

ORDINANCE NUMBER 0- 19941 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 26 2010

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER SITE LEASE AND A MASTER FACILITIES LEASE AND AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE OF A MASTER INDENTURE BY THE PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO, AND APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$185,000,000 OF THE AUTHORITY'S LEASE REVENUE REFUNDING BONDS, SERIES 2010A (MASTER REFUNDING PROJECT), AND APPROVING OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California authorizes and empowers local agencies to form a joint powers authority and Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California [Marks-Roos Local Bond Pooling Act of 1985] authorizes and empowers such an authority to issue bonds for the purpose of financing and refinancing public capital improvements or projects to further public purposes and effect significant public benefits, as determined by the local agency; and

WHEREAS, The City of San Diego [City] and the Redevelopment Agency of the City of San Diego have heretofore entered into a Joint Exercise of Powers Agreement dated May 14, 1991 as amended and restated [Joint Powers Agreement], which created and established the Public Facilities Financing Authority of the City of San Diego [Authority] for the purpose, among others, of issuing its bonds to be used to provide financial assistance to the City to finance and refinance public capital improvements; and

WHEREAS, at the request of the City, the Authority issued its \$103,000,000 Lease Revenue Bonds, Series 2009A (Various Capital Improvements Projects) [Series 2009A Bonds] and its \$68,425,000 Taxable Lease Revenue Bonds, Series 1996A (San Diego Jack Murphy Stadium) [Series 1996A Bonds]; and

WHEREAS, the City has covenanted in the Bond Purchase Agreement for the Series 2009A Bonds to use its best efforts to repay the Series 2009A Bonds on or before June 1, 2010; and

WHEREAS, the City has caused to be issued the \$11,720,000 Refunding Certificates of Participation (Balboa Park and Mission Bay Park Capital Improvements Program, Series 1991) Series 1996B [Series 1996B Certificates]; and

WHEREAS, the City has determined that: (i) the issuance of the Series 2010A Bonds (defined below) by the Authority is in the public interest, will achieve certain savings and other financial objectives and will benefit the inhabitants of the City; (ii) there are significant public benefits (within the meaning of Section 6586 of the Government Code) to be derived from securing the assistance of the Authority to refinance the Series 1996A Bonds, the Series 1996B Certificates and the Series 2009A Bonds collectively, [Refunded Bonds] including certain demonstrable savings in effective interest rates and bond issuance cost; and (iii) the facilities financed by the Refunded Bonds are or will be located within the geographic boundaries of the City; and

WHEREAS, the Council of the City made the aforementioned determinations after holding a public hearing on the date thereof and hearing all interested persons desiring to be heard; and

WHEREAS, a notice of a public hearing concerning the adoption of this Ordinance was duly published once at least ten days prior to such hearing in a newspaper of general circulation in the City; and

WHEREAS, in order to refund the Refunded Bonds [Plan of Refunding] and to achieve such public purposes, the City has determined to request and approve the Authority's issuance of not to exceed \$185,000,000 aggregate principal amount of its Public Facilities Financing Authority of the City of San Diego Lease Revenue Refunding Bonds, Series 2010A (Master Refunding Project) [Series 2010A Bonds] pursuant to the Marks-Roos Local Bond Pooling Act of 1985 and secured by a Master Indenture [Master Indenture], by and between the Authority and Wells Fargo Bank, N.A., as [Trustee]; and

WHEREAS, in order to provide for the repayment of the Series 2010A Bonds, the City will lease certain real property of the City [Leased Property] to the Authority pursuant to a Master Site Lease [Site Lease] and the Authority will lease the Leased Property back to the City pursuant to a Master Facilities Lease [Master Lease], under which Master Lease the City will agree to make base rental payments to the Authority [Base Rental Payments] which will be calculated to be sufficient to enable the Authority to pay the principal of and interest and premium (if any) on the Series 2010A Bonds when due and payable; and

WHEREAS, the City has determined that the Series 2010A Bonds be sold by a negotiated sale pursuant to the terms of a Bond Purchase Agreement [Purchase Agreement] among the City, the Authority and J.P. Morgan Securities Inc., as Representative of the underwriters therein named collectively [Underwriters]; and

WHEREAS, there has been presented to this meeting the following documents relating to the issuance of the Series 2010A Bonds:

