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RESOLUTION NO. RES-12-0059

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH APPROVING AND AUTHORIZING
THE EXECUTION OF A SECOND SUPPLEMENTAL
SUBORDINATE TRUST INDENTURE, A FIRST
AMENDMENT TO ISSUING AND PAYING AGENT
AGREEMENT, A FIRST AMENDMENT TO COMMERCIAL
PAPER DEALER AGREEMENT, A REIMBURSEMENT
AGREEMENT, A BANK NOTE, AND CERTAIN OTHER
DOCUMENTS RELATING TO THE CITY OF LONG
BEACH, CALIFORNIA SUBORDINATE GAS UTILITY
REVENUE COMMERCIAL PAPER NOTES AND
APPROVING THE DISTRIBUTION OF A COMMERCIAL
PAPER OFFERING MEMORANDUM AND AUTHORIZING
AND DIRECTING CERTAIN ACTIONS WITH RESPECT
THERETO

WHEREAS, the City of Long Beach (the "City") is a city organized and
existing under a charter duly and regularly adopted pursuant to the provisions of the
Constitution of the State of California; and

WHEREAS, the City, by and through the Long Beach Gas & Oil Department
(formerly known as the Long Beach Energy Department) (the "Department") owns and
operates the Gas Utility Enterprise (the "Enterprise"); and

WHEREAS, Section 1725(a) of Article XVII of the Charter of the City (the
"Charter") provides a procedure for the issuance of short-term revenue certificates by the
City; and

WHEREAS, Section 1725(b) of Article XVII of the Charter authorizes the

1 City to arrange for bank credit as additional security for short-term revenue certificates
2 issued pursuant to said Section and in connection with the execution and delivery of
3 promissory notes to evidence advances made under such bank credit facilities; and

4 WHEREAS, pursuant to Resolution No. RES-05-0052, adopted by the City
5 Council of the City (the "City Council") on July 12, 2005, the City was authorized to issue
6 short-term revenue certificates for the benefit of the Department through the
7 implementation of a commercial paper program; and

8 WHEREAS, pursuant to the Master Subordinate Trust Indenture, dated as
9 of July 1, 2005 (the "Master Subordinate Indenture"), by and between the City and
10 Deutsche Bank National Trust Company, as trustee (the "Trustee") and the First
11 Supplemental Subordinate Trust Indenture, dated as of July 1, 2005 (the "First
12 Supplemental Subordinate Indenture"), by and between the City and the Trustee, the City
13 implemented a commercial paper program for the Department through the issuance, from
14 time to time, of Subordinate Gas Utility Revenue Commercial Paper Notes, Series A and
15 Series B (Taxable) (the "Commercial Paper Notes") in an aggregate principal amount not
16 to exceed \$35,000,000 outstanding at any one time; and

17 WHEREAS, in connection with the issuance of the Commercial Paper
18 Notes, the City determined that it was appropriate and to the benefit of the City to arrange
19 for credit enhancement in the form of an irrevocable letter of credit (the "JPMorgan Letter
20 of Credit") issued by JPMorgan Chase Bank, N.A. ("JPMorgan"), pursuant to a
21 Reimbursement Agreement, dated as of July 1, 2005, as amended, between the City and
22 JPMorgan; and

23 WHEREAS, the JPMorgan Letter of Credit is expected to expire pursuant to
24 its terms on July 27, 2012 and the City has determined that it is in its best interest to
25 replace the JPMorgan Letter of Credit with a transferable irrevocable direct pay letter of
26 credit (the "BNY Letter of Credit") to be issued by The Bank of New York Mellon ("BNY");
27 and

28 WHEREAS, in connection with the replacement of the JPMorgan Letter of

1 Credit with the BNY Letter of Credit, it is necessary for the City to: (a) enter into a
2 reimbursement agreement with BNY, (b) issue a bank note to BNY, (c) amend certain
3 provisions of the First Supplemental Subordinate Indenture, the Issuing and Paying
4 Agent Agreement, dated as of July 1, 2005, by and between the City and Deutsche Bank
5 National Trust Company, as issuing and paying agent (the "Issuing and Paying Agent"),
6 and the Commercial Paper Dealer Agreement, dated as of July 1, 2005, by and between
7 the City and Barclays Capital Inc. (successor to Lehman Brothers Inc.), as dealer (the
8 "Dealer"), and (d) distribute a new commercial paper offering memorandum for the
9 Commercial Paper Notes; and

10 WHEREAS, there has been presented to the City Council the following
11 documents:

12 (a) a form of the Second Supplemental Subordinate Trust Indenture (the
13 "Second Supplemental Subordinate Indenture"), by and between the City and the
14 Trustee;

