

RESOLUTION NUMBER R- 304978

DATE OF FINAL PASSAGE JUN 12 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE ISSUANCE OF TAX AND REVENUE ANTICIPATION NOTES FOR FISCAL YEAR 2009-10 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$140 MILLION.

WHEREAS, the City of San Diego [City], a municipal corporation and Chartered City of the State of California, requires funds for the purposes authorized by Section 53852 of the California Government Code; and

WHEREAS, the City is authorized to borrow money pursuant to Article 7.6 of Chapter 4, Part 1, Division 2, Title 5 of the California Government Code, being Sections 53850 through 53858, inclusive, as amended and City Charter Section 92 collectively, the [Authorizing Law], for the purposes authorized by California Government Code Section 53852 and the City Charter, such indebtedness to be represented by a note or notes of the City; and

WHEREAS, pursuant to the Authorizing Law, such note or notes are to be issued pursuant to a resolution of the City Council of the City [City Council] and may be issued from time to time as provided in such resolution; and

WHEREAS, the City has determined that it is necessary and in the best interests of the City to authorize the borrowing of an amount not to exceed \$140 million with respect to the City's Fiscal Year 2009-10, such indebtedness to be evidenced by the 2009-10 Tax and Revenue Anticipation Notes authorized and described herein [2009-10 TRANS] in an aggregate principal amount not to exceed the sum described above; and

WHEREAS, there has been presented in connection with this Resolution certain documents on file in the Office of the City Clerk as Document No. RR- 304978-1 [Accompanying Document], Document No. RR- 304978-2 [Note Purchase

Agreement], Document No. RR- 304978-3 [Preliminary Official Statement],  
Document No. RR- 304978-4 [Continuing Disclosure Certificate] and Document  
No. RR- 304978-5 [Paying Agent Agreement] including exhibits thereto,

WHEREAS, (i) the unrestricted taxes, income, revenue, cash receipts and other moneys to be received by the City during Fiscal Year 2009-10 comprising Unrestricted Revenues, as defined herein, which will be available for the payment of the 2009-10 TRANs in Fiscal Year 2009-10, and the interest thereon and (ii) the budgeted appropriations of the City for such fiscal year determined for purposes of Section 92 of the City Charter, are reasonably estimated to be in excess of \$1,128,000,000.

WHEREAS, Pursuant to Section 22.4107 of the San Diego Municipal Code [Section 22.4107] (as enacted by Ordinance O-19320), the Disclosure Practices Working Group [DPWG] is required to review disclosure documents of the City and on May 26, 2009 the DPWG reviewed and approved in accordance with Section 5.2 of the Disclosure Practices and Procedures, the form of the Preliminary Official Statement for the 2009-10 TRANs; NOW, THEREFORE,

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

SECTION 1. This Resolution is adopted pursuant to the provisions of the Authorizing Law and other applicable laws.

SECTION 2. The 2009-10 TRANs are hereby authorized to be issued in multiple series corresponding to the respective maturity dates of the 2009-10 TRANs in an aggregate principal amount not to exceed the lesser of \$140 million or the amount authorized to be issued pursuant to the Authorizing Law, as certified by the Chief Financial Officer and the Comptroller prior to the issuance thereof. The 2009-10 TRANs shall be issued as Fixed Rate Notes (as such term is