1. a proposed form of Site Lease between the City and the Authority, a copy of which is on file in the office of the City Clerk as document number 00- ~~1994~~ -1, under which the City will lease the Leased Property to the Authority;

2. a proposed form of Master Lease between the Authority and the City, a copy of which is on file in the office of the City Clerk as document number 00- ~~1994~~, under which the Authority will lease the Leased Property back to the City;

3. a proposed form of Master Indenture between the Authority and the Trustee, a copy of which is on file in the office of the City Clerk as document number 00- ~~1994~~ -3, under which the Authority will issue its Series 2010A Bonds; and

4. a proposed form of Continuing Disclosure Certificate of the City, a copy of which is on file in the office of the City Clerk as document number 00- ~~1994~~ -5 (the documents described in paragraphs 1 through 4 are collectively referred to as the [Financing Documents]); and

WHEREAS, the City is authorized to undertake the actions described in this Ordinance pursuant to its Charter and the Constitution and other applicable laws of the State of California; 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 statements set forth above in the recitals to this Ordinance are true and correct.

Section 2. The Council hereby finds that the Plan of Refunding, as described in the recitals to this Ordinance, will provide significant public benefits in accordance with the criteria specified in Section 6586 of the Government Code.

Section 3. The form and content of the Site Lease, pursuant to which the City leases the Leased Property to the Authority, is hereby authorized and approved. Any of the Mayor, the Chief Operating Officer or the Chief Financial Officer and each of them or any of their respective designees (each, an “Authorized Signatory”) are hereby severally authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Site Lease in substantially the form presented to and considered at this meeting, and the City Clerk or her specified designees, and each of them, are authorized and directed to attest thereto, with such additions and changes therein (including, without limitation, the description of the Leased Property) as any Authorized Signatory, in consultation with the City Attorney, shall determine are necessary or desirable and require or approve and that such Authorized Signatory believes to be in the best interests of the City, and as are approved as to form by the City Attorney or his specified designee, such approvals to be conclusively evidenced by such Authorized Signatory's execution and delivery of the Site Lease.

Section 4. The form and content of the Master Lease, pursuant to which the Authority leases back to the City the Leased Property and the City agrees to pay Base Rental Payments and other payments, is hereby authorized and approved. Each Authorized Signatory is hereby severally authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Master Lease in substantially the form presented to and considered at this meeting, and the City Clerk or her specified designees, and each of them, are authorized and directed to attest thereto, with such additions and changes therein (including, without limitation, the description of the Leased Property) as any Authorized Signatory, in consultation with the City Attorney, shall determine are necessary or desirable and require or approve and that such Authorized Signatory believes to be in the best interests of the City, and as are approved as to

form by the City Attorney or his specified designee, such approvals to be conclusively evidenced by such Authorized Signatory's execution and delivery of the Master Lease.

Section 5. The form and content of the Master Indenture, pursuant to which the Authority will issue the Series 2010A Bonds and any Additional Bonds (as defined in the Master Indenture), and the execution, delivery and performance thereof by the Authority, are hereby authorized and approved. Each Authorized Signatory is severally authorized and directed to take such action as is necessary or appropriate to effectuate the transactions set forth in the Master Indenture with such additions and changes therein as any Authorized Signatory shall determine are necessary or desirable and require or approve and that such Authorized Signatory believes to be in the best interests of the City, and as are approved as to form by the City Attorney or his specified designee, such approvals will be conclusively evidenced by such Authorized Signatory's execution and delivery of its approval of the Master Indenture.

Section 6. The City hereby authorizes and approves, and requests the Authority to approve and authorize, the issuance and sale by the Authority of its Series 2010A Bonds in an aggregate principal amount not to exceed One Hundred Eighty-Five Million Dollars (\$185,000,000) by negotiated sale, provided that: (i) the interest rate on the Series 2010A Bonds shall not exceed 7.00 percent per annum, (ii) the final maturity of the Series 2010A Bonds shall not be later than 30 years following their date of issuance, (iii) there shall first be presented to the Disclosure Practices Working Group and this Council for approval a form of preliminary official statement; and (iv) with respect to including the refunding of the Series 1996A Bonds and/or Series 1996B Certificates in the use of proceeds of the Series 2010A Bonds, the Chief Financial Officer determines in a certificate that either: (A) there is an economic benefit in the form of aggregate net present value savings of at least 3 percent, expressed as a percentage of the par

amount of the Series 1996A Bonds and Series 1996B Certificates refunded; or (B) the Chief Financial Officer believes that refunding all or a portion of the Series 1996A Bonds and Series 1996B Certificates is in the best financial interest of the City.

