

RESOLUTION NO. 49-09

**RESOLUTION OF THE DAVIS JOINT UNIFIED SCHOOL DISTRICT
AUTHORIZING THE ISSUANCE OF 2009-2010 TAX AND REVENUE ANTICIPATION
NOTES FOR SAID DISTRICT AND REQUESTING THE BOARD OF SUPERVISORS
OF YOLO COUNTY TO ISSUE SAID NOTES**

WHEREAS, pursuant to Sections 53850 *et seq.* of the Government Code of the State of California (the “Act”) contained in Article 7.6 thereof, entitled “Temporary Borrowing,” on or after the first day of any fiscal year (being July 1), the Davis Joint Unified School District (the “District”) may borrow money by issuing tax and revenue anticipation notes for any purpose for which the District is authorized to expend moneys, including, but not limited to, current expenses, capital expenditures, and the discharge of any obligation or indebtedness of the District; and

WHEREAS, Section 53853 of the Act provides that such notes must be issued in the name of the District by the Board of Supervisors (the “County Board”) of Yolo County (the “County”), as soon as possible following the receipt of a resolution of the District requesting the borrowing; and

WHEREAS, this Governing Board (the “District Board”) deems it necessary and desirable and in the best interest of the District to request the County Board to issue the tax and revenue anticipation notes in an amount not to exceed FIFTEEN MILLION DOLLARS (\$15,000,000), at an interest rate not to exceed ten percent (10%), in the name of the District (the “Notes”); and

WHEREAS, the \$15,000,000 maximum principal amount of Notes hereby requested to be issued by the County Board on behalf of the District in fiscal year 2009-2010, when added to the interest payable thereon, does not exceed eighty-five percent (85%) of the estimated amount of the uncollected taxes, income, revenue (including, but not limited to, revenue from state and federal governments), cash receipts and other moneys of the District that will be available for the payment of the Notes and interest thereon, as required by Section 53858 of the Act; and

WHEREAS, the Notes will not be issued in an amount greater than the maximum anticipated cumulative cash flow deficit to be financed by the anticipated tax or other revenue sources for the period for which such taxes or other revenues are anticipated and during which such notes are outstanding, all as provided in the Income Tax Regulations of the United States Treasury.

NOW, THEREFORE, the Governing Board of the Davis Joint Unified School District hereby resolves as follows:

Section 1. **Findings.** All of the above recitals are true and correct and the District hereby so finds and determines.

Section 2. Authorization of Issuance of Notes; Approval of Issuance Resolution, Terms and Form of Notes.

(A) Authorization of Issuance of Notes. The District Board hereby requests the County Board to issue in the name of the District, an amount not to exceed \$15,000,000 principal amount of Notes under Sections 53850 *et seq.* of the Act, designated the “Davis Joint Unified School District, Yolo County, California, 2009-2010 Tax and Revenue Anticipation Notes.”

(B) Amount of Borrowing. The Superintendent of the District (the “Superintendent”), or his designee, is hereby authorized to determine the aggregate principal amount of the Notes, which sum shall be no greater than the amount recited in Section 2(A) hereof, or such lesser amount as to which Kronick, Moskovitz, Tiedemann & Girard, bond counsel to the District with respect to the Notes (“Bond Counsel”), will deliver an approving opinion regarding the excludability from gross income for federal tax purposes of interest thereon. The aggregate principal amount of the Notes so determined shall be specified in the Note Purchase Agreement or Official Notice of Sale described in Section 8 (Sale of Notes) hereof.

(C) Approval of Issuance Resolution. The Resolution entitled “Resolution of the Board of Supervisors of Yolo County Authorizing the Issuance of 2009-2010 Tax and Revenue Anticipation Notes for the Davis Joint Unified School District” (the “Issuance Resolution”), to be adopted by the County Board, in substantially the form on file with the Secretary of the District, together with any additions to or changes therein being necessary or advisable by the County Board, is hereby approved.

