

55 (1)

(O-94-18)

ORDINANCE NUMBER O- 17967 (NEW SERIES)

ADOPTED ON SEP 07 1993

AN ORDINANCE PURSUANT TO SECTION 99 OF THE CITY CHARTER AUTHORIZING A FACILITIES LEASE AND SITE AND FACILITIES LEASE WITH SAN DIEGO FACILITIES AND EQUIPMENT LEASING CORPORATION AND A TRUST AGREEMENT AND APPROVING THE FORM OF ASSIGNMENT AGREEMENT WITH MERIDIAN TRUST COMPANY OF CALIFORNIA RELATING TO THE ISSUANCE OF CERTIFICATES OF PARTICIPATION IN AN AMOUNT NOT TO EXCEED \$30,000,000 FOR A TERM NOT EXCEEDING 30 YEARS (BALBOA PARK AND MISSION BAY PARK CAPITAL IMPROVEMENTS PROGRAM)

WHEREAS, the San Diego Facilities and Equipment Leasing Corporation (the "Corporation") is a nonprofit public benefit corporation organized and existing under the laws of the State of California with the authority to assist the City of San Diego (the "City") in the financing of public facilities and improvements; and

WHEREAS, the City has proposed that the Corporation assist the City in the financing of the acquisition, construction and installation of a portion of the public improvements proposed in Balboa Park and Mission Bay Park (the "Balboa Park and Mission Bay Park Capital Improvements Program"), which portion financed by the hereinafter described Series 1993 Certificates shall constitute the "Project"; and

WHEREAS, it has been proposed that the City lease certain land and improvements (the "Facilities") to the Corporation pursuant to a Site and Facilities Lease, dated as of October 1, 1993, by and between the City and the Corporation (the "Site and

Facilities Lease"), the form of which has been presented to this City Council, which will grant the Corporation the right to use the Facilities for a term not to exceed 30 years, for which the Corporation will make a lump sum advance rental payment which will be used by the City for the acquisition, construction and installation of the Project; and

WHEREAS, it has been proposed that the City lease back the Facilities from the Corporation pursuant to a Facilities Lease, dated as of October 1, 1993, by and between the City and the Corporation (the "Facilities Lease"), the form of which has been presented to this City Council, pursuant to which the City will agree to lease the Facilities, for a term not to exceed 30 years, from the Corporation and to make certain lease payments (the "Lease Payments") in connection therewith; and

WHEREAS, as a financing mechanism, Certificates of Participation (the "Series 1993 Certificates") will be executed and delivered evidencing the proportionate interests of the owners thereof in lease payments (the "Lease Payments") to be made by the City to the Corporation under the Facilities Lease; and

WHEREAS, it has been proposed that the Corporation grant, assign and transfer all of its right to receive the Lease Payments under the Facilities Lease from the City to Meridian Trust Company of California, as Trustee (the "Trustee") pursuant to an Assignment Agreement, dated as of October 1, 1993, by and between the Corporation and the Trustee (the "Assignment Agreement"), the form of which has been presented to this City Council, for the purpose of paying the Interest Components and Principal Components on the Certificates; and

WHEREAS, the Corporation and the City have determined that it would be in the best interest of the Corporation, the City and citizens of the community to authorize, pursuant to the Trust Agreement, dated as of October 1, 1993, by and among the Corporation, the Trustee and the City (the "Trust Agreement"), the form of which has been presented to this City Council, the preparation, execution, sale and delivery of Certificates of Participation in an amount not to exceed \$30,000,000 (the "Certificates") which represent direct and proportionate interests in the Principal Components and Interest Components of the Lease Payments; and

WHEREAS, pursuant to Section 99 of the Charter of The City of San Diego, a noticed hearing was held on the date hereof, regarding the leasing of the Facilities and the agreements to be entered into to carry out the purposes of said Project as referred to in the recitals hereof; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

**Section 1.** The proposed form of Trust Agreement, dated as of October 1, 1993, by and among the Trustee, the Corporation and the City, which is on file in the office of the City Clerk as Document No. OO- 17967-1 is hereby approved. The City Manager and the City Clerk are authorized and directed to execute said Trust Agreement on behalf of the City.

**Section 2.** The proposed form of Facilities Lease, dated as of October 1, 1993, by and between the Corporation and the City, which is on file in the office of the City Clerk as Document No. OO- 17967-2, is hereby approved. The City

Manager and the City Clerk are authorized and directed to execute said Facilities Lease on behalf of the City.

**Section 3.** The proposed form of Site and Facilities Lease, dated as of October 1, 1993, by and between the Corporation and the City, which is on file in the office of the City Clerk as Document No. OO- 17967-3, is hereby approved. The City Manager and the City Clerk are authorized and directed to execute said Site and Facilities Lease on behalf of the City.

