

**WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 46-0910**

**A RESOLUTION OF THE BOARD OF EDUCATION OF THE WEST
CONTRA COSTA UNIFIED SCHOOL DISTRICT, CONTRA COSTA
COUNTY, CALIFORNIA, AUTHORIZING THE ISSUANCE OF WEST
CONTRA COSTA UNIFIED SCHOOL DISTRICT, CONTRA COSTA
COUNTY, CALIFORNIA GENERAL OBLIGATION BONDS, ELECTION OF
2005, SERIES D.**

WHEREAS, a duly called election was held in the West Contra Costa Unified School District (the "District"), Contra Costa County (the "County"), State of California, on November 8, 2005 (the "Election") and thereafter canvassed pursuant to law;

WHEREAS, at such election there was submitted to and approved by the requisite 55% vote of the qualified electors of the District a question as to the issuance and sale of general obligation bonds of the District for various purposes set forth in the ballot submitted to the voters, in the maximum amount of \$400,000,000, payable from the levy of an *ad valorem* tax against the taxable property in the District (the "Authorization");

WHEREAS, on May 17, 2006, the Board of Supervisors of the County issued on behalf of the District \$70,000,000 aggregate principal amount of a first series of bonds under the Authorization styled as the "West Contra Costa Unified School District (Contra Costa County, California) General Obligation Bonds, Election of 2005, Series A" (the "Series A Bonds");

WHEREAS, on July 15, 2008, the Board of Supervisors of the County issued on behalf of the District \$120,000,000 aggregate principal amount of a second series of bonds under the Authorization styled as the "West Contra Costa Unified School District (Contra Costa County, California) General Obligation Bonds, Election of 2005, Series B" (the "Series B Bonds");

WHEREAS, on September 3, 2009, the Board of Supervisors of the County issued on behalf of the District \$52,084,759.30 aggregate principal amount of a third series of bonds under the Authorization styled as the "West Contra Costa Unified School District (Contra Costa County, California) 2009 General Obligation Bonds, Election of 2005, Series C-1" (the "Series C-1 Bonds") and \$52,825,000 aggregate principal amount of a fourth series of bonds under the Authorization styled as the "West Contra Costa Unified School District (Contra Costa County, California) 2009 General Obligation Bonds, Election of 2005, Series C-2" (the "Series C-2 Bonds");

WHEREAS, at this time this Board of Education (the "Board") has determined that it is necessary and desirable to request the Board of Supervisors of the County to issue on behalf of the District one or more series of such bonds in an aggregate principal amount not-to-exceed \$30,000,000 to be styled as the "West Contra Costa Unified School District (Contra Costa County, California) General Obligation Bonds, Election of 2005, Series D," or such other designation or designations as are specified in the Purchase Contract for the Bonds (defined below) (the "Bonds");

WHEREAS, this Board desires to authorize the issuance of the Bonds in one or more series of taxable or tax-exempt bonds, and further as any combination of current interest bonds, capital appreciation bonds, or convertible capital appreciation bonds;

WHEREAS, the American Reinvestment and Recovery Act of 2009 (“ARRA”) grants a national allocation of \$11 billion to provide for the issuance of qualified school construction tax credit bonds (“QSC Bonds”) to provide financing for the construction, reconstruction and repair of public school facilities, in accordance with the qualified tax credit bond program found in Section 54A of the Internal Revenue Code of 1986, as amended (the “Code”),

WHEREAS, this Board has adopted a resolution authorizing District officials to submit an application requesting that a portion of said national allocation be granted to the District (the “District Allocation”);

WHEREAS, the District received a District Allocation in the amount of \$25,000,000 at the lottery held by the California Department of Education on August 25, 2009;

WHEREAS, this Board desires to authorize the issuance of all or a portion of the Bonds as QSC Bonds;

WHEREAS, this Board desires that the County Board issue the Bonds pursuant to Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 53506 *et seq.*) and that the County Board sell the Bonds on behalf of the District pursuant to Section 15140 and Section 15146 of the California Education Code;

WHEREAS, this Board desires to appoint certain professionals to provide services related to the issuance of the Bonds; and

WHEREAS, all acts, conditions and things required by law to be done or performed have been done and performed in strict conformity with the laws authorizing the issuance of general obligation bonds of the District, and the indebtedness of the District, including this proposed issue of Bonds, is within all limits prescribed by law;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT AS FOLLOWS:

