Summary - a resolution authorizing an installment-purchase agreement.

RESOLUTION NO. R-68-2009

A RESOLUTION AUTHORIZING AN INSTALLMENT-PURCHASE AGREEMENT FOR THE PURPOSE OF FINANCING ENERGY CONSERVATION PROJECTS; AND PROVIDING OTHER MATTERS IN CONNECTION THEREWITH AND THE EFFECTIVE DATE HEREOF.

WHEREAS, the City Council of the City of Las Vegas, Nevada (the "Council," the "City," and the "State," respectively) proposes to enter into one or more installment-purchase agreements in the maximum aggregate principal amount of $5,845,921 pursuant to NRS 350.087 to 350.095, inclusive (the "Agreement Act"), in order to finance all or a portion of the cost to acquire, improve and equip building projects as defined in NRS 268.676, street projects as defined in NRS 268.722 and qualified conservation purposes pursuant to Section 54D(f) of the Internal Revenue Code of 1986, as amended (the "Project"); and

WHEREAS, the Council has determined that legally available funds of the City will at least equal the amount required in each year for the payment of interest and principal on such installment-purchase agreement; and

WHEREAS, a notice of intention to act upon a resolution authorizing the installment-purchase agreement has been duly published in a newspaper of general circulation in the City not less than 10 days prior to the date hereof pursuant to NRS 350.087, and an affidavit evidencing such publication is attached as Exhibit C to this resolution; and

WHEREAS, all comments made at the public hearing held on the date of this resolution have been duly considered by the Council and the minutes of such public hearing are attached as Exhibit B to this resolution; and

WHEREAS, the Council proposes to enter into an installment-purchase agreement with a term of more than 10 years and, pursuant to NRS 350.014, the Council has submitted to the Clark County Debt Management Commission (the "Commission") for its approval or disapproval the following proposal:

INSTALLMENT-PURCHASE AGREEMENT PROPOSAL: Shall the City Council of the City of Las Vegas in the State of Nevada, be authorized to incur an indebtedness on behalf of the City by the issuance at one time, or from time to time, of one or more installment-purchase agreements in the maximum aggregate principal amount of $5,845,921 for the purpose of financing, wholly or in part, the cost to acquire, improve and equip building projects as defined in NRS 268.676, street projects as defined in NRS 268.722 and qualified conservation purposes pursuant to Section 54D(f) of the Internal Revenue Code of 1986, as amended, each one or more installment-purchase agreements to mature not later than 20 years from the date it is entered into, to bear interest at a rate or rates not in excess of the statutory maximum rate in effect at the time the installment-purchase agreements are entered into, the installment-purchase agreements by their terms to be extinguished by failure of the Council to appropriate money for the ensuing fiscal year for payment of the amounts then due, to be payable from legally available funds of the City, to be secured by a security interest in property of the City as provided in NRS 350.800, and to be entered into upon such terms and conditions, and with such other detail as the Council may determine?

(the "Proposal"); and

WHEREAS, subsection 1 of NRS 350.014 provides, in relevant part, as follows:

"1. . . . before entering into an installment-purchase agreement with a term of more than 10 years, the proposed incurrence . . . must receive the favorable vote of two-thirds of the members of the [debt management] commission of each county in which the municipality is situated. . . ."; and

WHEREAS, subsection 1 of NRS 350.0145 provides, in relevant part, as follows:

"1. The governing body of the municipality proposing to . . . enter into an installment-purchase agreement with a term of more than 10 years. . . shall notify the secretary of each appropriate commission, and shall submit a statement of its proposal in sufficient number of copies for each member of the commission"; and

WHEREAS, the Commission adopted, by at least two-thirds of its members, a resolution approving the Proposal.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAS VEGAS, NEVADA:

Section 1. This resolution is hereby designated as the "2009 Installment-Purchase Agreement Authorization Resolution".

Section 2. The Council hereby finds and determines that the public interest requires the issuance of an installment-purchase agreement to finance the Project in an amount not to exceed $5,845,921.

