



DATE: May 21, 2008

TO: Honorable Mayor and City Councilmembers

FROM: City Treasurer's Office
Water Utilities Department

SUBJECT: **ADOPTION OF A RESOLUTION OF INTENT TO ISSUE TAX-EXEMPT OBLIGATIONS FOR THE EMERGENCY LAND OUTFALL REPLACEMENT PROJECT**

SYNOPSIS

Staff recommends that the City Council adopt a resolution of intent to issue tax-exempt obligations for the Emergency Land Outfall Replacement Project. The resolution of intent provides an option for the Wastewater Fund to reimburse the Water Fund using tax-exempt bond proceeds in the future if it becomes necessary.

BACKGROUND

On April 9, 2008, City Council approved the Emergency Land Outfall Replacement Project. Council action adopted the Mitigated Negative Declaration for the project, authorized award of a construction contract in the amount of \$4 million, approved a professional services agreement for construction management and inspection, and finally approved a loan from the Water Enterprise Fund to the Waste Water Enterprise Fund in the amount of \$4.3 million to pay for the project.

ANALYSIS

U.S. Treasury Department Regulation §1.150-2, under the Internal Revenue Code, permits the reimbursement of certain public expenditures from proceeds of future bond issues provided the governing body has adopted a Resolution of Intent to reimburse. The City has up to three years from the date of expenditure to issue bonds to provide for reimbursement of project costs.

By adopting the resolution of intent for the Emergency Land Outfall Replacement Project now, the City is providing itself with a future funding mechanism in the event the Wastewater Fund would need to pay off the \$4.3 million Water Fund loan at one time. The City is under no obligation to issue the bonds now, or in the future; however, by adopting the reimbursement resolution, the City has the ability to do so if needed. If

bonds were to be issued in the future for reimbursement of the Emergency Land Outfall Replacement Project, it would be necessary for Council to approve the bond issuance at that time.

FISCAL IMPACT

None.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been approved by the City Attorney and approved as to form.

RECOMMENDATION

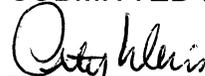
Staff recommends that the City Council adopt a resolution of intent to issue tax-exempt obligations for the Emergency Land Outfall Replacement Project.

PREPARED BY:



Michele C. Lund, CCMT
Treasury Manager

SUBMITTED BY:



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
Rosemary R. Jones, City Treasurer
Lonnie Thibodeaux, Water Utilities Director
Teri Ferro, Director of Financial Services



Attachment

1. Resolution of the City Council of the City Of Oceanside regarding its intention to issue tax-exempt obligations

1 RESOLUTION NO.

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE REGARDING ITS INTENTION TO ISSUE TAX-
4 EXEMPT OBLIGATIONS

5 WHEREAS, the City Council of the City of Oceanside (the "Issuer") desires to
6 finance the costs of acquiring, constructing, reconstruction and/or equipping certain public
7 facilities and improvements, as provided in Exhibit A attached hereto and incorporated herein
8 (the "Project");

9 WHEREAS, the Issuer intends to finance the acquisition, construction,
10 reconstruction and/or equipping of the Project or portions of the Project with the proceeds of
11 the sale of obligations the interest upon which is excluded from gross income for federal
12 income tax purposes (the "Obligations"); and

13 WHEREAS, prior to the issuance of the Obligations the Issuer desires to incur
14 certain capital expenditures (the "Expenditures") with respect to the Project from available
15 moneys of the Issuer;

16 WHEREAS, the City Council of the Issuer has determined that those moneys to
17 be advanced on and after the date hereof to pay the Expenditures are available only for a
18 temporary period and it is necessary to reimburse the Issuer for the Expenditures from the
19 proceeds of the Obligations; and
20

21 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as
22 follows:

23 SECTION 1. The Issuer hereby states its intention and reasonably expects to
24 reimburse Project costs incurred prior to the issuance of the Obligations with proceeds of the
25 Obligations. Exhibit A describes either the general character, type, purpose, and function of the
26 Project, or the fund or account from which Project costs are to be paid and the general
27 functional purpose of the fund or account.
28