(D) Terms and Form of Notes. The Notes shall be dated the date of delivery thereof; shall mature (without option of prior redemption) on such date as shall be specified in the Note Purchase Agreement or Official Notice of Sale; shall bear interest, payable at maturity (if the maturity of the Notes is determined to be one year or earlier from the date of issuance) or payable one year from the date of issuance and at maturity (if the maturity of the Notes is determined to be more than one year from the date of issuance), and computed on a 30-day month/360-day year basis, at the rate or rates determined at the time of sale thereof, but not in excess of ten percent (10%) per annum; and shall have a term not to exceed thirteen months from the date of delivery. Both the principal of and interest on the Notes shall be payable in lawful money of the United States of America at the principal office of the County Treasurer-Tax Collector of the County of Yolo (the “County Treasurer-Tax Collector”) who is hereby designated as the paying agent of the Notes (the “Paying Agent”), or such other paying agent as shall be named in the Note Purchase Agreement. The Notes shall be issued in fully registered form in denominations of \$5,000 principal amount or an integral multiple thereof, and be in the form attached to the Issuance Resolution.

Section 3. Deposit of Note Proceeds. The proceeds from the sale of the Notes shall be deposited with the Paying Agent in a proceeds fund called the “Davis Joint Unified School District 2009-2010 Tax and Revenue Anticipation Notes Proceeds Fund” (the “Proceeds Fund”) to the credit of the District. Amounts in the Proceeds Fund shall be withdrawn and deposited in the general fund of the District and expended for any purpose for which the District is authorized to expend funds from the general fund but only after exhausting funds (which are not restricted funds) otherwise available for such purposes and only to the extent that on any given day such other funds are not then available. For purposes of this Section, “funds otherwise available”

excludes: (a) amounts that are held or set aside in a reasonable working capital reserve in the amount set forth in the tax certificate of the District with respect to the Notes (the "Tax Certificate"), which shall be no greater than 5% of the District's working capital expenditures from its available funds in Fiscal Year 2008-2009, and (b) the "proceeds" of the Notes, which are equal to the initial offering price of the Notes to the public, as certified by the underwriter.

The District hereby covenants to promptly notify Bond Counsel if, on the date that is six months from the date of issuance of the Notes, all amounts of the Proceeds Fund (including investment earnings thereon) shall not have been so withdrawn and spent; and, to the extent of its power and authority, comply with the instructions from Bond Counsel as to the means of satisfying the rebate requirements of Section 148 of the Code.

Section 4. Payment of Notes.

(A) Source of Payment. The principal amount of the Notes, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts, and other moneys that are received or accrued by the District during fiscal year 2009-2010 and that are available therefor. The Notes shall be a general obligation of the District and, to the extent the Notes are not paid from the Pledged Revenues defined below, the Notes shall be paid with interest thereon from any other moneys of the District lawfully available therefor, as provided herein and by law.

(B) Pledged Revenues. The Notes shall be secured by a pledge of and first lien and charge against the first unrestricted revenues to be received by the County on behalf of the District in such months and in such amounts as shall be determined by the Superintendent, or his designee, prior to the date of the sale of the Notes, sufficient to pay the principal of and interest on the Notes at maturity (such pledged amounts being hereinafter called the "Pledged Revenues"). The term "unrestricted revenues" shall mean taxes, income, revenue, cash receipts, and other moneys deposited in inactive or term deposits (but excepting certain moneys encumbered for a special purpose), as provided in Government Code Section 53856, which are intended as receipts for the general fund of the District and which are generally available for the payment of current expenses and other obligations of the District.

(C) Deposit of Pledged Revenues in Repayment Fund. The Pledged Revenues shall be transferred to the Paying Agent and held by the Paying Agent in a special fund designated as the "Davis Joint Unified School District 2009-2010 Tax and Revenue Anticipation Notes Repayment Fund" (herein called the "Repayment Fund"). Any moneys placed in the Repayment Fund shall be for the benefit of the holders of the Notes and, until the Notes and all interest thereon are paid or until provision has been made for the payment of the Notes at maturity with interest to maturity, the moneys in the Repayment Fund shall be applied only for the purposes for which the Repayment Fund is created.