Section 7. The anticipated source of revenue for payment of the Series 2010A Bonds hereby authorized is the Base Rental Payments to be made by the City under and as defined in the Master Lease.

Section 8. The form and content of the Continuing Disclosure Certificate are hereby authorized and approved. The Chief Financial Officer or his/her designee is hereby authorized and directed for and in the name and on behalf of the City, to execute and deliver that Continuing Disclosure Certificate in connection with the purchase and sale of the Series 2010A Bonds, substantially in the form presented to and considered at this meeting, with such changes and additions therein as such signatory shall determine are necessary or desirable and require or approve and believes to be in the best interest of the City and as are approved as to form by the City Attorney or his specified designee, such approvals to be conclusively evidenced by the execution and delivery thereof.

Section 9. The engagement of Wells Fargo Bank, N.A., to serve as Trustee under the Master Indenture for the fees as provided in the Master Indenture, is hereby approved.

Section 10. Authorized officers of the City are hereby authorized and directed to pay all the fees and other costs of issuance of the Series 2010A Bonds in accordance with the Purchase Agreement and as otherwise agreed with the City and the respective parties thereto, including applicable CDIAAC fees and printer fees.

Section 11. All actions heretofore taken by any officers, employees or agents of the City with respect to the issuance, delivery or sale of the Series 2010A Bonds, or in

connection with or related to any of the Financing Documents or of the other documents referenced herein or related to consummating the Plan of Refunding, are hereby approved, confirmed and ratified. Any Authorized Signatory and any other officers, employees or agents of the City as may be authorized by the Chief Financial Officer or the Chief Operating Officer, and each of them acting alone, is hereby severally authorized and directed, for and in the name and on behalf of the City: (a) to do any and all things and take any and all actions, from time to time, consistent with this Ordinance and the Financing Documents and other documents authorized by this Ordinance including, without limitation, payment of necessary and appropriate fees and expenses of bond counsel, disclosure counsel, financial advisor and other professionals retained by the City; and (b) to execute and deliver any and all certificates, agreements and other documents (including, without limitation, a tax compliance certificate and any escrow agreements appropriate for the refunding of the Refunded Bonds) required pursuant to the terms of the Purchase Agreement or any other Financing Document, or which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Series 2010A Bonds and the disbursement of proceeds thereof in accordance with this Ordinance and to consummate the transactions authorized hereby and evidenced by the Financing Documents. In addition, the Chief Financial Officer is hereby authorized to approve additions and changes to the Financing Documents and the other documents authorized by this Ordinance (including, but not limited to, changing the size of the 2010A Reserve Fund securing the Series 2010A Bonds and establishing the options for redemption); which additions and changes the Chief Financial Officer shall believe, with the advice of the City's Financial Advisor for the Series 2010A Bonds, to be in the best interest of the City in light of market conditions, such determination shall be conclusively evidenced by the execution and delivery of such Financing

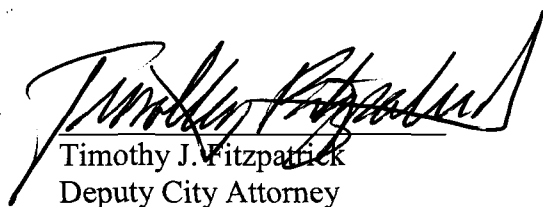
Documents and other documents by the City; and provided further that no such addition or changes may be inconsistent with limitations in Section 6 hereof.

Section 12. 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 13. This Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Timothy J. Fitzpatrick
Deputy City Attorney


TJF:jab
02/19/10
Or.Dept:Debt Mgmt.
O-2010-78

I hereby certify that the foregoing Ordinance was passed by the Council of The City of
San Diego, at their meeting of MAR 23 2010, 2010.

ELIZABETH S. MALAND
City Clerk

By: 
Deputy City Clerk

Approved: 3-26-10
(Date)


JERRY SANDERS, Mayor

Vetoed: _____
(Date)

JERRY SANDERS, Mayor