Section 3. The facts upon which the finding stated in Section 2 above are:

(a) The Project will (i) promote the conservation of energy and reduce the use of fossil fuels by the City, (ii) promote the use of types of energy which are alternatives to fossil fuels, and (iii) result in the reduction in the amount of money spent for energy used by the City.

(b) It is in the best interests of the City and its residents, and would best serve the public interest thereof, if the Project is now accomplished, thereby improving services to residents in the City without delay.

(c) It is not feasible to finance the Project from other funds of the City, among other reasons because of restraints on the City's budget for the current fiscal year and other demands on and needs for existing funds of the City.

Section 4. The City proposes to borrow a sum not to exceed $5,845,921 at an annual interest rate of approximately 2.00% to be repaid over a period of not less than 10 years nor more than 20 years. The installment-purchase agreement shall evidence a transaction described in NRS 350.800 which is payable not later than 20 years after the date of issuance and contains a provision that the installment-purchase agreement by its terms is extinguished by failure of the Council to appropriate money for the ensuing fiscal year for payment of the amounts then due (the "Agreement"). The term of the Agreement of a maximum of 20 years does not exceed the estimated weighted average useful life of the Project being financed with the Agreement, and the interest rate shall in no event exceed by more than 3 percent the "Index of

Revenue Bonds" which is most recently published before the City enters into the Agreement. The Agreement shall be issued as an installment-purchase agreement as provided in the Agreement Act and NRS 350.800 (the "Act").

Section 5. In addition to or as a substitute for granting a security interest in the Project financed, the Agreement may be secured by a security interest in other property subject to the provision of NRS 350.800. The Director of Finance and Business Services of the City (the "Finance Director") is hereby authorized to arrange for a deed of trust on properties of the City, if any, subject to ratification and approval by the Council.

Section 6. The Agreement is not proposed to be repaid in whole or in part by the levy of a tax which is exempt from the limitations on taxes ad valorem. The Agreement is anticipated to be repaid from other legally available funds of the City, including, without limitation, monies in the City's general fund in the estimated annual amount of $320,000 to $630,000 for a minimum period of 10 years and a maximum period of 20 years and other legally available monies, including ad valorem taxes levied within the limitations provided in chapter 354 of NRS.

Section 7. As set forth in the materials provided by NSB Public Finance (the "Financial Advisor"), attached as Exhibit D hereto, the City's cost of financing the Project with the Agreement is expected to be comparable to the cost of using other methods of financing. The City has a limitation on revenues that may be legally pledged to the repayment of revenue bonds and does not have any general obligation bond authority outstanding from the voters at this time. The Agreement is expected to bear a comparable interest rate to being structured as a general obligation bond or a medium-term bond. The Agreement is being used as the method of financing because the terms of repayment may be longer than 10 years and a medium-term financing cannot exceed 10 years. General obligation bonds would require voter approval and delay the cost saving measures being implemented by the proceeds of the Agreement. As set forth in Exhibit D, according to the Financial Advisor, certain banks have indicated that a general obligation bond may not result in a lower interest rate than the Agreement.

Bonds backed by a revenue source have the difficulty of applying a revenue stream that may be legally pledged. This includes a general obligation bond additionally backed by pledged revenues and a revenue bond secured solely by revenues. According to the Financial Advisor as set forth in Exhibit D, the strength of the revenue stream is dependent upon several factors including prior collection history, future expectations of growth and coverage of debt service. The pricing of a revenue bond may not vary substantially from the Agreement.

Section 8. The Finance Director, or designee, is hereby authorized to arrange for the issuance and sale of the Agreement in an amount not to exceed $5,845,921, and to carry out the Project, subject to ratification by the Council, including but not limited to preparing and circulating a notice of sale or request for financing bids, specifying the method of sale, the terms of the Agreement, the date of its sale, the final principal amount of the Agreement, the terms and repayment and security therefore, and other details of the Agreement. The Agreement shall be issued on such other terms and conditions as the Council determines, all as provided in the Agreement Act, the Act and NRS 350.500 to 350.720, inclusive, and as authorized by the Finance Director at the time of sale of the Agreement and thereafter ratified by the Council as set forth in a resolution or ordinance (the "Financing Ordinance"), and any other necessary details including the execution and delivery of deeds of trust and possibly of an indenture of trust, if any.