**Section 4.** The proposed form of Assignment Agreement, dated as of October 1, 1993, by and between the Corporation and the Trustee, which is on file in the office of the City Clerk as Document No. OO- 17967-4 is hereby approved.

**Section 5.** The Trustee, as compensation for acting as Trustee pursuant to the Trust Agreement, is hereby authorized to pay to itself out of the proceeds of the delivery of said Certificates of Participation such amounts to which it is entitled pursuant to its letter to the City, dated July 13, 1993, 1993, a copy of which is on file in the office of the City Clerk as Document No. OO- 17967-5.

**Section 6.** The Trust Agreement, Facilities Lease, Site and Facilities Lease and Assignment Agreement shall be executed in the forms hereby approved, with such additions thereto and changes therein as are consistent with the essential terms thereof and which are approved by the City Manager. The City Manager's approval of such changes shall be conclusively established by his execution of such documents.

**Section 7.** The Mayor, City Manager, City Clerk and other officials of the City are hereby authorized and directed to

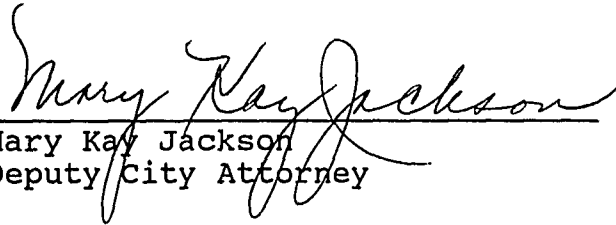
execute such other agreements, documents and certificates as may be necessary to effect the purpose of this ordinance.

**Section 8.** The Clerk is authorized and directed to cause a digest or copy of this ordinance to be published at least once in The San Diego Daily Transcript within fifteen (15) days after the adoption of this ordinance pursuant to Section 18 of the City Charter.

**Section 9.** This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

BY

  
Mary Kay Jackson  
Deputy City Attorney

MKJ:mb  
07/26/93  
08/02/93 Corr.  
Or.Dept:Fin.Mgmt.  
O-94-18  
Form=o+t

Passed and adopted by the Council of The City of San Diego on SEP 07 1993  
 by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

SUSAN GOLDING  
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

By Linda Sugano, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

AUG 09 1993, and on SEP 07 1993

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

(Seal)

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

By Linda Sugano, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17967 Adopted SEP 07 1993

RECEIVED  
93 AUG -4 AM 10:51  
CITY CLERKS OFFICE  
SAN DIEGO, CA

1000 0 000

625 00 883

55 (c)

CERTIFICATE OF PUBLICATION

SEP 22 10:59 AM '93  
SAN DIEGO, CALIF.

OFFICE OF THE CITY CLERK  
2ND FLOOR  
CITY ADMINISTRATION BUILDING  
202 C STREET  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE PURSUANT TO SECTION 99 OF THE CITY...

**ORDINANCE NUMBER 0-17967 (NEW SERIES)**

AN ORDINANCE PURSUANT TO SECTION 99 OF THE CITY CHARTER AUTHORIZING A FACILITIES LEASE AND SITE AND FACILITIES LEASE WITH SAN DIEGO FACILITIES AND EQUIPMENT LEASING CORPORATION AND A TRUST AGREEMENT AND APPROVING THE FORM OF ASSIGNMENT AGREEMENT WITH MERIDIAN TRUST COMPANY OF CALIFORNIA RELATING TO THE ISSUANCE OF CERTIFICATES OF PARTICIPATION IN AN AMOUNT NOT TO EXCEED \$30,000,000 FOR A TERM NOT EXCEEDING 30 YEARS (BALBOA PARK AND MISSION BAY PARK CAPITAL IMPROVEMENTS PROGRAM).

This ordinance authorizes the financing of capital improvement programs for Balboa Park and Mission Bay Park through the issuance of Certificates of Participation in an amount not to exceed \$30,000,000.

A complete copy of this ordinance is on file in the Office of the City Clerk, City Administration Building, 202 C Street, 2nd floor, San Diego, CA 92101. INTRODUCED ON August 9, 1993.

Passed and adopted by the Council of the City of San Diego on September 7, 1993.

AUTHENTICATED BY:

SUSAN GOLDING

Mayor of The City of San Diego, CA

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego

By Linda Lugano, Deputy

(Ordinance)  
Pub. Sept. 20

279577

I, Corey Donahue, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER 0-17967 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

SEPT. 20

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 20th day of SEPT., 1993.

*Corey Donahue*  
\_\_\_\_\_  
(Signature)

2 3/4" x 2 = \$ 76.80