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ORDINANCE NUMBER O- 20205 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 05 2012

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE, A FACILITIES LEASE AND A BOND PURCHASE AGREEMENT, AND AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE OF AN INDENTURE BY THE PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO, AND APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF THE AUTHORITY'S LEASE REVENUE BONDS (SPRECKELS ORGAN PAVILION PUBLIC PARKING GARAGE) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$17,400,000 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 to further public purposes and effect significant public benefits, as determined by the local agency; and

WHEREAS, the Public Facilities Financing Authority of the City of San Diego (the Authority) was established pursuant to the terms of a Joint Exercise of Powers Agreement dated May 14, 1991 as amended and restated (Joint Powers Agreement) for the purpose, among others, of issuing its bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985 to be used to

provide financial assistance to the City to finance and refinance public capital improvements;
and

WHEREAS, a notice of a public hearing concerning the adoption of this Ordinance and the issuance of Bonds to finance the improvements described below was duly published once at least five days prior to such hearing in a newspaper of general circulation in the City as required by the Marks-Roos Local Bond Pooling Act of 1985; and

WHEREAS, the City has determined that: (i) the issuance of the Bonds (as defined below) will benefit the inhabitants of the City; (ii) there are significant public benefits (within the meaning of the California Government Code section 6586) to be derived from securing the assistance of the Authority to finance a portion of the costs of the acquisition, construction, installation and equipping of a parking facility (the Parking Facility) as described in that certain Plaza de Panama Improvement Agreement (the Improvement Agreement) by and between the Plaza de Panama Committee (the Committee) and the City or certain other eligible General Fund funded capital improvements in the City's capital improvement program (the CIP Improvements and together with the Parking Facility, the Project) in the event not all of the Bond proceeds are applied to the Parking Facility with the specific CIP Improvements to be determined by subsequent action of the City Council; and (iii) the Project 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, the City's contribution to the Parking Facility is a fixed contribution as set forth in the Improvement Agreement and as required by the Improvement Agreement, the Committee has demonstrated to the reasonable satisfaction of the City that it has sufficient funding in place to cover the entire cost of the Plaza de Panama Project other than the cost of the Parking Facility; and

WHEREAS, in order to finance the Project, capitalized interest and costs of issuance and to achieve such public purposes, and to have ready market access when funds are needed for the Project, the City has determined to request and approve the Authority's issuance of the Bonds between now and December 31, 2013 of not to exceed \$17,400,000 aggregate principal amount of its Public Facilities Financing Authority of the City of San Diego Lease Revenue Bonds (Spreckels Organ Pavilion Public Parking Garage) (the Bonds) pursuant to the Marks-Roos Local Bond Pooling Act of 1985 and secured by an Indenture (the Indenture), by and between the Authority and Wilmington Trust, National Association, as (Trustee); and

WHEREAS, in order to provide for the payment, equally and ratably, of the Bonds, the City will lease certain real property of the City (Leased Property) to the Authority pursuant to a Site Lease (the Site Lease) by and between the City and the Authority, and the Authority will lease the Leased Property back to the City pursuant to a Facilities Lease (the Facilities Lease) by and between the Authority and the City, under which 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 Bonds when due and payable; and

WHEREAS, upon completion or within a reasonable time after completion of the Parking Facility it is anticipated that the Parking Facility will be substituted as the Leased Property and

the real property previously constituting the Leased Property will be released from the Site Lease and the Facilities Lease; and

WHEREAS, the City has determined that the Bonds be sold by a negotiated sale pursuant to the terms of a Bond Purchase Agreement (the Bond Purchase Agreement) among the City, the Authority and any underwriter named therein; and

WHEREAS, there has been presented to this meeting the following documents relating to the issuance of the 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 00-20205-1, under which the City will lease the Leased Property to the Authority;
2. a proposed form of Facilities Lease between the Authority and the City, a copy of which is on file in the office of the City Clerk as document number 00-20205-2, under which the Authority will lease the Leased Property back to the City;
3. a proposed form of Indenture between the Authority and the Trustee, a copy of which is on file in the office of the City Clerk as document number 00-20205-3, under which the Authority will issue the Bonds;
4. a proposed form of Bond Purchase Agreement regarding the Bonds among the City, the Authority and the underwriter named therein, a copy of which is on file in the office of City Clerk as Document No. 00-20205-4, under which the Bonds will be sold; and
5. 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 00-20205-5 (the documents described in paragraphs 1 through 5 are collectively referred to as the Financing Documents); and

WHEREAS, pursuant to California Government Code, Chapter 730 of the statutes of 1976 section 16429.1 was added to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the Council does hereby find that any deposit and withdrawal of the proceeds of the sale of Bonds to be made by the Trustee in the Local Agency Investment Fund in accordance with the provisions of California Government Code section 16429.1 for the purpose of investment as stated therein as in the best interests of the City; 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 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 financing of the Project will provide significant public benefits in accordance with the criteria specified in California Government Code section 6586.