Section 9. The Finance Director, or designee, is authorized to update or amend the City's plan for capital improvements if necessary to reflect the Project and the Agreement and to file the information as required by NRS 350.013 to the extent required to comply with NRS 350.013.

Section 10. The officers of the City be and the same hereby are authorized and directed to take all action necessary to effectuate the provisions of this resolution, including, without limitation: (a) assembling financial and other information concerning the City, the Project and the Agreement, (b) forwarding all necessary documents to the Executive Director, Department of Taxation, Carson City, Nevada, and (c) preparing and circulating a request for proposals, a notice of sale for the installment-purchase agreement, or both, in the forms specified by the Finance Director. The City represents that it is in compliance with the applicable provisions of law, including, without limitation, the provisions of chapter 354 of NRS.

Section 11. The officers of the City be and the same hereby are authorized and directed to forward a certified copy of this resolution to the Executive Director, Department of Taxation, Carson City, Nevada.

Section 12. The Finance Director, or designee, shall, after arranging for the sale of the Agreement and after approval of the financing evidenced by the Agreement by the Executive Director of the Department of Taxation of the State of Nevada, present the proposed final terms of the Agreement to the Council for its approval by adoption of the Financing Ordinance.

Section 13. All resolutions, or parts thereof, in conflict with the provisions of this Resolution, are hereby repealed to the extent only of such inconsistency. This repealer shall not be constructed to revive any resolution, or part thereof, heretofore repealed.

Section 14. If any section, paragraph, clause or other provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or other provision shall not affect any of the remaining provisions of this resolution.

Section 15. This resolution, except for Sections 8, 9, 10, 11, 12 and 15 hereof shall be effective upon the passage and approval hereof. All other sections of this resolution shall become effective upon the approval hereof by the Executive Director of the Department of Taxation of the State of Nevada as provided in NRS 350.089.

PASSED AND ADOPTED BY AN AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE CITY COUNCIL OF THE CITY OF LAS VEGAS, NEVADA, THIS SEPTEMBER 2, 2009.

____
Mayor

Attest:

____
Clerk

Approved as to form:

8/24/09

STATE OF NEVADA)
)
CITY OF LAS VEGAS)

I, Beverly K. Bridges, the duly chosen and qualified City Clerk of Las Vegas, Nevada (the "City"), do hereby certify:

1. The foregoing pages constitute a true, correct, complete and compared copy of a resolution adopted by the City Council (the "Council") at a meeting held on September 2, 2009.

2. The adoption of the resolution was duly moved and seconded and the resolution was adopted by an affirmative vote of a majority of the members of Council as follows:

Those Voting Aye:	
Mayor:	Oscar B. Goodman
Council members:	Stavros S. Anthony
	Ricki Y. Barlow
	Gary Reese
	Steven D. Ross
	Lois Tarkanian
	Steve Wolfson
Those Voting Nay:	______________________
Those Absent:	______________________

3. The original of the resolution has been approved and authenticated by the signatures of the Mayor of the City and myself as City Clerk and has been recorded in the regular official record of the Council kept for that purpose in my office, which record has been duly signed by the officers and properly sealed.

4. All members of the Council were given due and proper notice of the meeting. Pursuant to Nevada Revised Statues ("NRS") 241.020, written notice of the meeting was given not later than 9:00 a.m. on the third working days before the meeting including in the notice the time, place, location, and agenda of the meeting:

(a) By posting a copy of the notice at least three working days before the meeting on the City's website, at the principal office of the

Council, or if there is no principal office, at the building in which the meeting is to be held, and at least three (3) other separate, prominent places within the jurisdiction of the Council, to wit:

(i) Court Clerk's Office Bulletin Board
City Hall Plaza
Las Vegas, Nevada;

(ii) City Hall Plaza
Special Outside Posting Bulletin Board
Las Vegas, Nevada;

(iii) Las Vegas Library
833 Las Vegas Boulevard North
Las Vegas, Nevada;

(iv) Clark County Government Center
500 S. Grand Central Parkway
Las Vegas, Nevada; and

(v) Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada.

and

(b) Prior to 9:00 a.m. at least 3 working days before such meeting, such notice was mailed to each person, if any, who has requested notices of meetings of the Council in compliance with NRS 241.020(3)(b) by United States Mail, or if feasible and agreed to by the requestor, by electronic mail.

