

CITY OF OAKLAND

AGENDA REPORT

2007 JUN 12 11:39

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: Finance & Management Agency
DATE: June 12, 2007

RE: **Resolution Authorizing the Sale of the 2007-2008 Tax and Revenue Anticipation Notes, Series A and Series B (Federally Taxable); Authorizing the Execution and Delivery of Related Documents and Approving Certain Related Actions**

SUMMARY

A resolution has been prepared to authorize the sale of the 2007-2008 Tax and Revenue Anticipation Notes (the "Notes") and to authorize the execution and delivery of related documents. This resolution is related to the ordinance authorizing the issuance of the Notes in a not to exceed amount of \$150,000,000, which was presented to Finance & Management Committee on May 8, 2007 and subsequently introduced to and approved by Council for the first reading on May 15, 2007.

The 2007-2008 Notes will have two components (or series):

- **Series A:** As with prior years, Series A of the Notes, pursuant to Sections 53850 et seq. of the State of California Government Code, will be issued to alleviate the periodic cash flow deficits within the City's General Fund Group for fiscal year 2007-2008. This series will be sold competitively.
- **Series B:** Series B of the Notes will be issued to "pre-fund" by July 15, 2007 the City's required contribution to the California Public Employees' Retirement System ("CalPERS") for fiscal year 2007-2008. Given the complexity of this portion, this series will be sold as a negotiated sale to Lehman Brothers.

FISCAL IMPACT

The borrowing of funds through the Notes issuance will have a positive impact on the City's finances. It is currently expected that the Notes will have the following effects:

- **Series A:** Because the schedule in which the City receives its revenues (including property taxes, business license taxes and sales and use taxes, etc.) is irregular, the General Fund Group has temporary cash flow deficits in the first half of each fiscal year. These deficits are "made-whole" at the end of each fiscal year when all of the revenues are received. The issuance of Series A is necessary to alleviate the periodic

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cash flow deficits within the City's General Fund Group for fiscal year 2007-2008. In effect, the Series A Notes will positively impact the City's finances as these Notes will be critical to meeting the operating expenditures of the City in the first half of fiscal year 2007-2008.

- **Series B:** By "pre-funding" the City's required contribution to CalPERs in fiscal year 2007-2008 through the issuance of Series B, it is currently expected that the City's General Purpose Fund will benefit by approximately \$400,000. These "savings" are realized in part by the discount CalPERs gives the City by "pre-funding" in lump sum, as opposed to normal periodic payments. In addition, by pre-funding CalPERs through the Series B issuance, it is expected that the Series B Notes will ultimately lower the City's future employer contribution requirements.

The cost of issuance for both Series A and Series B will be captured in the proceeds of the financing. In addition, the debt service of the Notes will be covered by the General Purpose Fund as well as interest on investments.

BACKGROUND

On May 15, 2007, Council approved the introduction (first reading) of an ordinance providing for the borrowing of funds for fiscal year 2007-2008 in an amount not to exceed \$150 million and the issuance and sale of the Notes. This ordinance is scheduled for final passage (second reading) on June 5, 2007.

Whereas the above-mentioned ordinance authorizes the issuance of the Notes, this resolution authorizes the sale of the Notes, as well as the execution and delivery of documents related to the sale of the Notes.

KEY ISSUES AND IMPACTS

This Resolution is intended to authorize the sale of the Notes. The key issues and impacts of the Notes are as follows for each series:

- **Series A:** The Series A Notes, which will be in a not to exceed amount of \$65 million, will be issued as tax-exempt and will be sold through a competitive bid process.
 - The par amount of Series A Notes is based on cash flow projections, identifying the largest expected deficit in the City's operating cash balances during fiscal year 2007-2008.
 - Bond counsel will review all aspects of the issuance to ensure that all applicable State laws and Internal Revenue Service regulations are met.

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- **Series B:** The Series B Notes, which will be in a not to exceed amount of \$85 million, will be issued as taxable and will be sold as a negotiated financing with Lehman Brothers given the complexity of this portion of the financing.
 - The projected total contributions to CalPERS for fiscal year 2007-2008 are \$43,587,719 and \$36,626,903 for Miscellaneous and Safety employees, respectively, based on the latest actuarial valuation. By prepaying these amounts, which would otherwise have been paid in periodic payments over the fiscal year, in lump-sum by July 15, 2007, the City will receive a discount of 3.66% from CalPERS.
 - The General Purpose Fund savings (currently conservatively estimated to be \$400,000) will stem from CalPERS' prepayment discount of 3.66% plus investment earnings less debt service costs.
 - The City's financial advisor will review all aspects of the sale of Series B to ensure that these Notes are fairly priced.
 - Bond counsel will review all aspects of the issuance to ensure that all applicable legal regulations are met.

The debt service on both the Series A and Series B Notes will be covered by the General Purpose Fund and investment earnings. The City will be required to set aside 50% of the principal in April 2008 and 50% of the principal plus all interest in June 2008. The Notes will be rated by the accredited rating agencies.

SUSTAINABLE OPPORTUNITIES

Economic: Issuance of the Notes will result in a positive impact on the City's finances, which will benefit Oakland's economy at large.

Environmental: There are no environmental opportunities associated with this report.

Social Equity: There are no social equity opportunities associated with this report.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no disability or senior citizen access issues contained in this report.

RECOMMENDATION(S) AND RATIONALE

Staff recommends the Council's adoption of the Resolution authorizing the sale of the Notes and the execution and delivery of related documents.

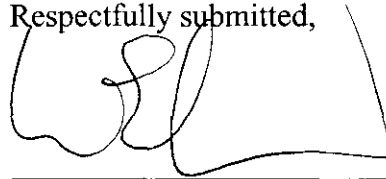
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ACTION REQUESTED OF THE CITY COUNCIL

In order to proceed with issuing the Notes, staff requests that Council adopt the Resolution, which authorize the sale of the Notes, the execution and delivery of related documents and approve the certain related actions necessary.

Forms of the related documents are available with the City Clerk's office.

Respectfully submitted,



WILLIAM E. NOLAND
Director, Finance & Management Agency

Prepared by:
Katano Kasaine, Treasury Manager
Treasury Division

APPROVED AND FORWARDED TO THE
FINANCE & MANAGEMENT COMMITTEE



Office of the City Administrator

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OFFICE OF THE CITY CLERK

Katherine Salem Boyd

City Attorney

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OAKLAND CITY COUNCIL

RESOLUTION NO. ___ C.M.S.

RESOLUTION AUTHORIZING THE SALE OF 2007-2008 TAX AND REVENUE ANTICIPATION NOTES, SERIES A AND SERIES B (FEDERALLY TAXABLE); AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS AND APPROVING CERTAIN RELATED ACTIONS

WHEREAS, pursuant to Section 53850 et seq. of the Government Code of the State of California (the "Government Code") contained in Article 7.6 thereof, entitled "Temporary Borrowing," on or after the first day of any fiscal year (being July 1), a city may borrow money by issuing notes for any purpose for which a city is authorized to expend moneys, including but not limited to current expenses, capital expenditures, and the discharge of any obligation or indebtedness of a city; and

WHEREAS, pursuant to Section 53853 of the Government Code, the City Council (the "Council") of the City of Oakland (the "City") has found and determined that the sum of up to One Hundred Fifty Million Dollars (\$150,000,000) is needed for the requirements of the City to satisfy obligations payable from the General Fund of the City, and that it is necessary that an amount up to said sum be borrowed for such purpose at this time by the issuance of notes (the "Notes") therefore in anticipation of the receipt of taxes, revenues and other moneys to be received by the City for the General Fund of the City during or allocable to Fiscal Year 2007-2008; and

WHEREAS, the City has authorized the issuance of the Notes in two series, consisting of the 2007-2008 Tax and Revenue Anticipation Notes, Series A (the "Series A Notes") and 2007-2008 Tax and Revenue Anticipation Notes, Series B (Federally Taxable) (the "Series B Notes") pursuant to Ordinance No. _____ C.M.S., adopted on June 5, 2007; and

WHEREAS, the City desires to sell the Series A Notes pursuant to a public sale; and

WHEREAS, the City desires to sell the Series B Notes to Lehman Brothers Inc. (the "Series B Underwriter"), pursuant to a Note Purchase Agreement between the City and the Series B Underwriter; and now therefore be it

