RESOLVED, that the City Manager is further authorized and empowered to execute, for and on behalf of the City, an agreement with Orrick, Herrington & Sutcliffe, a professional corporation, to act as Disclosure Counsel for the issuance of the Notes,

under the terms and conditions set forth in the Agreement on file in the Office of the City Clerk as Document Number RR- 288691-3

BE IT FURTHER RESOLVED, that the City Manager is further authorized and empowered to execute, for and on behalf of the City, an agreement or agreements with Bear Stearns & Co., Inc. and Rideau Lyons & Co., Inc., to act as underwriters with respect to the Notes, under the terms and conditions set forth in the Agreement on file in the Office of the City Clerk as Document Number RR- 288691-4

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute the Accompanying Document, including the Note Purchase Agreement and a Continuing Disclosure Certificate, and each completed to reflect the final terms described herein, and as further modified in such manner as may be requested by Bond Counsel or the Underwriters described in the Note Purchase Agreement to enhance the marketability of the Notes in a manner consistent with the Authorizing Law, such approval to be conclusively evidenced by the execution and delivery thereof.

BE IT FURTHER RESOLVED, that the City Manager is further authorized to accept the final terms of the Series A Notes and the Series B Notes based on the offer of the Underwriters, on or before August 30, 1997, with respect to the Series A Notes, and on or before December 15, 1997, with respect to the Series B Notes, in each case, provided that the total interest cost of the Notes shall not exceed 6.5%, Underwriters' discount (or fee) shall not exceed the amount set forth in the Underwriters' Proposal on file in the Office of the City Clerk as Document Number RR- 288691-5, and the aggregate principal amount of the Notes shall not exceed the lesser of \$100,000,000 or the amount permitted under the Authorizing Law, as certified by the City Treasurer pursuant to the completed Accompanying Document.

BE IT FURTHER RESOLVED, that the proposed form of the Preliminary Official Statement to be used in connection with the offer and sale of the Notes, a copy of which is on file in the Office of the City Clerk as Document No. RR- 288691-6, and attached hereto, is hereby adopted and approved and the City Treasurer is hereby authorized to execute and deliver the same with such changes therein as the City Treasurer, with the advice of counsel, may require

or approve, such approval to be conclusively evidenced by the execution and delivery thereof. Such execution and delivery shall constitute evidence that the City deems the Preliminary Official Statement to be final within the meaning of 17 C.F.R. Section 240.15c2-12(b), except for information which is permitted to be omitted therefrom pursuant to such rule. Thereafter, the City Treasurer is authorized to execute and deliver to the underwriters executing the Note Purchase Agreement a final Official Statement with such changes therein as the City Treasurer, with the advice of counsel, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. Such underwriters are hereby authorized to distribute copies of the Official Statement as finally executed to those persons who may be interested in the purchase of the Notes, and to cause the underwriters to deliver such copies of the final Official Statement to all actual purchasers of the Notes.

BE IT FURTHER RESOLVED, that the City Manager, City Treasurer, City Clerk, and City Auditor and Comptroller and their designated assistants, upon advice of the City Attorney and Bond Counsel, are hereby authorized and directed, jointly and severally, to do any and all things and to execute, modify and deliver any and all documents herein approved as may be required, at the request of counsel, which they may deem necessary and advisable, in order to effect the issuance, sale and delivery of the Notes and otherwise to effectuate the purposes of this resolution.

APPROVED: CASEY GWINN, City Attorney

By Theresa C McAteer
Theresa C. McAteer
Deputy City Attorney

TCM:cmg
05/14/97
Or.Dept:City Manager
Aud.Cert:
R-97-1125
Form=r-t.frm

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CERTIFICATE OF UNALLOTTED BALANCE

AC 9701108
ORIGINATING DEPT. NO.: 052

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount _____ Fund _____

Purpose _____

Date _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
01										
TOTAL AMOUNT										

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

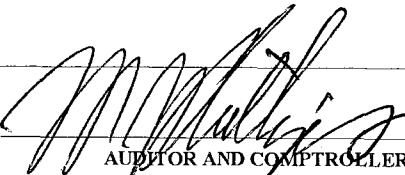
I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed \$ 23,000.00

Vendor Stradling, Yocca, Carlson & Rauth/Orrick, Herrington & Sutcliffe

Purpose Authorizing the execution of an agreement for bond and disclosure counsel for the TANS issuance & expenditure of funds.

