

RESOLUTION NO. 2012-206

RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN BERNARDINO AUTHORIZING THE FILING OF A PETITION UNDER CHAPTER 9 OF THE UNITED STATES BANKRUPTCY CODE

WHEREAS, The Mayor and Common Council of the City of San Bernardino have determined that the City faces an immediate and severe fiscal crisis and that it is or likely will become unable to meet the City's financial obligations as and when those obligations are due or become due and owing; and

WHEREAS, Government Code sections 53760 through 53760.7 (collectively, the "Act") authorize a local public entity to file a petition and exercise powers pursuant to applicable federal bankruptcy law, if the local public entity declares a fiscal emergency and adopts a resolution by a majority vote of the governing board at a noticed public hearing that includes findings that the financial state of the local public entity jeopardizes the health, safety, or well-being of the residents of the local public entity's jurisdiction or service area absent the protections of Chapter 9 of the United States Bankruptcy Code; and

WHEREAS, By Resolution No. 2012-205 adopted on July 18, 2012, the Mayor and Common Council declared a fiscal emergency and determined that the City is or will be unable to pay its obligations within the next 60 days, and found that the financial state of the City jeopardizes the health, safety, or well-being of the residents of the City absent the protections of Chapter 9 of the United States Bankruptcy Code. Resolution No. 2012-205 was adopted after the City placed on the City's agenda on July 16, 2012 a noticed public hearing on the fiscal condition of the City to take public comment.

1 Given the City's dire financial condition and taking into consideration the advice of City staff
2 and counsel, the Mayor and Common Council has determined that it is in the best interests of
3 the City to delegate to the City Attorney the power to file a petition for protection under
4 Chapter 9 of the United States Bankruptcy Code.
5

6
7 **BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE**
8 **CITY OF SAN BERNARDINO AS FOLLOWS:**
9

10
11 **SECTION 1. Findings.**

12 The foregoing recitals are true and correct and the Mayor and Common Council hereby
13 so find and determine. The Mayor and Common Council hereby make the following findings:
14

15 (a) Based on the analysis provided by the City staff and counsel at its meeting on July
16 10, 2012, the Council determines that without restructuring the City's financial obligations
17 through a Chapter 9 bankruptcy case, the City will be insolvent in the current fiscal year.
18

19 (b) That without the protections afforded by Chapter 9 of the Bankruptcy Code, the City
20 will be unable to meet its payroll which would endanger the health, safety and welfare of the
21 citizens of the City.
22

23 (c) That pursuant to Resolution No. 2012-205 adopted on July 18, 2012, a fiscal
24 emergency was declared by the Mayor and Common Council, and the City is or will be unable
25 to pay its obligations within the next 60 days, and the Mayor and Common Council found that
26
27
28

1 the financial state of the City jeopardizes the health, safety, or well-being of the residents of the
2 City absent the protections of Chapter 9 of the United States Bankruptcy Code.

3
4 **SECTION 2.** **Authorization to File Chapter 9 Petition.**

5
6
7 (a) Based on the findings set forth in Section 1 above, the Mayor and
8 Common Council hereby resolve that a petition under Chapter 9 of the United States
9 Bankruptcy Code shall be filed.

10
11
12 (b) The City Attorney is hereby authorized and directed, on behalf of and in the
13 name of the City, to execute and verify such petition and cause the same to be filed with the
14 United States Bankruptcy Court, Central District of California.

15
16
17 (c) The City Attorney, Interim City Manager and all other appropriate officials
18 and employees of the City are hereby authorized to execute and file all petitions, schedules,
19 lists, and other papers, and to take any and all actions which they shall deem necessary and
20 proper in connection with said Chapter 9 case, and with a view to the successful completion of
21 such case.

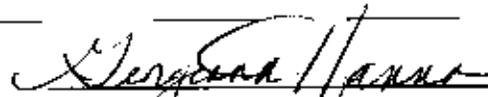
22
23
24 **SECTION 3. Other Actions.**

25 The City Attorney, Interim City Manager, Director of Finance, City Clerk, and other
26 appropriate officers of the City, each acting alone, are authorized to take such other actions as
27 are appropriate to carry out the intent of this Resolution.
28

**RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE
CITY OF SAN BERNARDINO AUTHORIZING THE FILING OF A PETITION
UNDER CHAPTER 9 OF THE UNITED STATES BANKRUPTCY CODE**

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Mayor and
Common Council of the City of San Bernardino at a joint adj. regular meeting thereof, held on
the 18 day of July, 2012, by the following vote, to wit:

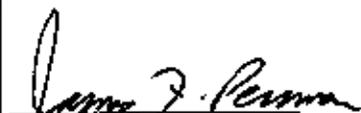
<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MARQUEZ	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
JENKINS	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
VALDIVIA	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
SHORETT	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
KELLEY	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
JOHNSON	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
MCCAMMACK	<u>X</u>	<u> </u>	<u> </u>	<u> </u>


Georgeann Hanna, City Clerk

The foregoing Resolution is hereby approved this 26th day of July, 2012.


Patrick J. Morris, Mayor
City of San Bernardino

Approved as to
form:


James F. Penman
City Attorney