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(R-2009-1161)  
COR. COPY  
MEET

6/02/09

RESOLUTION NUMBER R- ~~304949~~

DATE OF FINAL PASSAGE JUN 08 2009, 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE FORM OF A PRELIMINARY OFFICIAL STATEMENT RELATING TO AN ISSUE OF WATER REVENUE BONDS SERIES 2009B (PAYABLE SOLELY FROM INSTALLMENT PAYMENTS SECURED BY NET SYSTEM REVENUES OF THE WATER UTILITY FUND OF THE CITY OF SAN DIEGO); AUTHORIZING THE EXECUTION, DELIVERY AND DISTRIBUTION OF AN OFFICIAL STATEMENT FOR SUCH ISSUE OF BONDS; AUTHORIZING THE CITY ATTORNEY TO APPOINT BOND COUNSEL AND DISCLOSURE COUNSEL FOR SUCH ISSUE OF BONDS; AUTHORIZING THE EXECUTION AN DELIVERY OF A 2009B BOND PURCHASE AGREEMENT; AND APPROVING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California authorizes and empowers local agencies to form a joint powers authority, separate and apart from the contracting parties, and Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California [Act] authorizes and empowers such an authority to issue bonds for the purpose of financing public capital improvements, working capital, liability and other insurance needs, or projects whenever there are significant public benefits, as determined by one of the local agencies; and

WHEREAS, The City of San Diego, California [City], with the cooperation of the Public Facilities Financing Authority of the City of San Diego [Authority], a California joint exercise of powers entity duly organized under the laws of the State of California [State], has proposed the issuance of the Authority's Water Revenue Bonds, Series 2009B (Payable Solely from Installment Payments Secured by Net System Revenues of the Water Utility Fund of the City of San Diego) [2009B Bonds] in order to finance and refinance certain capital facilities improvements for the Water System of the City [Water System], as hereinafter described; and

WHEREAS, the City has heretofore approved pursuant to law and with all notice and hearing required by law Ordinance Number O-19806, which was approved by the Council of the City [City Council] on November 10, 2008 and passed on November 13, 2008 [Ordinance Number O-19806]; and

WHEREAS, Ordinance Number O-19806 provided for, among other things, the conditions attendant to the issuance of the 2009B Bonds and the use of the proceeds of such 2009B Bonds to finance the acquisition, construction, installation and improvement of various components of the City's Water System [2009B New Money Components] in an amount not to exceed One Hundred Fifty Million Dollars (\$150,000,000), to prepay the City's obligations with respect to the \$150,000,000 Non-Transferable Subordinated Water Revenue Notes, Series 2008A (Payable Solely From Subordinated Installment Payments Secured By Net System Revenues of the Water Utility Fund) [2008A Notes], to prepay all or a portion of the City's outstanding obligations with respect to the \$385,000,000 Certificates of Undivided Interest (In Installment Payments Payable from Net System Revenues of the Water Utility Fund of the City of San Diego, California) Series 1998 [1998 Certificates], to fund a debt service reserve fund for the 2009B Bonds, and to pay the costs of issuance incurred in connection with the issuance of the 2009B Bonds; and

WHEREAS, pursuant to the provisions of Ordinance Number O-19806, the City Council has heretofore authorized and approved the issuance by the Authority of its 2009B Bonds and the execution and delivery of the Indenture [Indenture], as supplemented by the First Supplemental Indenture [Supplemental Indenture], each by and between the Authority and Wells Fargo Bank, National Association, as trustee [Trustee], the 2009B Supplement to the Amended and Restated Master Installment Purchase Agreement [2009B Supplement] by and between the Authority and

the City, and the 2009B Continuing Disclosure Certificate [Continuing Disclosure Certificate] of the City and the Authority; and

WHEREAS, pursuant to the provisions of Ordinance Number O-19806, the City desires to approve the Authority's issuance of the 2009B Bonds in the aggregate principal amount not to exceed Four Hundred Seventy-Nine Million Eight Hundred Forty-Five Thousand Dollars (\$479,845,000), consisting of the maximum aggregate principal amount of Three Hundred Twenty-Nine Million Dollars (\$329,000,000) originally authorized for the 2009B Bonds and the authorized but unissued portion of the existing authorization for the prepayment of the outstanding 1998 Certificates in the maximum aggregate principal amount of One Hundred Fifty Million Eight Hundred Forty-Five Thousand Dollars (\$150,845,000), the interest upon such 2009B Bonds being excluded from gross income for federal income tax purposes; and

WHEREAS, in connection with the marketing and sale of the 2009B Bonds, it is necessary for the City to authorize and approve the distribution of the Preliminary Official Statement [Preliminary Official Statement] relating to the 2009B Bonds and the execution, delivery and distribution of the final Official Statement [Official Statement] relating to the 2009B Bonds, all in accordance with the policies of this City Council and applicable securities laws and regulations; and

WHEREAS, the City and the Authority propose to enter into a Bond Purchase Agreement [2009B Bond Purchase Agreement] with J. P. Morgan Securities Inc., as Representative [2009B Representative] of certain designated underwriters [collectively, 2009B Underwriters] of the 2009B Bonds named therein; and