5. Upon request, the Council provides at no charge, at least one copy of the agenda for its public meetings, any proposed ordinance or regulation which will be discussed at the public meeting, and any other supporting materials provided to the Council for an item on the agenda, except for certain confidential materials and materials pertaining to closed meetings, as provided by law.

6. A copy of the agenda notice so given of the meeting of the Council on September 2, 2009 is attached to this certificate as Exhibit A.

7. The minutes of the public hearing held immediately before the adoption of

the resolution are attached hereto as Exhibit B.

8. A copy of the affidavit of publication evidencing publication at least 10 days in advance of the public hearing of the notice of intent to authorize installment-purchase agreement is attached hereto as Exhibit C.

9. The comparison of financing methods prepared by NSB Public Finance and presented to the Council is attached hereto as Exhibit D.

IN WITNESS WHEREOF, I have hereunto set my hand this September 2, 2009.

____
City Clerk

EXHIBIT A

(Attach Agenda Notice of Meeting)

EXHIBIT B

(Attach Minutes of Public Hearing)

EXHIBIT C

(Attach Affidavit of Publication of Notice of Intention to Authorize Installment-Purchase Agreement)

EXHIBIT D

NSB PUBLIC FINANCE

230 Las Vegas Boulevard South, Suite 200
Las Vegas, NV 89101
Telephone: (702) 796-7080
Fax: (702) 796-2975
www.NSBPF.com

August 19, 2009

Mark Vincent
Finance Director
City of Las Vegas Finance Department
400 East Stewart Avenue, 6th Floor
Las Vegas, NV 89101

RE: $5,845,921* City of Las Vegas, Nevada Installment-Purchase Agreement Qualified Energy Conservation, Series 2009

Dear Mr. Vincent:

As financial advisor to the City of Las Vegas (the "City"), it is our opinion that issuing the above-referenced installment-purchase agreement (the "Agreement") is the most suitable option and may not result in a higher interest rate comparable to other available financing methods.

The Agreement will be sold as Qualified Energy Conservation Bond ("QECB") pursuant to Section 54D of the Internal Revenue Code of 1986, as amended (the "Tax Code"). The Tax Code provides for the issuance of QECBs as tax credit bonds. Tax credit bonds provide the issuer with an interest subsidy by providing tax credits to bondholders. Depending on the financial markets at the time of sale, tax credit bonds result in an interest cost between zero (0) and 2 percent.

Due to the nature of the tax credit, the issuance of an installment-purchase agreement may not result in a higher interest rate comparable to other available financing methods. The Agreement is payable from all legally available monies of the City, including the general fund, subject to annual appropriation by the City. The investor also receives a perfected security interest in the equipment financed by the Agreement.

Certain banks have indicated that the interest rate associated with an installment-purchase agreement sold as a tax credit bond would be similar to a general obligation tax credit bond. A general obligation bond, additionally secured with pledged revenues, also has the difficulty of applying a revenue stream that may be legally pledged. A revenue bond may not result in lower financing costs than the Agreement. Under Nevada law, there is a limitation on local government revenues that may be legally pledged directly to bond holders. The strength of this revenue stream is dependant upon several factors including prior collection history, future expectations of growth and coverage of debt service. The pricing of a revenue bond will ultimately be determined based on the credit quality of the revenue stream pledged to bond holders and may not vary substantially from the pricing of the Agreement. The issuance of general obligation, revenue or medium-term bonds may not result in interest savings as compared to an installment-purchase agreement.

Based on the facts above, it is our recommendation that the City proceed with the issuance of the Agreement.

Sincerely,

Timothy W. Farkas
Assistant Vice President

cc: Kendra Follett
Andrew Artusa