SECTION 1. Purpose; Authorization. The proceeds from the Bonds will be used to finance specific construction and modernization projects listed in the ballot for the Authorization. This Board hereby petitions the County Board to authorize the issuance of the Bonds and to order such Bonds sold at either a public offering or on a private placement and at a negotiated sale, such that the Bonds shall be dated as of a date to be determined by said County Board, shall bear interest at a rate not to exceed that authorized at the Election, and shall be payable upon such terms and provisions as shall be set forth in the Bonds, and shall be in an aggregate principal amount not-to-exceed \$30,000,000. This Board requests that the County Board issue the Bonds pursuant to Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 53506 *et seq.*) and that the County Board sell the Bonds on behalf of the District pursuant to Section 15140 and Section 15146 of the California Education Code.

This Board hereby authorizes the issuance of the Bonds as any combination of current interest bonds, capital appreciation bonds, and convertible capital appreciation bonds as set forth in the fully-executed Purchase Contract (defined herein), subject to the provisions of a resolution of the County Board relating to the Bonds (the “County Resolution”).

This Board further authorizes the issuance of a portion of the Bonds in an aggregate principal amount not-to-exceed \$25,000,000 as QSC Bonds.

SECTION 2. Paying Agent. This Board does hereby authorize the appointment of The Bank of New York Mellon Trust Company, N.A., as the authenticating agent, bond registrar, transfer agent and paying agent (collectively, the “Paying Agent”) for the Bonds. The District acknowledges that ongoing expenses and fees of the Paying Agent and all other fees and costs incurred in connection with the Bonds will be paid by the District.

SECTION 3. Tax Covenants.

(a) With respect to Bonds issued as tax-exempt bonds, the District hereby covenants with the holders of such Bonds that, notwithstanding any other provisions of this Resolution, it will (1) comply with all of the provisions of the County Resolution relating to the Rebate Fund (as defined therein) and perform all acts necessary to be performed by the District in connection therewith, and (2) make no use of the proceeds of the Bonds or of any other amounts, regardless of the source, or of any property or take any action, or refrain from taking any action, that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code.

The District will not make any use of the proceeds of the Bonds or any other funds of the District, or take or omit to take any other action, that would cause the Bonds to be “private activity bonds” within the meaning of Section 141 of the Code or “federally guaranteed” within the meaning of Section 149(b) of the Code. To that end, so long as any Bonds are unpaid, the District, with respect to such proceeds and such other funds, will comply with all requirements of such Sections and all regulations of the United States Department of the Treasury issued thereunder and under Section 103 of the Internal Revenue Code of 1986, as amended, to the extent such requirements are, at the time, applicable and in effect.

The District will not use or permit the use of its facilities or any portion thereof by any person other than a governmental unit as such term is used in Section 141 of the Code, in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of the interest paid on the Bonds. In furtherance of the foregoing tax covenants of this Section 3(a), the District covenants that it will comply with the instructions and requirements of that certain Tax Certificate to be executed and delivered by the District on the date of issuance of such tax-exempt Bonds, which is incorporated herein as if fully set forth herein. These covenants shall survive the payment in full or defeasance of the Bonds.

(b) With respect to Bonds issued as QSC Bonds, the District covenants that it will comply with the instructions and requirements of that certain Tax Certificate to be executed and delivered by the District on the date of issuance of such QSC Bonds, as applicable.

SECTION 4. Legislative Determinations. This Board determines that all acts and conditions necessary to be performed by the Board or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the District have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds. This Board further finds and determines that as result of the issuance of the Bonds, the overall outstanding general obligation debt of the District will be amortized in a more level manner.

SECTION 5. Official Statement. The Preliminary Official Statement relating to the Bonds, substantially in the form on file with the Clerk of the Board, is hereby approved and the Superintendent of the District (the "Superintendent"), the Associate Superintendent for Business Services of the District (the "Associate Superintendent") and the Executive Director of Business Services of the District (the "Executive Director"), or a designated deputy thereof (each, an "Authorized Officer"), each alone, are hereby authorized and directed, for and in the name and on behalf of the District, to deliver such Preliminary Official Statement to the Underwriter appointed in Section 11 hereof to be used in connection with the offering and sale of the Bonds. The Authorized Officers each alone, are hereby authorized and directed, for and in the name and on behalf of the District, to deem the Preliminary Official Statement "final" pursuant to 15c2-12 of the Securities Exchange Act of 1934, prior to its distribution and to execute and deliver to the Underwriter, a final Official Statement substantially in the form of the Preliminary Official Statement, with such changes therein, deletions therefrom and modifications thereto as the Authorized Officer executing the same shall approve. The Underwriter is hereby authorized to distribute copies of the Preliminary Official Statement to persons who may be interested in the purchase of the Bonds and is directed to deliver copies of any final Official Statement to the purchasers of the Bonds. Execution of the Official Statement shall conclusively evidence the District's approval of the Official Statement.

