

## **The Durant City Utilities Authority**

**\$6,000,000**

### **Utility System and Sale Tax Revenue Note, Series 2009A (Citywide Projects)**

#### ***Background***

The Durant City Utilities Authority (the "Authority"), City of Durant, Oklahoma, has determined to issue certain obligations for the purpose of funding (i) various capital improvements throughout the City of Durant and (ii) paying costs of issuance. Consequently, the Authority intends to issue its Utility System and Sales Tax Revenue Note, Series 2009A (the "2009A Note") in the principal amount of \$6,000,000 to conduct the funding of the aforesaid projects as described herein.

#### ***The Durant City Utilities Authority***

The Durant City Utilities Authority was established as a public trust under Title 60, Section 176 et seq., as amended and supplemented, of the Oklahoma Statutes pursuant to a Declaration of Trust dated May 21, 1956. The primary purpose of the Authority is operating the water, sanitary sewer and garbage systems of the City of Durant, Oklahoma, and providing a financing vehicle for other lawful purposes. The Trustees of the Authority are the Mayor and City Council of the City of Durant, Oklahoma. The City Clerk serves as Secretary of the Authority. Current members of the Authority are shown below:

Mr. Jerry L. Tomlinson - Chairman  
Mr. Ron Cross - Trustee  
Mr. Tom Marcum – Trustee  
Mr. Leon Sherrer – Trustee  
Mr. Bobby Story – Trustee

Mr. Tomlinson also serves as Mayor of the City. Jim Dunegan serves as City and Authority Manager. Ms. Leta McNatt serves as City Clerk and Authority Secretary. The FEI Number for the Authority is 73-6005186.

The Authority generally operates and maintains the water, sanitary sewer and garbage systems of the City and funds capital projects related thereto. The Authority currently has five long-term debt obligations with the Oklahoma Water Resources Board outstanding and two locally issued notes (Utility System and Sales Tax Revenue Note, Series 2006 and Utility System and Sales Tax Revenue Note, Series 2007) which are secured by a senior lien on water and sanitary sewer system revenues and three percent (3%) sales tax (levied pursuant to Ordinance No. 919 and Ordinance No. 1317 of the City of Durant). It has one long-term debt obligations with the Oklahoma Water Resources Board outstanding which is secured by a senior lien on water and sanitary sewer system revenues only.

#### ***Plan of Financing***

A portion of the proceeds derived from the issuance of the 2009A Note will be used to fund various capital improvements throughout the City including but not limited to construction and design of police department building; various street, sidewalk and parking lot improvements; water, sewer and storm sewer system improvements; fire department building improvements; landfill improvements and various parks upgrades.

#### ***Financial Performance***

Audited Financial Statements for the City and its component units for Fiscal Years Ended June 30, 2006, 2007 and 2008 along with unaudited financial statements for Fiscal Year Ended June 30, 2009 and Budgeted Revenues and Expenditures for Fiscal Year 2009/10 for certain funds and accounts prepared by the Authority staff are enclosed herein.

### *The Utility System and Sales Tax Revenue Note, Series 2009A*

The Durant City Utilities Authority will issue its Utility System and Sales Tax Revenue Note, Series 2009A (the “2009A Note”) in the principal amount of \$6,000,000 to finance the various capital projects mentioned, including costs of issuance associated with the Note. The Note will be dated the date of delivery and mature in semi-annual installments commencing March 1, 2010 with a final maturity of September 1, 2029. Interest on the Note will also be paid semi-annually commencing March 1, 2010. The Note will be issued at one rate for all maturities. **The Note will be issued as a non-rated obligation.**

### *Pledge of the Trust Estate*

**The 2009A Note will constitute limited and special obligations of the Authority payable by the Authority from and secured by a pledge of revenues from the water and sanitary sewer system and a 3% municipal sales tax.**

### *Sales Tax Revenue*

Pursuant to Ordinance No. 837 and Ordinance No. 919 (collectively, the “Two Percent Ordinance”), the City of Durant levies a permanent sales tax of two percent (2%). The purpose of the Two Percent Ordinance is to provide revenues to be used for the support of the functions of the municipal government of the City. Pursuant to Ordinance No. 1317 (the “One Percent Ordinance”), the City of Durant levies a sales tax of one percent (1%). The purpose of the One Percent Ordinance is to provide revenues to pay principal and interest on debt of the City and the Authority, issued for the purpose of financing capital improvements. The One Cent Ordinance expires June 30, 2021. The combined three cent sales tax levied pursuant to the respective ordinances shall be referred to as “Sales Tax Revenue”. In fiscal year 2008/09, the Sales Tax Revenue generated \$9,318,736. Historical Sales Tax collections for the City are included herein.

### *Sales Tax Security Agreement*

The 2009A Note will be secured and payable from the Sales Tax Revenue pursuant to a Sales Tax Agreement between the City of Durant and the Authority in which the City agrees on a year-to-year basis to appropriate the Sales Tax Revenue to the Authority, provided the City cannot obligate itself beyond its fiscal year. The 2009A Note does not represent an obligation of the City and is payable solely from the Sales Tax Revenue, water and sanitary sewer system revenue. The Authority will be required to make monthly deposits to the Trustee Bank from the Sales Tax Revenue and other available revenues as it is received in sufficient amounts to pay interest on and principal of the 2009A Note.