(D) Disbursement of Moneys in Repayment Fund; Deficiencies. On the maturity date of the Notes, the moneys in the Repayment Fund shall be used, to the extent necessary, to pay the principal of and interest on the Notes. In accordance with Government Code Section 53857, the District shall make up any deficiency in the Repayment Fund from any other money of the District lawfully available for the payment of the Notes and the interest thereon.

Section 5. Investment of Funds. Subject to any additional restrictions imposed by the investment policy of the County, moneys held by the Paying Agent in the Proceeds Fund and in the Repayment Fund may be invested (i) in any investments permitted by the Government Code, notwithstanding any limitations contained therein as to the maximum proportion of such funds that may be invested in any particular investment and meeting Standard & Poor's criteria for investments, or any equivalent criteria of any rating agency then rating the Notes, (ii) in investment agreements, including guaranteed investment contracts rated AAA by Standard & Poor's, or an equivalent rating of any rating agency then rating the Notes, and (iii) in the Local Agency Investment Fund within the treasury of the State of California. The proceeds of such investments shall be retained in each such respective fund, provided that no moneys in the Repayment Fund shall be invested for a term that exceeds the term of the Notes and that sufficient moneys shall be invested to mature no later than the date on which any payment of interest or principal is due, to provide for such payment.

Section 6. Tax Covenants.

(A) No Arbitrage. The District hereby covenants that it will make no use of the proceeds of the Notes that would cause the Notes to be "arbitrage bonds" under Section 148 of the Code; and, to that end, so long as any of the Notes are outstanding, the District and all of its officers having custody or control of such proceeds shall comply with all requirements of: (a) said Code section, including restrictions on the use and investment of proceeds of the Notes and the rebate of a portion of investment earnings on certain amounts, including proceeds of the Notes, if required, to the Federal government, and (b) the Income Tax Regulations of the United States Treasury promulgated thereunder or any predecessor provisions, to the extent that such regulations are, at the time, applicable and in effect so that the Notes will not be "arbitrage bonds." By the date that is seven months after the date of issuance of the Notes (the "Issue Date"), the District shall determine whether all of the proceeds of the Notes (including investment earnings thereon) were, within six months of the Issue Date, allocated to expenditures relating to the governmental purpose of the issue so that the Notes qualify for an exemption from the rebate requirements of Section 148 of the Code. If, on the date that is six months from the Issue Date, all such amounts have not been so allocated to expenditures, the District will promptly notify Bond Counsel and, to the extent of its power and authority, comply with the instructions from the Bond Counsel as to the means of satisfying the rebate requirements of Section 148 of the Code.

Without limiting the foregoing, the District hereby covenants that it will comply with the requirements of the Tax Certificate to be entered into by the District as of the date of issuance of the Notes. The provisions of this Section shall survive payment in full or defeasance of the Notes.

(B) Rebate Calculation and Payment. The District covenants that, in the event it is or becomes subject to the rebate requirements of Section 148 of the Code, it shall (i) make all calculations in a reasonable and prudent fashion relating to any rebate of excess investment earnings on the proceeds of the Notes due to the United States Treasury; (ii) cause the Paying Agent to segregate and set aside from lawfully available sources the amount such calculations indicate may be required to be paid to the United States Treasury; and (iii) otherwise at all times do and perform all acts and things necessary and within its power and authority, including complying with each applicable requirement of Section 103 and Sections 141 through 150 of the

Code and complying with the instructions of Bond Counsel, to ensure that interest paid on the Notes shall, for the purposes of federal income taxes, be excludable from the gross income of the recipients thereof and exempt from such taxation. If such calculation is required, the District will immediately cause the Paying Agent to set aside, from revenues received during or allocable to the 2009-2010 Fiscal Year or, to the extent not available from such revenues, from any other monies lawfully available, the amount of such rebate in a separate fund that the District hereby agrees to cause the Paying Agent to establish and maintain and designate as the “Davis Joint Unified School District 2009-2010 Tax and Revenue Anticipation Note Rebate Fund.”

(C) Remedies Limited to Note Owners. Notwithstanding any other provision of this Resolution to the contrary, no one other than the owners or former owners of the Notes shall be entitled to exercise any right or remedy under this Resolution on the basis of the District’s failure to observe, or refusal to comply with, the covenants in this Section.