Date May 9, 1997

By: 
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
01	0	65013	65013		4141	065013				\$23,000.00
TOTAL AMOUNT										\$23,000.00

FUND OVERRIDE

R 288691

MAY 27 1997

AC 9701108

PERTAINING TO THAT CERTAIN RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO ADOPTED MAY _____, 1997, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF TAX ANTICIPATION NOTES OF THE CITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$100,000,000 FOR THE FISCAL YEAR 1997-1998; SPECIFYING THE PURPOSES, TERMS AND CONDITIONS OF SAID NOTES; PRESCRIBING THE FORM OF SAID NOTES; AUTHORIZING THE APPOINTMENT OF A PAYING AGENT FOR THE NOTES; AUTHORIZING A NOTE PURCHASE AGREEMENT; AUTHORIZING A CONTINUING DISCLOSURE CERTIFICATE; AUTHORIZING CITY OFFICIALS TO TAKE ALL ACTIONS REQUIRED FOR THE ISSUANCE, SALE AND DELIVERY OF SUCH NOTES; AND MAKING CERTAIN OTHER FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH ("THE RESOLUTION")

WHEREAS, the City Council of the City of San Diego has received a report from the City Treasurer and the Auditor and Comptroller that the City will experience a cumulative cash flow deficit during the forthcoming fiscal year of 1997-1998 (commencing on July 1, 1997) which report is on file with the City Clerk and attached hereto as "Exhibit A"; and

WHEREAS, such cumulative cash flow deficit is expected to occur as a result of City expenditures exceeding available funds until such time as the proceeds of taxes of the City for such fiscal year are available; and

WHEREAS, Section 92 of the City Charter of the City, together with Article 7.6 (commencing with Section 53850) of Chapter 4, Part 1, Division 2, Title 5 of the Government Code, (collectively, the "Authorizing Law") authorize the issuance of bonds, notes or registered warrants on the treasury of the City in anticipation of the collection of taxes; and

WHEREAS, such bonds, notes or warrants are not deemed the creation of debt within the meaning of Section 90 of the City Charter; and

WHEREAS, such Section 92 places a limitation on the amount of bonds, notes or warrants which may be issued, such amount not to exceed twenty-five percent (25%) of the total appropriation for such year; and

WHEREAS, such report of the City Treasurer and the Auditor and Comptroller recommends the issuance of tax anticipation notes in the aggregate principal amount of not to

exceed \$100,000,000, which amount may not exceed the limitations set forth in the Authorizing Law; and

WHEREAS, the City wishes to authorize the issuance of tax anticipation notes in two (2) series, with an initial issuance of notes in the amount of \$65,000,000, with authorization to issue and sell an additional series in an amount such that the combined principal amount of the two series shall not exceed \$100,000,000 in the event a further deficit is experienced and a second series can be sold on the terms set forth herein; and

WHEREAS, the City wishes to authorize the issuance of the Notes on the terms set forth herein.

NOW, THEREFORE, THIS DOCUMENT, TO BE KNOWN AS THE ACCOMPANYING DOCUMENT TO RESOLUTION NO. R-97-1125, SHALL ACCOMPANY SAID RESOLUTION TO THE SAME EXTENT AND EFFECT AS IF THEREIN INCORPORATED, as follows:

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall have the meanings herein specified.

“Authorizing Law” means Section 92 of the City Charter as supplemented by Article 7.6, Chapter 4, Part 1, Division 2, Title 5 of the Government Code of California.

“Charter” means the duly enacted City Charter of the City and all later amendments thereto.

“City” means the City of San Diego, a municipal corporation duly organized and existing pursuant to the Constitution of the State of California and a city charter duly enacted by the electors of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Council” means the duly elected or appointed members of the City Council of the City.

“Notes” mean the “City of San Diego, 1997-1998 Tax Anticipation Notes” in the aggregate principal amount of not to exceed \$100,000,000, issued hereunder in up to two (2) series in substantially the form attached hereto as “Exhibit B”.

“Note Purchase Agreement” means the Series A Note Purchase Agreement on file with the City Clerk as Document No. RR-_____, the form of which is attached hereto as “Exhibit C”, and with reference to the Series B Notes, any not purchase agreement therefor substantially similar to the Note Purchase Agreement.

