

ORDINANCE NUMBER O- 19162 (NEW SERIES)

ADOPTED ON MAR 17 2003

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO PURSUANT TO SECTION 99 OF THE CITY CHARTER RELATING TO THE REFUNDING OF CERTAIN LEASE FINANCE OBLIGATIONS RELATED TO THE OLD TOWN LIGHT RAIL TRANSIT EXTENSION, AUTHORIZING A LEASE AGREEMENT WITH THE CITY OF SAN DIEGO/MTDB AUTHORITY, A SUBLEASE AGREEMENT WITH THE SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD, AND THE AUTHORIZATION FOR THE CITY OF SAN DIEGO/MTDB AUTHORITY TO ISSUE ITS LEASE REVENUE REFUNDING BONDS IN AN AMOUNT NOT TO EXCEED \$18.5 MILLION.

WHEREAS, the City of San Diego [City] and the San Diego Metropolitan Transit Development Board [MTDB] formed the City of San Diego/MTDB Authority [Authority] to finance the construction of public capital improvements, including public transit systems and related transportation facilities and services; and

WHEREAS, the City and the Authority have the power to enter into leases for real and personal property; and

WHEREAS, the City and MTDB have previously requested that the Authority finance the acquisition, installation and construction of a portion of the Old Town Light Rail Transit Extension [1993 Project]; and

WHEREAS, the Authority has previously issued its \$19,515,000 1993 Lease Revenue Bonds (San Diego Old Town Light Rail Transit Extension) [1993 Bonds] pursuant to a Trust Indenture dated as of August 1, 1993 [1993 Indenture] and has executed in connection therewith

a Lease Agreement with the City [1993 Lease], a Property Lease with MTDB [1993 Property Lease], and the City has executed a Sublease Agreement with MTDB [1993 Sublease] each dated as of August 1, 1993 and as further identified pursuant to the 1993 Indenture; and

WHEREAS, the Authority holds certain real property pursuant to the 1993 Property Lease more particularly identified herein as the "Property"; and

WHEREAS, the Property has been leased to the City and the 1993 Project has been constructed and acquired by MTDB; and

WHEREAS, the City has subleased the Property to MTDB for the purpose of maintenance and operation; and

WHEREAS, the City wishes to refinance its obligations pursuant to the 1993 Lease pursuant to an Amended and Restated Lease Agreement referenced below [Lease Agreement] related to the same property which is the subject of the 1993 Lease; and

WHEREAS, the Authority will cause to be provided the funds for the refunding of the 1993 Bonds and the acquisition and construction of the 2003 Project, pursuant to the Lease Agreement, from the proceeds of lease revenue refunding bonds to be issued pursuant to Article 4, Chapter 5, Division 7 of Title 1 (commencing at Section 6584) of the Government Code of the State of California, which will be secured by the lease payments to be received from the City pursuant to the Lease Agreement; and

WHEREAS, the City desires to authorize the Authority to issue lease revenue refunding bonds in an amount not to exceed \$18.5 million; and

WHEREAS, the City intends for the Lease Agreement to remain in full force and effect as to the Property until the last Lease Payment applicable to the Property is made, unless the Lease Agreement is sooner terminated in accordance with the terms provided therein; and

WHEREAS, the Authority and the City desire to deposit with the Trustee under the Indenture referred to in the Lease Agreement the proceeds from the sale of the lease revenue bonds which proceeds are to be expended to refund the 1993 Project and refinance the 1993 Project; and

WHEREAS, a public hearing was duly noticed and held as provided for in Section 99 of the City Charter in regard to the matters set forth in the recitals hereof;

WHEREAS, the Council has duly considered such transactions, including, without limitation, the Lease Agreement and the Sublease, and wishes at this time to approve said transactions in the public interests of the City; NOW, THEREFORE,

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

Section 1. The City Council hereby finds and determines that the recitals hereof are true and correct. The City Council hereby further finds and determines that there are significant public benefits to the citizens of the City through the use of the Marks-Roos Local Bond Pooling Act of 1985 [Act] to assist the City with respect to the subject matter hereof through the issuance of the Bonds and otherwise hereunder within the meaning of Section 6586 of the Act, in that the issuance of the Bonds and related transactions is expected to generate significant public benefits, including demonstrable savings in effective interest rates for the benefit of the citizens of the City, employment benefits, and other public benefits.

Section 2. The proposed form of Amended and Restated Lease Agreement dated as of May 1, 2003 (or such other date as the City Manager or his designees may select for convenience of reference) by and between the City and the Authority which is on file in the office of the City Clerk as Document No. OO-19162 -1 is hereby approved in substantially the form presented. The scheduled annual Lease Payments, exclusive of Supplemental and Additional Lease

Payments, as said terms are defined in the Lease Agreement, shall not exceed the lesser of \$1.6 million and the scheduled annual Lease Payments payable pursuant to the 1993 Lease (provided, however, the annual Lease Payments may be less than said amount based on the interest rate to be paid on the Lease Revenue bonds of the Authority); and the term of the Lease Agreement shall not exceed 32 years. The City Manager, the Deputy City Manager, and their authorized designees, are authorized to execute the Lease Agreement on behalf of the City in substantially the form presented, and to insert the appropriate advance rental figure in the Lease Agreement and to execute and make any modifications in the Lease Agreement or related documents consistent with the intent of the transaction, and to make any modifications in the Lease Payments in Exhibit C thereof when the rates on the Lease Revenue bonds have been determined.

Section 3. The proposed form of Amended and Restated Sublease Agreement dated as of May 1, 2003 by and between the City and MTDB, which is on file with the office of the City Clerk as Document No. OO-19162-2 is hereby approved in substantially the form presented. The City Manager, the Deputy City Manager, and their authorized designees, are authorized to execute the Sublease Agreement on behalf of the City in substantially the form presented and to execute and make any modifications in the Sublease Agreement or related documents consistent with the intent of the transaction.

Section 4. The Authority is authorized to issue lease revenue bonds for the purpose of refinancing the 1993 Project in an amount not to exceed \$18.5 million, and to issue and execute the appropriate financing documents in connection therewith.

Section 5. 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 6. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 7. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By Catherine Bradley
for Kelly J. Salt
Deputy City Attorney

KJS:pev
2/18/03
2/27/03 Cor. Copy
Or. Dept. Fin. Svcs
Aud. Cert: N/A
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