(D) Reliance on Opinion of Bond Counsel. Notwithstanding any provision of this Section, if the District shall obtain an opinion of Bond Counsel that any specified action required under this Section is no longer required or that some further or different action is required to maintain the excludability from gross income for federal income tax purposes of interest on the Notes, the District may conclusively rely on such opinion in complying with the requirements of this Section, and the covenants hereunder shall be deemed to be modified to that extent.

Section 7. Execution of the Notes. The District hereby requests the County Treasurer-Tax Collector, or designated deputy of the County Treasurer-Tax Collector, to sign the Notes manually or by facsimile signature; the Clerk of the County Board (the “Clerk”) or one of her deputies to countersign the Notes manually or by facsimile signature (provided at least one of the foregoing shall sign manually); the Clerk to affix the seal of the County or a facsimile of the seal thereto; and said officers to cause the blank spaces thereof to be filled in as may be appropriate.

Section 8. Sale of the Notes. The Notes will be sold either at a negotiated sale to an underwriter or underwriters selected based upon a competitive bid process conducted by the District’s financial advisor (the “Financial Advisor”) pursuant to a Note Purchase Agreement upon terms and conditions as are acceptable to the District and consistent herewith or by competitive bid and awarded as set forth in an Official Notice of Sale. The Superintendent, or his designee, is hereby authorized to decide between competitive or negotiated sale in conjunction with advice from the Financial Advisor. The Financial Advisor and the Superintendent, or their respective designee, are hereby authorized to prepare a Note Purchase Agreement or an Official Notice of Sale consistent with this Resolution.

If the sale is negotiated, the Superintendent, or his designee, is authorized to negotiate the sale of no more than \$15,000,000 of Notes at an interest rate of not more than ten percent (10%) and for a term not longer than thirteen months.

If the sale is by competitive bid, the Superintendent, or his designee, is hereby directed to execute and to publish the Official Notice of Sale, and to publish any notice of sale required by law. The Financial Advisor and the Superintendent, or their respective designee, are hereby authorized and directed to open the bids at the time and place specified in the Official Notice of Sale. The Financial Advisor and the Superintendent, or their respective designee, are hereby

authorized and directed to receive and record the receipt of all bids made pursuant to the Official Notice of Sale, to cause said bids to be examined for compliance with the Official Notice of Sale, to cause computations to be made as to which bidder has bid the lowest true interest cost as provided in the Official Notice of Sale, to announce the bidder of the lowest true interest cost, to award the sale to said bidder, and to notify the District Board and the County Board of the foregoing in accordance with this Resolution and the Issuance Resolution. The term of the Notes sold by competitive bid and awarded as set forth in this Section shall have a term that does not exceed thirteen months from the date of delivery.

Section 9. Authorization of Official Statement; Continuing Disclosure Certificate; Report to CDIAC.

(A) Preliminary Official Statement and Official Statement. The Official Statement relating to the Notes in preliminary form (the “Preliminary Official Statement”) is hereby approved. The Superintendent, or his designee, is hereby authorized and requested to execute and deliver the Preliminary Official Statement in substantially the form presented to the District, with such changes and additions thereto deemed advisable by the Superintendent, or his designee. The District Board authorizes the distribution by the District’s Financial Advisor of the Preliminary Official Statement and the Official Statement (in substantially the form of the Preliminary Official Statement) to prospective purchasers of the Notes, and authorizes the Superintendent, or his designee, to deem “final” pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the “Rule”) the Official Statement prior to distribution by the District’s Financial Advisor. The execution of the Official Statement shall be conclusive evidence of the approval of the Official Statement by the District.

The Superintendent, or his designee, is separately authorized and directed to execute a statement that the facts contained in the Official Statement, and any supplement or amendment thereto, (which shall be deemed an original part thereof for purposes of such statement) were, at the time of the sale of the Notes, true and correct in all material respects and that the Official Statement did not on the date of the sale of the Notes, and does not as of the date of the delivery of the Notes, contain any untrue statement of a material fact with respect to the District, or omit to state material facts with respect to the District required to be stated or necessary to make any statement made therein not misleading in light of the circumstances under which it was made. The Superintendent, or his designee, shall take such further action prior to the signing of the Official Statement as is deemed necessary or appropriate to verify the accuracy thereof.