“Paying Agent” means [Paying Agent], appointed to act and perform the duties of Paying

Agent for the Notes.

“Series A Notes” means the Notes issued hereunder as Series A Notes in an amount not to exceed \$65,000,000.

“Series B Notes” means the Notes issued hereunder as Series B Notes in an amount such that the aggregate amount of Notes issued hereunder does not exceed \$100,000,000 in accordance with Section 4(B) hereof.

“Treasurer” shall mean the duly appointed City Treasurer of the City.

“Underwriters” shall mean the underwriters executing the Note Purchase Agreement.

Section 2. Cumulative Cash Flow Deficit. That as of July 1, 1997, it is anticipated that during the first six (6) months of fiscal 1997-1998, a cumulative cash flow deficit will exist in the amount of not less than \$65,000,000.

Section 3. Proposed Budgeted Appropriations. The total budgeted appropriates for fiscal 1997-1998 as shown by the budget heretofore approved by the Council total approximately \$_____ and the appropriation for salaries and wages and maintenance and support expenses for fiscal year 1996-1997 total \$_____, and twenty-five percent (25%) of the lesser of such appropriations total \$_____ million. The uncollected taxes available for the payment of the Notes is estimated to be \$_____; eighty-five percent (85%) of such amount is \$_____.

Section 4. Sale of Series A Notes; Sale of Series of B Notes.

(a) The Series A Notes will be sold by negotiated sale as set forth below.

The Notes shall be sold by negotiated sale to Bear Stearns & Co., Inc. and Rideau Lyons & Co., Inc., upon the terms and conditions set forth in the Note Purchase Agreement.

The City Manager is hereby authorized to execute and deliver the Note Purchase Agreement with such changes as may be approved thereby, provided that the interest rate on the Notes shall not exceed six and one-half percent (6 1/2%) per annum.

(b) The City Manager may cause the Series B Notes to be sold at negotiated sale to the Underwriters and the Series B Notes will be issued and sold, provided:

(I) The Treasurer certifies that the amount of the Series B Notes when added to the Series A Notes will not exceed the limits thereon imposed under the Authorizing Law and that the City is in compliance with its covenants hereunder and the property taxes pledged to repayment of the Notes and to be deposited in the Repayment Fund are expected to be sufficient to pay all principal

R- 288691

and interest on the Notes when due.

(ii) The interest rate on the Series B Notes shall be at a rate of interest of not to exceed six and one-half percent (6 1/2%) per annum payable at maturity, the Treasurer's execution thereof to constitute conclusive evidence satisfaction of this condition.

(iii) Receipt of confirmation from Moody's Investors Service and Standard & Poor's Rating Service (but only to the extent each maintains a rating on the Series A Notes) that the issuance of the Series B Notes will not cause a reduction in the rating on the Series A Notes.

Section 5. Issuance of Notes; Amount; Terms; Interest Rate; Place of Payment.

(a) Pursuant to the Authorizing Law, the Notes shall be issued in the aggregate principal amount of not to exceed \$100,000,000 to enable the City to meet its budgeted cumulative not to exceed \$65,000,000 and Series B Notes in an amount which when added to the principal amount of the Series A Notes does not exceed \$100,000,000. Said notes shall be designated "City of San Diego, 1997-1998 Tax Anticipation Notes, Series B", respectively and shall be in the denominations of \$5,000 or any integral multiple thereof. The Series A Notes shall be dated the respective dates of issuance thereof. The Series A Notes shall mature and be payable on or before October 1, 1998, or as to the Series B Notes, a date not later than fifteen (15) months from the date of issuance thereof as determined by the City Treasurer and the City Manager, the Treasurer's execution thereof to be conclusive evidence of such approval, or as to the Series B Notes, a date not later than fifteen (15) months from the date of issuance thereof as determined by the City Treasurer and the City Manager, the Treasurer's execution thereof to be conclusive evidence of such approval, and shall bear interest at a rate not to exceed six and one-half percent (6 1/2%) per annum payable at maturity. In the event a maturity is selected of greater than twelve (12) months, then interest on the Notes shall be payable June 30, 1998, and at the maturity of the Note.

(b) The Notes shall be initially issued and registered in the name of "Cede & Co.," as nominee of The Depository Trust Company, New York, New York (hereinafter, "Cede & Co." and "The Depository Trust Company") and shall be evidenced by a single Note. Registered ownership of the Note, or any portion thereof, may not thereafter be transferred except as set forth in Section 5(C).