defined in the Accompanying Document), as shall be established by the Chief Financial Officer of the City [Chief Financial Officer] in substantial accordance with and as set forth in the Accompanying Document. The form of Accompanying Document on file in the office of the City Clerk as Document No. RR- 304978-1, as such instrument shall be completed and executed in accordance with this Resolution and by this reference is incorporated herein and hereby approved. The Chief Financial Officer is hereby authorized for and in the name of, and on behalf of, the City, to execute and deliver said Accompanying Document, substantially in the form on file with the City Clerk, with such changes therein as may be necessary or desirable or as he/she may approve, in his/her sole discretion, as being in the best interests of the City, such approval to be evidenced conclusively by the execution and delivery thereof said Accompanying Document, as so executed and delivered, is referred to hereinafter as the [Accompanying Document]. The Chief Financial Officer is empowered to implement this Resolution in a manner determined by the Chief Financial Officer to be necessary or desirable and in the best interests of the City, including (without limitation and without regard to the priority of the listings herein) consideration of the following factors with regard to the issuance, of the 2009-10 TRANS: (i) market access; (ii) the costs to the City; and (iii) the generation of sufficient proceeds, as contemplated by this Resolution. Without limiting the foregoing, the Chief Financial Officer, subject to Section 5 hereof, may determine the maturity dates and amounts for each respective series of the 2009-10 TRANS (including a single series), and the Chief Financial Officer is hereby authorized to make conforming changes reflecting such maturities and amounts to each of the documents approved by this Resolution, including changes to the dates and amounts to be set aside hereunder and under the Accompanying Document prior to the end of the fiscal year as the Chief Financial Officer determines are necessary or appropriate. The terms and

conditions as set forth (or incorporated by reference) in the Accompanying Document, together with the terms and conditions of the 2009-10 TRANs set forth in this Resolution, together with any authorized and approved supplements and amendments thereto, if any, shall, upon the execution and delivery of the Accompanying Document, be the terms and conditions of such 2009-10 TRANs, as if all such terms and conditions were fully set forth in this Resolution.

SECTION 3. In consideration of the purchase and acceptance of any and all of the 2009-10 TRANs authorized to be issued hereunder by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the City and the holders from time to time of the 2009-10 TRANs [Holders]. The pledge made in, and the covenants and agreements to be performed by and on behalf of the City set forth in, this Resolution or in any resolution supplemental hereto with respect to the 2009-10 TRANs shall be for the equal benefit, protection and security of the Holders of all of such 2009-10 TRANs, shall be of equal rank without preference, priority, privilege, right or distinction of any of the 2009-10 TRANs of any Series over any other thereof, except as expressly provided in or permitted by the Accompanying Document.

SECTION 4. The 2009-10 TRANs shall not be subject to redemption prior to maturity.

SECTION 5. Barclays Capital Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wedbush Morgan Securities collectively, the [Underwriters] are hereby designated as the underwriters of the 2009-10 TRANs and the Chief Financial Officer or his/her designee is hereby authorized to sell the 2009-10 TRANs on a negotiated basis, pursuant to the terms, conditions and procedures set forth in the Accompanying Document and in the Note Purchase Agreement; provided (1) the 2009-10 TRANs shall bear interest at the rate or rates established prior to delivery of the 2009-10 TRANs pursuant to the Note Purchase Agreement, in no event to exceed

a total interest cost taking into account all costs of issuance of five percent (5%) per annum, and the 2009-10 TRANs shall mature not later than July 31, 2010 in up to three series, and (2) the aggregate principal amount of the 2009-10 TRANs shall not exceed in the aggregate the lesser of \$140 million or the maximum amount permitted under the Authorizing Law, as certified by the City Comptroller and the Chief Financial Officer pursuant to the completed Accompanying Document and as further approved by the Chief Financial Officer or his/her designee, his/her execution of the Accompanying Document to be conclusive evidence thereof. The form of the Note Purchase Agreement of the City presented at this meeting as Document No. RR- 304978<sup>-2</sup> is hereby approved and the Chief Financial Officer or his/her designee is hereby authorized to execute the Note Purchase Agreement, with such additions thereto and changes therein as are consistent with this Section and as he/she, or his/her designee, deems necessary and appropriate.