1 SECTION 2. The reasonably expected maximum principal amount of the
2 Obligations is \$4,300,000.

3 SECTION 3. This resolution is being adopted no later than 60 days after the date
4 on which the Issuer will expend moneys for the portion of the Project costs to be reimbursed
5 from proceeds of the Obligations.
6

7 SECTION 4. The Issuer will make a reimbursement allocation, which is a
8 written allocation that evidences the Issuer's use of proceeds of the Obligations to reimburse an
9 Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid
10 or the Project is placed in service or abandoned, but in no event more than three years after the
11 date on which the Expenditure is paid. For Obligations subject to the small governmental
12 issuer exception of Section 148(f)(4)(D) of the Internal Revenue Code of 1986, as amended, the
13 "eighteen-month limit" of the previous sentence is changed to "three years" and the "three-year
14 limitation" of the previous sentence is not applicable.

15 SECTION 5. The limitations described in Section 3 and Section 4 do not apply to
16 (a) costs of issuance of the Obligations, (b) an amount not in excess of the lesser of \$100,000 or
17 five percent (5%) of the proceeds of the Obligations, or (c) any preliminary expenditures, such
18 as architectural, engineering, surveying, soil testing, and similar costs other than land
19 acquisition, site preparation, and similar costs incident to commencement of construction, not
20 in excess of twenty percent (20%) of the aggregate issue price of the Obligations that finances
21 the Project for which the preliminary expenditures were incurred.
22

23 SECTION 6. Each Expenditure will be either (a) of a type properly chargeable to
24 a capital account under general federal income tax principles (determined in each case as of the
25 date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring
26 item that is not customarily payable from current revenues, or (d) a grant to a party that is not
27 related to or an agent of the Issuer so long as such grant does not impose any obligation or
28 condition (directly or indirectly) to repay any amount to or for the benefit of the Issuer.

1 SECTION 7. This resolution is consistent with the budgetary and financial
2 circumstances of the Issuer, as of the date hereof. No moneys from sources other than the
3 Obligation issue are, or are reasonably expected to be reserved, allocated on a long-term basis,
4 or otherwise set aside by the Issuer (or any related party) pursuant to their budget or financial
5 policies with respect to the Project costs. To the best of our knowledge, this City Council is not
6 aware of the previous adoption of official intents by the Issuer that have been made as a matter
7 of course for the purpose of reimbursing expenditures and for which tax-exempt obligations
8 have not been issued.

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10 SECTION 8. Proceeds of the Obligations to be used to reimburse for Project
11 costs are not expected to be used, within one year of reimbursement, directly or indirectly to
12 pay debt service with respect to any obligation (other than to pay current debt service coming
13 due within the next succeeding one year period on any tax-exempt obligation of the Issuer
14 (other than the Obligations)) or to be held as a reasonably required reserve or replacement fund
15 with respect to an obligation of the Issuer or any entity related in any manner to the Issuer, or to
16 reimburse any expenditure that was originally paid with the proceeds of any obligation, or to
17 replace funds that are or will be used in such manner.

18 SECTION 9. This resolution is adopted as official action of the Issuer in order to
19 comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue
20 Service relating to the qualification for reimbursement of Issuer expenditures incurred prior to
21 the date of issue of the Obligations.

22
23 SECTION 10. All the recitals in this Resolution are true and correct and this City
24 Council so finds, determines and represents.

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28 ////

1 PASSED AND ADOPTED by the City Council of the City of Oceanside,
2 California, this _____ day of _____, 2008, by the following vote:

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5 AYES:

6 NAYS:

7 ABSENT:

8 ABSTAIN:

9
10
11 MAYOR OF THE CITY OF OCEANSIDE

12 ATTEST:

APPROVED AS TO FORM:

13
14
15 _____
City Clerk



City Attorney

16
17 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**
18 **OCEANSIDE REGARDING ITS INTENTION TO ISSUE TAX-EXEMPT**
19 **OBLIGATIONS**
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EXHIBIT A

DESCRIPTION OF PROJECT

Replacement of pipeline constituting the City's existing land outfall including the emergency design and construction for replacing 6,200 linear feet of land outfall.

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