### *Debt Coverage*

In Fiscal Year 2008/09, the Net Water, Sanitary Sewer System and 3% Sales Tax Revenue (the “Net Revenues Available for Debt Service) generated approximately \$11,315,226 (3% Sales Tax Revenues - \$9,318,736 and Net Water, Sewer and Interest Revenues - \$1,996,490). The estimated total annual principal and interest requirements on the Authority’s existing debt, anticipated 2009B Note (Airport Improvements) **and the 2009A Note (assuming a 4.75% interest rate, average annual payment approximately \$468,026)** would be approximately \$3,156,648. Consequently, debt coverage for the all Authority debt would be approximately 3.58 times annual payments based on Net Revenues Available for Debt Service in FY 2008/09 and 3.72 times based on Net Revenues Available for Debt Service forecasted in the approved FY 2009/10 budget.

### *Callable and Non-Callable Option*

Bids will be requested based on two different call features. One option will feature a non-callable provision on the Note through maturity. A second option will feature an optional redemption provision under which the Authority may redeem the 2009A Note at par (no premium) on any date, in part or in full, beginning September 1, 2019 upon a 30-day notice to the Noteholder.

**Bidders may submit bids for each of the redemption options or just one option. The Authority reserves the right to determine the most beneficial manner to award the Note.**

### ***Parity Debt Limitation***

The Note Indenture governing the issue will provide that additional obligations may be issued on a parity or equal basis with the 2009A Note as long as the Net Revenues Available for Debt Service are at least 125% of the maximum annual amount required for debt service on all obligations on a parity with the 2009A Note. The Authority may at any time and from time to time, without limitation as to amount, issue evidences of indebtedness secured on a subordinate or junior lien basis with the 2009A Note.

### ***Private Placement***

The 2009A Note is to be issued as a Private Placement obligation to be purchased by a financial institution. As the subject of a Private Placement, the purchaser of the 2009A Note will be required to execute an Investment Letter, representing itself as an “accredited investor” pursuant to Rule 501 of Regulation D promulgated by the Securities and Exchange Commission. As such, the 2009A Note will have limited assignability or transferability other than to another accredited investor. In essence, the purchaser is purchasing the 2009A Note for his own account with the intent to hold the 2009A Note to final maturity, but may offer participation in the 2009A Note with other financial institutions. The 2009A Note will be issued in the form of one note and will not be assigned a CUSIP Number.

### ***Tax-Exemption***

The Public Finance Law Group PLLC, Oklahoma City, Oklahoma, (“PFLG”) is acting as Bond Counsel on the transaction. PFLG will issue an opinion to the purchaser that under current tax laws, interest on the 2009A Note will be exempt from federal and State of Oklahoma income taxation. **In addition, the City will designate the 2009A Note as “qualified tax-exempt obligations” within the meaning of Section 265(b) of the Internal Revenue Code of 1986, as amended.** In addition certain legal matters pertaining to the City and Authority will be passed upon by Pat Phelps, Esq., as City and Authority Counsel.

### ***Trustee Bank***

Trustee Bank for the 2009A Note will be First United Bank & Trust Company, Durant, Oklahoma who will serve as custodian on all note accounts per note indenture.

### ***Purchaser Bids***

The Authority will accept bids from potential purchasers of the Note on the Bid Form enclosed herein. **The Note is to be sold at par (100%) of the principal amount of the Note.** Bids must be hand delivered or faxed to The Durant City Utilities Authority to the attention of Mr. Jim Dunegan, City Manager, 300 W. Evergreen, Durant, Oklahoma, 74702 (Fax No.: 580/924-8246) no later than **10:00 a.m. Tuesday, September 8, 2009.** The Authority will then consider the bids at a meeting later that afternoon at 4:00 p.m. in the City Council chambers at City Hall and award the Note to the bidder offering the lowest interest rate. **The Authority reserves the right to reject all bids.**

Please note that the Authority will provide the amount of \$2,500 from Note proceeds for the Bank’s Counsel to review the financing documents and cover other costs of the Purchaser. Any cost above this amount shall be paid by the successful purchaser. The purpose of this provision is to advise potential bidders that the Note will be awarded solely on the interest rate bid and the resulting interest cost to the Authority.

### ***Payment for the Note***

It is anticipated that the Note will be delivered to and paid for in full by the purchaser on or about September 14th, 2009 (the “Closing Date”). On the Closing Date, the purchaser will wire the funds to the Trustee Bank and receive delivery of the Note for safekeeping. **The award of the 2009A Note does not constitute a sale thereof. The sale of the 2009A Note will occur on the Closing Date.**

### ***Authority Contacts***

Questions regarding the Note should be addressed to Mr. Jim Dunegan, City Manager, at 580/924-7222 or Jon Wolff, Municipal Finance Services, Inc. (405/340-1727), the Financial Advisor to the Authority.