15 (b) a form of the First Amendment to Issuing and Paying Agent
16 Agreement (the "First Amendment to Issuing and Paying Agent Agreement"), by and
17 between the City and the Issuing and Paying Agent;

18 (c) a form of the First Amendment to Commercial Paper Dealer
19 Agreement (the "First Amendment to Commercial Paper Dealer Agreement"), by and
20 between the City and the Dealer;

21 (d) a form of the Reimbursement Agreement (the "BNY Reimbursement
22 Agreement"), by and between the City and BNY;

23 (e) a form of the Bank Note (the "BNY Bank Note") (included as Exhibit
24 A to the BNY Reimbursement Agreement), to be issued by the City in order to evidence
25 the obligation of the City to reimburse BNY and to pay interest on the unreimbursed
26 amounts, and to make other payments to BNY pursuant to the provisions of the BNY
27 Reimbursement Agreement; and

28 (f) a form of the Commercial Paper Offering Memorandum (the

1 "Commercial Paper Offering Memorandum") with respect to the Commercial Paper
2 Notes; and

3 WHEREAS, the form of said documents will be modified and amended to
4 reflect the various details pertaining to the replace of the JPMorgan Letter of Credit with
5 the BNY Letter of Credit;

6 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
7 follows:

8 Section 1. Recitals. The above recitals are true and correct and are
9 incorporated herein by reference.

10 Section 2. Authorization of Documents. The Second Supplemental
11 Subordinate Indenture, the First Amendment to Issuing and Paying Agent Agreement, the
12 First Amendment to Commercial Paper Dealer Agreement, the BNY Reimbursement
13 Agreement and the BNY Bank Note (the "Documents") in the forms on file with the City
14 Clerk, are hereby approved. Either the City Manager, the Director of Financial
15 Management, the City Treasurer or any other Authorized City Representative (as defined
16 in the Master Subordinate Indenture) designated by the City Manager (each a
17 "Designated Officer"), are hereby authorized, empowered and directed to execute,
18 acknowledge and deliver the Documents, including counterparts thereof, in the name of
19 and on behalf of the City. The Documents, as executed and delivered, shall be in
20 substantially the forms on file with the City Clerk and hereby approved, or with such
21 changes therein as shall be approved by the Designated Officer executing such
22 Document, such execution to be conclusive evidence of the City Council's approval of
23 any and all changes or revisions therein from the forms of the Documents now on file with
24 the City Clerk. The City Council hereby authorizes the delivery and performance of the
25 Documents and from and after the execution and delivery of the Documents, the officers,
26 agents and employees of the City (including the Department) are hereby authorized,
27 empowered and directed to do all such acts and things and to execute all such
28 documents as may be necessary to carry out and comply with the provisions of the

1 Documents.

2 Section 3. Obligations Under Reimbursement Agreement. The City shall
3 be obligated to reimburse BNY for all amounts drawn under the BNY Letter of Credit and
4 to pay interest on the amounts drawn under the BNY Letter of Credit until such amounts
5 are reimbursed all in accordance with the terms of the BNY Reimbursement Agreement,
6 the BNY Letter of Credit and the BNY Bank Note. The City is authorized to incur
7 “Payment Obligations” (as defined in the First Supplemental Subordinate Indenture)
8 which include the obligation to reimburse BNY for drawings and advances made under
9 the BNY Letter of Credit pursuant to the BNY Reimbursement Agreement, to pay interest
10 thereon, and any other amounts owed to BNY under the BNY Reimbursement
11 Agreement and the BNY Bank Note. The principal amount of the Payment Obligations
12 shall bear interest at such rates as set forth in the BNY Reimbursement Agreement and
13 the BNY Bank Note. The Payment Obligations shall be subject to prepayment at any
14 time in accordance with the terms of the BNY Reimbursement Agreement and the BNY
15 Bank Note. The City Council hereby approves the pledge of Subordinate Revenues (as
16 defined in the Master Subordinate Indenture) to secure the Payment Obligations incurred
17 under the BNY Reimbursement Agreement and the BNY Bank Note as set forth in the
18 Master Subordinate Indenture, the First Supplemental Subordinate Indenture, the BNY
19 Reimbursement Agreement and the BNY Bank Note. The City Council hereby
20 designates any obligation of the City to BNY under the BNY Reimbursement Agreement
21 and the BNY Bank Note as a Subordinate Obligation under the Master Subordinate
22 Indenture. The City Council acknowledges that the interest rate payable on the Payment
23 Obligations may exceed the maximum interest rate payable on the Commercial Paper
24 Notes.