SECTION 6. Purchase Contract. The form of the purchase contract for the Bonds (the "Purchase Contract") among the District, the County and the Underwriter on file with the Clerk of the Board is hereby approved. In connection with the sale of the Bonds, the Board authorizes the Authorized Officers, each alone, on behalf of the District, to execute and deliver to the Underwriter a Purchase Contract for the Bonds, with such terms and conditions as may be acceptable to such official; provided, however, that the interest rate on the Bonds shall not exceed that authorized at the Election, the underwriting discount (excluding original discount) shall not exceed 1.0% of the aggregate principal amount of the Bonds issued, and the aggregate principal amount of the Bonds shall not exceed \$30,000,000. The Board hereby approves the sale of the Bonds at a negotiated sale, which is determined to provide more flexibility in the timing of the sale, an ability to implement the sale in a shorter time period, an increased ability to structure the Bonds to fit the needs of particular purchasers, and a greater opportunity for the Underwriter to pre-market the Bonds to potential purchasers prior to the sale, all of which will contribute to the District's goal of achieving the lowest overall cost of funds. The Board estimates that the costs associated with the issuance of the Bonds, including compensation to the Underwriter and any such costs which the Underwriter agrees to pay pursuant to the Purchase Contract, will be as set forth in Exhibit A hereto.

SECTION 7. Paying Agent and Transfer Agent Agreement. The form of the Paying Agent and Transfer Agent Agreement for the QSC Bonds (the "QSC Bond Paying Agent Agreement") dated as of December 1, 2009 among the District, the Treasurer-Tax Collector of the County and the Paying Agent, on file with the Clerk of the Board is hereby approved and the Authorized Officers, each alone, are hereby authorized and directed to execute and deliver the QSC Bonds Paying Agent Agreement in its final form, with such changes therein, deletions therefrom and modifications thereto as the Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by his or her execution and delivery thereof.

SECTION 8. Continuing Disclosure. The District 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 District and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof. Any Bondholder may take such actions as may be necessary and appropriate, including seeking mandate

or specific performance by court order, to cause the District to comply with its obligations under this Section. Noncompliance with this Section shall not result in acceleration of the Bonds.

SECTION 9. Indemnification of the County. The District shall defend, indemnify and hold harmless, to the extent permitted by law, the County and its officers and employees (“Indemnified Parties”), against any and all losses, claims, damages or liabilities, joint or several, to which such Indemnified Parties may become subject because of action or inaction related to the adoption of this resolution, or related to the proceedings for sale, award, issuance and delivery of the Bonds in accordance herewith and with the County Resolution. The District shall also reimburse any such Indemnified Parties for any legal or other expenses incurred in connection with investigating or defending any such claims or actions.

SECTION 10. Authorized Actions. Officers of the Board and District officials and staff are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to proceed with the issuance of the Bonds and otherwise carry out, give effect to and comply with the terms and intent of this Resolution. Such actions heretofore taken by such officers, officials and staff are hereby ratified, confirmed and approved.

SECTION 11. Professional Services. The District hereby appoints Stradling Yocca Carlson & Rauth, a Professional Corporation, San Francisco, California as Bond Counsel and Garcia Calderon Ruiz, LLP as Disclosure Counsel in connection with the issuance of the Bonds. The District also appoints Piper Jaffray & Co., San Francisco, California, as underwriter with respect to the Bonds (the “Underwriter”) and KNN Public Finance, Oakland, California, as Financial Advisor in connection with the issuance of the Bonds.

SECTION 11. Recitals. All the recitals in this Resolution above are true and correct and this Board so finds, determines and represents.

SECTION 14. Effective Date. This Resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 4th day of November, 2009, by the following vote:

AYES: 5
NOES: 0
ABSENT: 0
ABSTENTIONS: 0

BOARD OF EDUCATION OF THE WEST
CONTRA COSTA UNIFIED SCHOOL DISTRICT

By: *Audrey Miles*
President, Board of Education

Attest:

By: *Ben Hart*
Secretary, Board of Education