SECTION 6. This City Council hereby approves the Preliminary Official Statement describing the 2009-10 TRANs in substantially the form on file in the Office of the City Clerk as Accompanying Document No. RR- 304978-3, together with such additions thereto and changes therein as are determined necessary or desirable by the Chief Financial Officer and with such other changes as may be requested or required by DPWG and with the approval as to form of the City Attorney and in accordance with City's applicable DPWG procedures to make such Preliminary Official Statement final as of its date for purposes of Rule 15c2-12 of the Securities Exchange Act of 1934, including but not limited to such changes as are deemed necessary or desirable by him/her to make such Official Statement complete and accurate as of its date. The Chief Financial Officer is hereby authorized, at the request of the Underwriters, to execute an appropriate certificate affirming the City's determination that the Preliminary Official

Statement has been deemed nearly final within the meaning of Rule 15c2-12. The Underwriters identified in Section 5 are hereby authorized to distribute the Preliminary Official Statement to prospective purchasers of the Notes in compliance with applicable securities laws. The Chief Financial Officer is hereby authorized and directed to approve any changes in or additions that are determined to be necessary or desirable to cause such Official Statement to be put in final form, and to execute said final Official Statement for and in the name and on behalf of the City. Subject to compliance with the applicable approval process required by the City, the Council hereby authorizes the distribution of the final Official Statement by the Underwriters in compliance with applicable securities laws.

SECTION 7. The Comptroller of the City [Comptroller] shall establish a "2009-10 TRANs Repayment Fund," and any additional subaccounts therein to the extent provided in the Accompanying Document. As provided in the Authorizing Law, the 2009-10 TRANs shall be payable from the taxes, income, revenue, cash receipts and other moneys of the City attributable to the City's Fiscal Year 2009-10 and lawfully available for the payment of the 2009-10 TRANs and interest thereon exclusive of any moneys which when received by the City will be encumbered for a special purpose [Unrestricted Revenues]. As used in parts (a), (b) and (c), respectively, of the following sentence, "Principal and Interest Component" shall mean the principal and interest payable at maturity with respect to the series of 2009-10 TRANs first maturing after the date specified in such part. The Comptroller shall deposit in the 2009-10 TRANs Repayment Fund, (subject to the provisions set forth in the last paragraph of this Section) [2009-10 TRANs Repayment Fund] the following amounts from the following sources [Pledged Moneys]:

(a) From the first Unrestricted Revenues chargeable to the City's General Fund to be received by the City on and after December 10, 2009, an amount equal to the Principal and Interest Component;

(b) From the first Unrestricted Revenues chargeable to the City's General Fund to be received by the City on and after January 1, 2010, an amount equal to the Principal and Interest Component;

(c) From the first Unrestricted Revenues chargeable to the City's General Fund to be received by the City on and after April 1, 2010, an amount equal to the Principal and Interest Component;

*provided, however,* that if the 2009-10 TRANs are issued with maturities which differ from those set forth in the form of Accompanying Document presented herewith, the amounts of Pledged Moneys to be set aside referred to in clauses (a) through (c) above shall be adjusted in such a manner as determined by the Chief Financial Officer to provide sufficient funds to pay the 2009-10 TRANs as they mature. To the extent that any amounts actually received pursuant to clauses (a) through (c) above are less than the total dollar amount designated for each such deposit in clauses (a) through (c) above, the Comptroller shall deposit into the 2009-10 TRANs Repayment Fund additional amounts from any other moneys of the City lawfully available therefor. To the extent a 2009-10 TRAN is not paid from the Pledged Moneys, such 2009-10 TRAN shall be paid with interest thereon from any other moneys of the City lawfully available therefor. As provided in the Authorizing Law, the 2009-10 TRANs and the interest thereon are a valid lien and charge against, and are payable from the first moneys received by the City from, such Pledged Moneys. The Pledged Moneys, which may be invested in Permitted Investments (as defined in the Accompanying Document), shall be used to pay the 2009-10 TRANs and the interest thereon

when the same shall become due and payable and may not be used for any other purpose, although earnings on amounts in the 2009-10 TRANs Repayment Fund shall be deposited as and when received into the General Fund of the City. Any amounts remaining in the 2009-10 TRANs Repayment Fund after repayment of all 2009-10 TRANs and the interest thereon shall be the sole and exclusive property of the City, shall not be subject to any claims by or on behalf of any holder of 2009-10 TRANs, and shall be transferred to any other account in the General Fund of the City as the Chief Financial Officer or any of his/her respective designees may direct.