25 Section 4. Approval of Commercial Paper Offering Memorandum. In
26 connection with the sale, from time to time, of the Commercial Paper Notes, the City
27 Council hereby approves the form of the Commercial Paper Offering Memorandum now
28 on file with the City Clerk, with such additions, deletions and changes as a Designated

1 Officer deems to be appropriate. Barclays Capital Inc., as the dealer of the Commercial
2 Paper Notes, is hereby authorized to distribute, from time to time (via printed format
3 and/or through electronic means) the Commercial Paper Offering Memorandum. The
4 City Council hereby further authorizes, from time to time, the preparation, execution and
5 delivery of one or more additional or supplemental offering memoranda in accordance
6 with the terms of the hereinabove approved Commercial Paper Offering Memorandum,
7 the approval of any such document by a Designated Officer to be conclusive evidence of
8 the City Council's approval of such supplement, additions, deletions and changes. The
9 Commercial Paper Offering Memorandum and any supplements and additions thereto
10 shall be circulated for use in selling the Commercial Paper Notes at such time or times as
11 a Designated Officer (after consultation with the City's financial advisor, bond counsel
12 and/or such other advisors as the Designated Officer believes to be useful) shall
13 determine.

14 Section 5. Additional Authorization. Each Designated Officer and all
15 officers, agents and employees of the City (including the Department), for and on behalf
16 of the City, are hereby authorized and directed to do any and all things necessary to
17 effect the execution and delivery, as applicable, of the Documents and the Commercial
18 Paper Offering Memorandum and to carry out the terms thereof. Each Designated
19 Officer and all other officers, agents and employees of the City (including the
20 Department) are further authorized and directed, for and on behalf of the City, to execute
21 and deliver or cause to be delivered all papers, documents, certificates, notices and other
22 instruments that may be required in order to carry out the authority conferred by this
23 Resolution and by the Documents or to evidence said authority and its exercise.

24 Section 6. Costs of Issuance. The City Council hereby specifically
25 authorizes funds of the Enterprise to be used to pay costs incurred in connection with the
26 preparation, execution and delivery, as applicable, of the Documents and the Commercial
27 Paper Offering Memorandum, including, but not limited to, the fees and expenses of BNY
28 and its counsel, the fees and expenses of Kutak Rock LLP, bond counsel to the City, the

1 fees and expenses of Public Financial Management Inc., financial advisor to the City,
2 costs associated with rating agencies, costs and expenses of the Trustee, the Issuing
3 and Paying Agent and the Dealer, printing, publication, mailing and other communication
4 expenses and any related filing fees.

5 Section 7. Severability of Invalid Provisions. If any one or more of the
6 provisions contained in this Resolution shall for any reason be held to be invalid, illegal or
7 unenforceable in any respect, then such provision or provisions shall be deemed
8 severable from the remaining provisions contained in this Resolution and such invalidity,
9 illegality or unenforceability shall not affect any other provision of this Resolution, and this
10 Resolution shall be construed as if such invalid or illegal or unenforceable provision had
11 never been contained herein. The City Council hereby declares that it would have
12 adopted this Resolution and each and every Section, paragraph, sentence, clause or
13 phrase hereof irrespective of the fact that any one or more Sections, paragraphs,
14 sentences, clauses or phrases of this Resolution may be held illegal, invalid or
15 unenforceable.

16 Section 8. Section Headings and References; Interpretation. The
17 headings or titles of the several Sections hereof, and any table of contents appended to
18 copies hereof, shall be solely for convenience of reference and shall not affect the
19 meaning, construction or effect of this Resolution.

20 All references herein to "Sections" and other subdivisions are to the
21 corresponding Sections or subdivisions of this Resolution; the words "herein," "hereof,"
22 "hereby," "hereunder" and other words of similar import refer to this Resolution as a
23 whole and not to any particular Section or subdivision hereof; and words of the masculine
24 gender shall mean and include words of the feminine and neuter genders.

25 Section 9. Governing Law. This Resolution shall be construed and
26 governed in accordance with the laws of the State of California.

27 Section 10. Effective Date of Resolution. This resolution shall take effect
28 immediately upon its adoption by the City Council, and the City Clerk shall certify the vote

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adopting this Resolution.

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of June 19, 2012, by the following vote:

Ayes: Councilmembers: Lowenthal, DeLong, O'Donnell, Schipske, Johnson, Gabelich, Neal.

Noes: Councilmembers: None.

Absent: Councilmembers: Garcia, Andrews.



City Clerk

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