WHEREAS, there has been presented to this meeting a proposed form of Preliminary Official Statement for the 2009B Bonds, a copy of which is on file in the Office of the City Clerk

as document number ~~RP-304949-1~~, which the 2009B Underwriters will use in marketing the 2009B Bonds; and

WHEREAS, there has been presented to this meeting a proposed form of the 2009B Bond Purchase Agreement, a copy of which is on file in the Office of the City Clerk as document number ~~RP-304949-2~~; and

WHEREAS, the form of the 2009B Preliminary Official Statement and the form of the 2009B Bond Purchase Agreement submitted to this meeting of the City Council have been reviewed by the Disclosure Practices Working Group [DPWG]; and

WHEREAS, the City is authorized to undertake the actions described in this Resolution pursuant to its Charter and the Constitution and applicable laws of the State; NOW, THEREFORE,

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

Section 1. The City Council hereby finds and determines that the statements set forth above in the recitals of this Resolution are true and correct.

Section 2. The form, terms and provisions of the 2009B Preliminary Official Statement, a copy of which is on file in the Office of the City Clerk and submitted to this meeting, are hereby approved. The Chief Financial Officer of the City and the City Attorney of the City and each of them [collectively, the Authorized Officers] are hereby authorized and directed, for and in the name and on behalf of the City, to deliver the 2009B Preliminary Official Statement to the 2009B Underwriters in substantially the form submitted to this meeting, with such additions and changes therein as the Authorized Officers shall determine are necessary or desirable and approve as being in the best interests of the City, and as approved as to form by the City Attorney or his specified designee and with such other changes as may be required or

requested by the law firm of Sidley Austin LLP, as disclosure counsel. Upon approval of the 2009B Preliminary Official Statement for use in marketing the 2009B Bonds by the Authorized Officers and in accordance with applicable policies and procedures of the City, the 2009B Preliminary Official Statement shall be "deemed final" as of its date, except for the omission of certain information as permitted in and pursuant to Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the provisions of the Securities Act of 1934, as amended [Rule], and an Authorized Officer shall execute a certificate to that effect.

Section 3. The form, terms and provisions of the 2009B Bond Purchase Agreement are hereby approved. The Chief Operating Officer and the Chief Financial Officer of the City and their specified designees, and each of them, are hereby authorized and directed, for and in the name and on behalf of the City to execute and deliver the 2009B Bond Purchase Agreement in substantially the form submitted to this meeting, with such additions and changes therein as the Chief Operating Officer or the Chief Financial Officer shall determine are necessary or desirable and approve as being in the best interests of the City, and as approved as to form by the City Attorney or his specified designee, and with such other changes as may be required or requested by Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the aggregate principal amount of the 2009B Bonds does not exceed the parameters set forth in the Ordinance and the prepayment of all or a portion of the outstanding 1998 Certificates shall be effected through the issuance and sale of the 2009B Bonds so long as such prepayment occurs within three months of the issuance of the 2009B Bonds and demonstrates net present value debt service savings of no less than 3.0% of refunding principal of the 1998 Certificates.

Section 4. The City Attorney or his specified designee is authorized to retain Hawkins Delafield & Wood LLP as bond counsel for the City and the Authority [Bond Counsel] and Sidley Austin LLP as disclosure counsel for the City and the Authority [Disclosure Counsel] in connection with the 2009B Bonds under such contracts or other arrangements as the City Attorney or his specified designee shall approve as being in the best interests of the City. Such contracts or other arrangements shall be in an amount not to exceed \$64,000 plus reasonable out-of-pocket expenses not to exceed \$5,000 for Bond Counsel and in an amount not to exceed \$70,000 plus reasonable out-of-pocket expenses not to exceed \$5,000 for Disclosure Counsel.


Section 5. Following the pricing and sale of the 2009B Bonds, the Authorized Officers are authorized and directed to cause a form of Official Statement to be prepared in accordance with the policies of the City Council, the requirements of the Rule and with the assistance of DPWG. The Official Statement shall be executed by any of the Authorized Officers upon satisfaction of applicable DPWG requirements and the recommendation of Disclosure Counsel.

Section 6. All actions heretofore taken by any officers, employees or agents of the City with respect to the issuance, delivery, or sale of the 2009B Bonds are hereby approved, confirmed and ratified; and any Authorized Signatory and any such other officers, employees or agents of the City as may be authorized by the Mayor, the Chief Operating Officer or the Chief Financial Officer are hereby authorized and directed, for and in the name of and on behalf of the City, to do any and all things and take any and all actions, including, without limitation, payment of necessary and appropriate fees and expenses, and execute and deliver any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable

to consummate the transactions evidenced by the documents referenced herein in accordance with this Resolution.

Section 7. Effective Date. This Resolution shall take effect immediately upon its adoption.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Timothy J. Fitzpatrick  
Deputy City Attorney

TJF:jdf  
05/15/2009  
05/29/2009.COR.COPY  
Or.Dept:Debt Management  
R-2009-1161

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 2 2009.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 6-8-09  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor