

ORDINANCE NUMBER O- **20906** (NEW SERIES)

DATE OF FINAL PASSAGE **FEB 28 2018**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING AND DIRECTING THE MAYOR OR HIS DESIGNEE TO ENTER INTO A MASTER LEASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP. FOR THE PURPOSE OF FINANCING THE ACQUISITION AND OUTFITTING OF A FIRE HELICOPTER IN AN AMOUNT NOT TO EXCEED \$20,000,000, AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, from time to time the City of San Diego (City) acquires projects and equipment for the purpose of providing public services using lease-purchase financing arrangements under the City's Equipment and Vehicle Financing Program (EVFP); and

WHEREAS, on December 13, 2017, the City Council adopted Resolution No. R-311475, approving the purchase of a Sikorsky S-70i helicopter (Equipment) to be operated by the San Diego Fire-Rescue Department; and

WHEREAS, on December 13, 2017, the City Council adopted Resolution No. R-311476, declaring the official intent of the City to reimburse itself from the proceeds of tax-exempt lease-purchase obligations related to the purchase of the Equipment; and

WHEREAS, the Mayor now recommends entering into a Master Lease Agreement (Agreement) with Banc of America Public Capital Corp. (BAPCC) in an amount not to exceed \$20,000,000 to finance the acquisition and outfitting of the Equipment and to pay related expenses through a lease-purchase arrangement under the EVFP; and

WHEREAS, the Agreement requires an opinion of tax counsel where the acquisition cost of financed equipment exceeds \$10,000,000 and the total projected cost of the Equipment is approximately \$20,000,000; and

WHEREAS, the City currently has an agreement with Nixon Peabody LLP (Firm) to provide legal and tax advice related to the EVFP (EVFP Agreement) and the Firm is willing and able to provide the required tax opinion; and

WHEREAS, the EVFP Agreement is set to expire on June 20, 2018 and staff request authorization to extend the contract for an additional year to June 20, 2019; and

WHEREAS, staff requests that the not-to-exceed amount in the agreement with the Firm be increased by \$5,000 to accommodate the fee for the tax opinion and any related legal advice; and

WHEREAS, under San Diego Charter section 99, no contract, agreement or obligation extending for a period of more than five years may be authorized except by an ordinance adopted by a two-thirds majority of the City Council; NOW, THEREFORE,

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

Section 1. That the Mayor is authorized and directed to finance the cost of acquiring the Equipment using a Master Lease Agreement with BAPCC.

Section 2. That the Mayor, the Chief Operating Officer, the Chief Financial Officer or any of their designees is hereby authorized and directed to execute, for and on behalf of the City of San Diego, a Master Lease Agreement with BAPCC for the purpose of financing the acquisition of the Equipment. The Master Lease Agreement shall be substantially in the form presented to this Council, on file in the Office of the City Clerk as Document No.

OO- **20906**, with such additions and changes therein as the Chief Operating Officer or

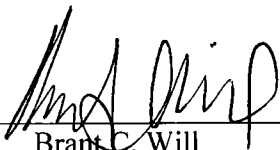
Chief Financial Officer, in consultation with the City Attorney, shall approve as being in the best interest of the City; provided however that: (i) the acquisition and related costs of equipment financed under the Master Lease Agreement shall not exceed \$20,000,000; (ii) the interest rate shall not exceed six percent (6%) annually; and (iii) the lease term of the Master Lease Agreement shall not exceed 10 years.

Section 3. That the City Attorney is authorized to amend the EVFP Agreement with Nixon Peabody LLP to increase the amount authorized by \$5,000 and to extend the term of the agreement by one year to June 20, 2019.

Section 4. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been available to the City Council and the public prior to the day of its passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By  \_\_\_\_\_  
Brant C. Will  
Deputy City Attorney

BCW:jdf  
1/16/18  
Or.Dept:Debt Management  
Doc. No: 1667628

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of FEB 26 2018.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 2/28/18  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on FEB 26 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 28 2018

AUTHENTICATED BY:

(Seal)

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], 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

FEB 05 2018, and on FEB 28 2018

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

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