SECTION 8. Each of the Chief Financial Officer or the City Treasurer, or any designee thereof, is authorized to execute and deliver a Tax Certificate as defined in the Accompanying Document as prepared by bond counsel obligating the City to comply with certain covenants in order to maintain the exclusion of interest on the 2009-10 TRANs from the gross income of the owners thereof for federal income tax purposes.

SECTION 9. The form of the Continuing Disclosure Certificate of the City presented at this meeting as Document No. RR- 304978<sup>-4</sup> is hereby approved and the Chief Financial Officer or his/her designee is hereby authorized to execute the Continuing Disclosure Certificate of the City, with such additions thereto and changes therein as he/she, or his/her designee, deems necessary and appropriate.

SECTION 10. The engagement of Deutsche Bank National Trust Company to provide paying agent services for the 2009-10 TRANs for a base amount not to exceed \$250 is hereby approved pursuant to the form of the Paying Agent Agreement presented at this meeting as Document No. RR- 304978<sup>-5</sup> and the Chief Financial Officer or his/her designee is hereby authorized to execute the Paying Agent Agreement, with such additions thereto and changes



therein as he/she, or his/her designee, deem necessary and appropriate to be executed by the Chief Financial Officer, subject to the approval of the City Attorney.

SECTION 11. Authorized officers of the City are hereby authorized and directed to pay all the foregoing fees and other costs of issuance of the 2009-10 TRANs in accordance with the Note Purchase Agreement and as otherwise agreed in writing with the City and the respective parties thereto, including applicable California Debt and Investment Advisory Commission fees and printer fees to ImageMaster, Inc.

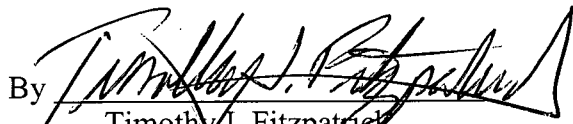
SECTION 12. The Mayor, Chief Operating Officer, the Chief Financial Officer, the City Treasurer, the Comptroller and the City Clerk, and their designees, upon advice of the City Attorney and Bond Counsel, are hereby authorized and directed, jointly and severally, to do any and all things and to execute, modify and deliver any and all documents, agreements and certificates which they may deem necessary or advisable in order to effect the issuance, sale and delivery of the 2009-10 TRANs, and otherwise to carry out the purposes of this Resolution.

SECTION 13. The City Attorney is authorized to execute an agreement with Stradling Yocca Carlson & Rauth, a Professional Corporation to provide bond counsel and disclosure counsel services in connection with the issuance of the 2009-10 TRANs in a fixed amount equal to \$54,000, inclusive of expenses.

SECTION 14. The officers of the City and their authorized representatives are, and each of them acting alone is, hereby authorized to execute any and all documents and do and perform any and all acts and things, from time to time, consistent with this Resolution and the Accompanying Document and necessary or appropriate to carry the same into effect and to carry out their purposes.

SECTION 15. This Resolution shall take effect immediately.

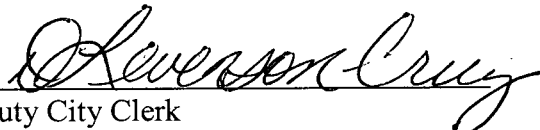
APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Timothy J. Fitzpatrick  
Deputy City Attorney

TJF:jdf  
05/26/2009  
Or.Dept: Debt Management  
R-2009-1200

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 09 2009.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 6.12.09  
(date)

  
JERRY SANDERS, Mayor

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

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JERRY SANDERS, Mayor