(c) The Notes shall be initially issued and registered as provided in Section 5(B) hereof. Registered ownership of such Notes, or any portions thereof, may not thereafter be transferred except:

(i) to any successor of The Depository Trust Company, or its nominee, or of any substitute depository designated pursuant

to clause (ii) of this subsection (B) ("Substitute Depository"); provided that any successor of The Depository Trust Company of Substitute Depository shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(ii) to any Substitute Depository not objected to by the Treasurer, upon (1) the resignation of The Depository Trust Company or its successor (or any Substitute Depository or its successor) from its functions as depository, or (2) a determination by the Treasurer to substitute another depository for The Depository Trust Company (or its successor) if the Depository Trust Company is no longer able to carry out its functions as depository; provided that any such Substitute Depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) to any person as provided below, upon (1) the resignation of The Depository Trust Company or its successor (or any Substitute Depository or its successor) from its functions as depository, or (2) a determination by the Treasurer to discontinue using a depository.

(d) In the case of any transfer pursuant to clause (I) or clause (ii) of subsection (C) of this Section 5, upon receipt of all outstanding Notes by the Paying Agent, together with a written request of the Treasurer to the Paying Agent designating the Substitute Depository, a single new Note per series, which the City shall prepare or cause to be prepared, shall be executed, delivered, authenticated and registered in the name of such successor or such Substitute Depository, or its nominees, as the case may be, all as specified in such written request of the Treasurer. In the case of any transfer pursuant to clause (iii) of subsection (c) of this Section 5, upon receipt of all outstanding Notes by the Paying Agent, together with a written request of the Treasurer to the Paying Agent, new Notes, which the City shall prepare or cause to be prepared, shall be executed and delivered in such denominations and registered in the names of such persons as are requested in such written request of the Treasurer, subject to the limitations of Section 5 hereof, provided that the Paying Agent shall authenticate and deliver such new Notes as soon as practicable after the date of receipt of such written request from the Treasurer.

(e) The City and the Paying Agent shall be entitled to treat the person whose name appears on the registration books of the Paying Agent as the owner of the Notes therein for all purposes of the Resolution and for purposes of payment of principal and interest on such Note, notwithstanding any notice to the contrary received by the Paying Agent or the City; and the City and the Paying Agent shall not have responsibility for transmitting payments to, communicating with, notifying, or otherwise dealing with any beneficial owners of the Notes. Neither the City nor the Paying Agent shall have any responsibility or obligation, legal or otherwise, to any such beneficial owners or to any other party, including The Depository Trust Company or its successor (or Substitute Depository or its successor), except to the registered

owner of any Notes, and the Paying Agent may rely conclusively on its records as to the identity of the registered owners of the Notes.

(f) Notwithstanding any other provision of this Resolution and so long as all outstanding Notes are registered in the name of The Depository Trust Company or its registered assigns, the City and the Paying Agent shall cooperate with The Depository Trust Company, as sole registered owner, and its registered assigns in effecting payment of the principal of and interest on the Notes by arranging for payment in such manner that funds for such payments are properly identified and are made available on the date they are due all in accordance with the Letter of Representations on file with the City Clerk and attached hereto as "Exhibit F", the provisions of which the Paying Agent may rely upon to implement the foregoing procedures notwithstanding any inconsistent provisions herein.

(g) In the case of any transfer pursuant to clause (iii) of subsection (C) of this Section 5, any Note may, in accordance with its terms, be transferred or exchanged for a like aggregate principal amount in authorized denominations, upon the books required to be kept by the Paying Agent pursuant to the provisions hereof, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Note for cancellation, and, in the case of a transfer, accompanied by delivery of a written instrument of transfer, duly executed in form approved by the Paying Agent.

Whenever any Note shall be surrendered for transfer or exchange, the City shall execute and the Paying Agent shall authenticate, if required, and deliver a new Note or Notes of authorized denominations for a like aggregate principal amount. The Paying Agent may require the owner requesting such transfer or exchange to pay any tax or other governmental charge required to be paid with respect to such transfer or exchange.

Section 6. Execution of Notes. The Treasurer is hereby authorized and directed to sign, and the City Clerk to attest and to countersign the Notes by their printed, lithographed or engraved facsimile signatures, and to affix thereon the seal of the City.

Section 7. Form of Notes. The Notes shall be issued in substantially the form set forth on "Exhibit B", attached hereto and incorporated herein and may be issued in typewritten form.

Section 8. Notes Non-Callable. The Notes are not subject to call and redemption prior to the maturity date thereof.

Section 9. Appointment of Paying Agent. [Paying Agent], is hereby appointed to act as Paying Agent for the Notes in accordance with its agreement to provide services as such, a copy of which is on file with the City Clerk and attached hereto as "Exhibit E", which agreement is hereby approved and accepted. The Paying Agent shall execute the Certificate of Authentication on the face of each Note.

Section 10. Use of Proceeds of Notes. The proceeds from the sale of the Series A

R 288691

Notes and Series B Notes shall be held by the City and placed into two funds designated "1997-1998 Tax Anticipation Notes Proceeds Fund, Series A" and "1997-1998 Tax Anticipation Notes Proceeds Fund, Series B", respectively, and moneys in such Funds may be transferred to the general fund of the City at any time and said proceeds and any investment earnings thereon shall be used to meet the budgeted cumulative cash flow deficit of the City pending the receipt of property taxes in the manner set forth in Section 92 of the Charter.

Section 11. Security for Notes; Pledge of Tax Receipts. As security for the payment of the principal of and interest on the Notes, the City agrees and covenants to deposit in trust into a special fund to be held by the City designated the "1997-1998 Tax Anticipation Notes, Repayment Fund" (the "Repayment Fund"), sufficient moneys to enable the City to pay in full such principal and interest on the Notes, as follows: (1) from the first property tax moneys due and received on or after November 30, 1997, and amount equal to one-half (1/2) the amount of principal and interest due on or before the maturity of the Notes; and (2) from the remaining property tax moneys received on or after April 10, 1998, an amount equal to the difference between (a) the total principal and interest due on or before the maturity thereof and (b) the amount previously deposited in the Repayment Fund. All such property tax moneys are hereby pledged for the payment of the principal of and interest on the Notes. In the event that by April 30, 1998, the property tax moneys are insufficient to enable the City to make such transfers, the City shall thereafter transfer other legally available taxes, income, revenue and cash receipts to the Repayment Fund so that the amounts in such fund are at least equal to the amounts required to pay the principal of and interest on the Notes on or prior to maturity. The Repayment Fund and all amounts held therein pursuant hereto are hereby pledged and irrevocably set aside to the payment of the Notes. Amounts deposited in the repayment Fund may not be used for any purpose other than payment of the Tax Anticipation Notes and may be invested in legal investments which are permitted by the Government Code of the State and which mature not later than the maturity date of the Notes. The proceeds of any such investment shall be transferred by the City to the City General Fund.

Section 12. Tax Covenants. The City hereby covenants that it will not knowingly take any action, omit to take any action or permit the taking or omission of any action (including, without limitation, making or permitting any use of Note proceeds) if taking or omitting to take such action would cause the Notes to be arbitrage bonds, private activity bonds or federally-guaranteed obligations within the meaning of the Code, or would otherwise cause interest on the Notes to be included in the gross income of the registered owner and/or the beneficial owners thereof for federal income tax purposes.

Section 13. Defeasance. The Notes shall no longer be deemed to be outstanding if the City shall have made adequate provision for payment, in accordance with the Notes and this Resolution of the principal and interest to be come due thereon at maturity. Such provision shall be deemed adequate if the City shall have irrevocably transferred the Repayment Fund to the Fiscal Agent and irrevocably deposited and set aside therein moneys or direct obligations of, or obligations guaranteed by, the United States of America, in which the City may lawfully invest or deposit its funds, which when added to the interest earned or to be earned thereon shall be sufficient, together with uninvested or undeposited funds, to make said payments as they become

due.

Section 14. Certified Copies. The City Clerk shall provide a certified copy of this document to the Treasurer who shall take such action as shall be necessary to assure compliance by the City with the terms and conditions hereof.


The City Clerk shall further provide a certified copy of this document to the Paying Agent.

CITY OF SAN DIEGO

By _____
City Manager

APPROVED:

CASEY GWINN, City Attorney

By 
Theresa C. McAteer
Deputy City Attorney

2- 288691