RESOLVED: that the Series A Notes shall be sold at a public sale upon the direction of the City Administrator, the Director of the Finance and Management Agency, or the designee of either, said public sale to be at the time and place and upon

the terms provided in the Official Notice Inviting Bids pertaining to the Series A Notes, which shall be in substantially the form on file with the City Clerk (the "Notice Inviting Bids"). Bids for the purchase of the Series A Notes shall be received by the City Administrator, the Director of the Finance and Management Agency, or the designee of either, at the time and place and in the manner set forth in the Notice Inviting Bids. The City Administrator, the Director of the Finance and Management Agency, or the designee of either, is authorized to distribute copies of the Notice Inviting Bids. The Council hereby authorizes and ratifies publication in The Bond Buyer of a Notice Of Intention To Sell in substantially the form on file with the City Clerk, said publication being required to be made in a financial publication generally circulated throughout the State at least 5 days prior to the award of the Series A Notes at competitive bid pursuant to Section 53692 of the Government Code; and be it

FURTHER RESOLVED: that the City Administrator, the Director of the Finance and Management Agency, or the designee of either, is hereby authorized to award the Series A Notes in an aggregate principal amount not exceeding the sum set forth in the Ordinance to the bidder for the Series A Notes providing the lowest net interest rate as provided in the Notice Inviting Bids. Upon award of the Series A Notes to the successful bidder, (i) the City Administrator, the Director of the Finance and Management Agency, or the designee of either, is hereby authorized and directed to deliver a certificate stating the principal amount of the Series A Notes, the maturity date of the Series A Notes, and the interest rate on the Series A Notes, and (ii) appropriate officers of the City are authorized and directed to execute and deliver the Series A Notes to the successful bidder; and be it

FURTHER RESOLVED: that the proposed form of Note Purchase Agreement for the sale of the Series B Notes, by and between the City and the Series B Underwriter, on file with the City Clerk, is hereby approved. The City Administrator, the Director of the Finance and Management Agency, or a designee of any such official, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Note Purchase Agreement, substantially in such form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution thereof; provided, however, that the underwriter's discount (exclusive of original issue discount) shall not exceed one half of one percent (0.50%) of the aggregate principal amount of the Series B Notes; and be it

FURTHER RESOLVED: that the proposed form of Fiscal Agent Agreement, by and between the City and The Bank of New York Trust Company, N.A., on file with the City Clerk, is hereby approved. The City Administrator, the Director of the Finance and Management Agency, or a designee of any such official, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Fiscal Agent Agreement, substantially in such form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution thereof; and be it

FURTHER RESOLVED: that the preparation and distribution of a Preliminary Official Statement relating to the Notes, in substantially the form and substance on file with the City Clerk, is hereby ratified and approved. The City Administrator, the Director of the Finance and Management Agency, or the designee of either, is authorized to deem such Preliminary Official Statement “final” for purposes of Securities and Exchange Commission Rule 15c2-12, and is further authorized to approve the final Official Statement with such changes therein, deletions therefrom and modifications thereto, such approval to be conclusively evidenced by the execution and delivery thereof by such officer; and be it

FURTHER RESOLVED: that the City hereby covenants and agrees that it will comply with and carry out all of the provisions of that certain Continuing Disclosure Certificate executed by the City and dated the date of issuance and delivery of the Notes, as originally executed and as it may be amended from time to time in accordance with the terms thereof. Any Noteholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section. Noncompliance with this Section shall not result in any default with respect to the Notes or the acceleration of the Notes; and be it

FURTHER RESOLVED: that the Public Financial Management, Inc. is hereby appointed to serve as financial advisor in connection with the issuance of the Notes; and be it

FURTHER RESOLVED: that the Director of the Finance and Management Agency is hereby authorized and directed to pay, or cause to be paid on behalf of the City, the costs of issuance associated with the Notes; and be it

FURTHER RESOLVED: that the City Administrator, Director of the Finance and Management Agency, Treasury Manager and other appropriate officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents and certificates which they deem necessary or advisable in order to consummate the execution and delivery of the documents mentioned herein and otherwise to effectuate the purposes of this Resolution and the transactions contemplated hereby, including but not limited to entering into investment agreements with respect to the Notes; and be it

FURTHER RESOLVED: that all actions heretofore taken by the officers and agents of the City Council with respect to the transactions contemplated hereby are hereby ratified, confirmed and approved; and be it

FURTHER RESOLVED: that this Resolution shall take effect *immediately upon its passage.*

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2007

PASSED BY THE FOLLOWING VOTE:

AYES - Brooks, Brunner, Chang, Kernighan, Nadel, Quan, Reid and
President De La Fuente

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the
Council of the City of Oakland