(B) Continuing Disclosure. The Superintendent, or his designee, is hereby authorized to execute, as necessary, a Continuing Disclosure Certificate as may be required pursuant to subsection 15c2-12(b)(5)(i)(C) of the Rule.

(C) Report to California Debt and Investment Advisory Commission. The Superintendent, or his designee, is hereby authorized and directed to cause reports of the proposed sale and final sale of the Notes to be filed in a timely manner with the California Debt and Investment Advisory Commission pursuant to California Government Code Section 8855(g).

Section 10. Delivery of Notes. The proper officers of the County are hereby requested to deliver the Notes.

Section 11. Paying Agent. For purposes of the Notes, the Paying Agent shall be deemed to be a “fiscal agent” within the meaning of Section 53601 of the Act. The District may remove the Paying Agent at any time by giving written notice of such removal to the Paying Agent. If the Paying Agent is removed, or a vacancy shall occur in the office of the Paying Agent for any cause, the District Board shall promptly appoint a successor Paying Agent by a written instrument. The predecessor Paying Agent shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to the successor Paying Agent all the rights, title, and interest of such predecessor Paying Agent, and shall duly assign, transfer and deliver to the successor Paying Agent all property and money held by the predecessor Paying Agent hereunder. The District Board hereby approves the payment of the reasonable fees and expenses of the Paying Agent as they shall become due and payable.

Section 12. Further Actions Authorized. All actions heretofore taken by the officers and agents of the District with respect to the sale and issuance of the Notes are hereby approved, confirmed and ratified. The Superintendent, or his designee, and any and all other officers of the District are hereby authorized and directed for and in the name and on behalf of the District, to do any and all things and take any and all actions related to the execution and delivery of any and all certificates, requisitions, agreements and other documents, that they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Notes in accordance with the Issuance Resolution and this Resolution.

Section 13. Further Assurance. The District, and its appropriate officials, have duly taken all proceedings necessary to be taken by them, and will take any additional proceedings necessary to be taken by them, to carry out the provisions of this Resolution and the Notes.

Section 14. Limited Liability. Neither the County Board nor the County or its officers, employees, and agents (including, but not limited to the County Treasurer-Tax Collector) shall have any liability hereunder or by reason hereof or in connection with the transactions contemplated hereby, and the Notes shall be payable solely from the moneys of the District available therefor as set forth in Section 4 (Payment of Notes) hereof. Without in any way limiting the immediately preceding sentence, nothing in this Resolution or in any other document related to issuance of the Notes shall be deemed to impose any fiduciary responsibility on the County, the County Board, or the County’s officers (including the County Treasurer-Tax Collector), employees and agents with regard to the issuance of the Notes or payment thereof other than that otherwise imposed by law.

Section 15. Indemnification. The District shall indemnify and hold harmless, to the extent permitted by law, the County and its officers, agents and employees (the “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 Notes. The District shall also reimburse the Indemnified Parties for any legal or other expenses incurred in connection with investigating or defending any such claims or actions.

Section 16. Reimbursement of County Costs. The District shall reimburse the County for all costs and expenses incurred by the County, its officials, officers, agents, and employees in issuing or otherwise in connection with the Notes.

Section 17. Delivery of Resolution. The Secretary of the District is hereby authorized and directed to file a certified copy of this Resolution with the County Board, which shall constitute the request of the District that the County Board issue and sell the Notes as soon as practicable, and to simultaneously provide certified copies of this Resolution to the Yolo County Superintendent of Schools and to the Paying Agent.

Section 18. Effective Date. This Resolution shall take effect from and after its date of adoption.

APPROVED, PASSED AND ADOPTED by the Governing Board of the Davis Joint Unified School District this 7th day of May 2009, by the following vote, to wit:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

President, Governing Board
Davis Joint Unified School District

ATTEST:

Secretary, Governing Board
Davis Joint Unified School District