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. Either the Mayor or the Chief Operating Officer 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, between now and December 31, 2013, the Site Lease substantially in 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 and amendments

thereto (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 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 thereof.

Section 4. The form and content of the Facilities 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, between now and December 31, 2013, the Facilities Lease substantially in 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 and amendments thereto (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 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 thereof.

Section 5. The form and content of the Indenture, pursuant to which the Authority will issue the Bonds between now and December 31, 2013, 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, between now and December 31, 2013, the Indenture substantially in 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 and amendments and supplements thereto as any Authorized Signatory, in consultation with the City Attorney, shall determine are necessary or desirable 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 thereof. 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 Indenture in the form in which it is executed.

Section 6. The City hereby authorizes and approves, and requests the Authority to approve and authorize, the issuance and sale by the Authority, between now and December 31, 2013, of its Bonds in a total aggregate principal amount not to exceed \$17,400,000 by negotiated sale, provided that: (i) the true interest cost of the Bonds shall not exceed 7.0%, (ii) the final maturity of the Bonds shall not be later than 30 years following their date of issuance, and (iii) there shall first be presented to the Disclosure Practices Working Group and this Council for approval a form of preliminary official statement. Each of the Mayor and the Chief Operating Officer, in consultation with the City's Financial Advisor for the Bonds, is hereby authorized to approve the Bond pricing, timing and other Bond features.

Section 7. The form and content of the Bond Purchase Agreement 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, between now and December 31, 2013, the Bond Purchase Agreement in connection with the purchase and sale of the Bonds, substantially in the form presented to and considered at this meeting, with such changes and additions therein, including without limitation naming the underwriter or underwriters for the Bonds, as such Authorized Signatory shall determine are necessary and desirable and that any such Authorized Signatory believes are 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 thereof.

Section 8. The anticipated source of revenue for payment of the Bonds hereby authorized is the Base Rental Payments to be made by the City under and as defined in the Facilities Lease.

Section 9. The form and content of the Continuing Disclosure Certificate 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 Continuing Disclosure Certificate in connection with the purchase and sale of the Bonds, substantially in the form presented to and considered at this meeting, with such changes and additions therein as such Authorized Signatory shall determine are necessary or desirable 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 such Authorized Signatory's execution and delivery thereof.

Section 10: Authorized officers of the City are hereby authorized and directed to pay all the fees and other costs of issuance of the Bonds in accordance with the Bond Purchase Agreement and as otherwise agreed with the City and the respective parties thereto, including applicable California Debt and Investment Advisory Commission 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 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 financing of the Project, 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 Mayor 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

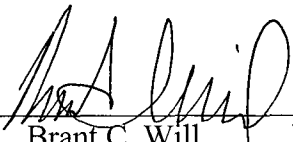
and other documents (including, without limitation, a tax compliance certificate) required pursuant to the terms of the Bond Purchase Agreement or any other Financing Document, or which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the 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, each of the Mayor and the Chief Operating Officer is hereby authorized to approve additions, changes, amendments and supplements to the Financing Documents and the other documents authorized by this Ordinance; which additions and changes the Mayor or the Chief Operating Officer shall believe, with the advice of the City's Financial Advisor for the Bonds, to be necessary or desirable and in the best interest of the City in light of the financing costs, credit and 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 Sections 6 or 7 hereof.

Section 12. The Council does hereby authorize the deposit and withdrawal of the proceeds of the sale of Bonds, including such proceeds held by the Trustee, in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of the California Government Code section 16429.1 for the purpose of investment as stated therein, and verification by the State Treasurer's Office of all banking information provided in that regard. Any of the Mayor, Chief Operating Officer, City Treasurer, City Comptroller, or the Trustee on behalf of the City are hereby authorized to order the deposit or withdrawal of the proceeds of the sale of the Bonds in the Local Agency Investment Fund.

Section 13. 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 14. This Ordinance shall take effect and be in force on the thirtieth day from and after the date of its final passage.

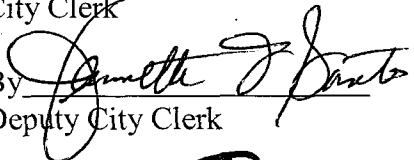
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Brant C. Will
Deputy City Attorney

BCW:jdf
8/22/2012
Or.Dept:Debt Mgmt

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 02 2012

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10-5-12
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor