

#66
12/06/22
(O-2023-64)

ORDINANCE NUMBER O- 21586 (NEW SERIES)

DATE OF FINAL PASSAGE DEC 14 2022

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE FORMS AND AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE AMENDMENTS TO SITE LEASE, AMENDMENTS TO FACILITIES LEASE, BOND PURCHASE AGREEMENTS AND CONTINUING DISCLOSURE CERTIFICATES; CONSENTING TO THE EXECUTION, DELIVERY AND PERFORMANCE OF ONE OR MORE SUPPLEMENTAL INDENTURES BY THE PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO IN CONNECTION WITH THE ISSUANCE AND SALE IN ONE OR MORE SERIES OF THE AUTHORITY'S LEASE REVENUE BONDS; AND APPROVING OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, California Government Code Article 1 of Chapter 5 of Division 7 of Title 1 authorizes and empowers local agencies to form a joint powers authority and California Government Code Article 4 of Chapter 5 of Division 7 of Title 1 (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), the Successor Agency to the Redevelopment Agency of the City of San Diego, and the Housing Authority of the City of San Diego have heretofore entered into a Third Amended and Restated Joint Exercise of Powers Agreement dated January 1, 2013 (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, the Authority has previously entered into an Indenture, dated as of July 1, 2012 (Original Indenture), as supplemented and amended by the First Supplemental Indenture, dated as of July 1, 2013, the Second Supplemental Indenture, dated as of April 1, 2015, the Third Supplemental Indenture, dated as of April 1, 2015, the Fourth Supplemental Indenture, dated as of June 1, 2018, the Fifth Supplemental Indenture, dated as of June 1, 2020 and the Sixth Supplemental Indenture, dated as of April 1, 2021 (together, the Master Indenture), each with Wells Fargo Bank, National Association, which has been succeeded to thereunder as trustee by Computershare Trust Company, National Association (Trustee), pursuant to which the Authority has issued various series of bonds (Prior Bonds) to finance certain capital projects and to refund various obligations of the City and the Authority; and

WHEREAS, pursuant to an Indenture dated as of November 1, 2018 (Commercial Paper Indenture) and an Issuing and Paying Agency Agreement dated as of November 1, 2018 (Issuing and Paying Agency Agreement), each by and between the Authority and U.S. Bank Trust Company, National Association, as successor thereunder to U.S. Bank National Association, the Authority has issued its Lease Revenue Commercial Paper Notes, Series A (Commercial Paper Notes) to finance certain capital projects of the City; and

WHEREAS, pursuant to section 2.13 of the Original Indenture, the Authority may at any time issue additional bonds pursuant to one or more Supplemental Indentures to be secured under the Master Indenture on a parity with the Prior Bonds; and

WHEREAS, the Council of the City (Council) has determined that: (i) the issuance of Additional Bonds (defined below) by the Authority is in the public interest and will benefit the inhabitants of the City; (ii) there are significant public benefits (within the meaning of California Government Code section 6586) to be derived from securing the assistance of the Authority to

finance the costs of the acquisition, design, construction, installation, improvement, replacement and equipping of certain capital improvement projects, and the acquisition of certain equipment of the City (collectively, the Projects), including through the retirement of the Commercial Paper Notes issued to finance certain of the Projects; and (iii) the Projects are or will be at various locations within the geographic boundaries of the City; and

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

WHEREAS, a notice of a public hearing concerning the adoption of this ordinance (the Ordinance) and the issuance of Additional Bonds to finance the Projects, including through the retirement of the Commercial Paper Notes, was duly published at least five days prior to such hearing in a newspaper of general circulation in the County of San Diego as required by California Government Code section 6586.5; and

WHEREAS, the Council desires to take the actions required of it pursuant to sections 2.13 and 2.14 of the Original Indenture to meet certain of the preconditions to the issuance of the Authority's Public Facilities Financing Authority of the City of San Diego Lease Revenue Bonds (Additional Bonds), in order to finance the Projects, including through the retirement of the Commercial Paper Notes, and to timely issue bonds when funds are needed for the Projects; and

WHEREAS, the Council desires to request and approve the Authority's issuance of the Additional Bonds in one or more series, either at the same time or at separate intervals as described herein, and either as tax-exempt bonds under section 103 of the Internal Revenue Code of 1986, as amended, or as bonds subject to federal income taxation, in an aggregate principal amount not to exceed \$175,000,000 pursuant to the Marks-Roos Local Bond Pooling Act of

1985 and secured by the Master Indenture, as supplemented and amended by one or more Supplemental Indentures, each by and between the Authority and the Trustee; and

WHEREAS, in accordance with section 1.150-2 of the United States Treasury Regulations, the City expects to declare its reasonable intent to reimburse costs, if any, of certain Projects with the proceeds of the Additional Bonds incurred prior to the date of issuance thereof; and

WHEREAS, in order to provide for the payment of the Prior Bonds, the City has leased certain real property of the City (Existing Leased Property) to the Authority pursuant to the Site Lease, dated as of July 1, 2012, as amended by the First Amendment to Site Lease, dated as of July 1, 2013, the Second Amendment to Site Lease, dated as of April 1, 2015, the Third Amendment to Site Lease, dated as of April 1, 2015, the Fourth Amendment to Site Lease, dated as of June 1, 2018 and the Fifth Amendment to Site Lease, dated as of April 1, 2021 (together, the Master Site Lease), and the Authority has leased to the City pursuant to the Facilities Lease, dated as of July 1, 2012, as amended by the First Amendment to Facilities Lease, dated as of July 1, 2013, the Second Amendment to Facilities Lease, dated as of April 1, 2015, the Third Amendment to Facilities Lease, dated as of April 1, 2015, the Fourth Amendment to Facilities Lease, dated as of June 1, 2018, the Fifth Amendment to Facilities Lease, dated as of June 1, 2020 and the Sixth Amendment to Facilities Lease, dated as of April 1, 2021 (together, the Master Facilities Lease), the Existing Leased Property and certain other real property as described therein (the MTS Property); and

WHEREAS, the MTS Property was released from the Master Facilities Lease as of October 15, 2022 in accordance with the terms of the Master Facilities Lease, the MTS Property is no longer included in the property leased under the Master Facilities Lease, and the property

leased under the Master Facilities Lease currently consists solely of the Existing Leased Property; and

WHEREAS, in order to provide for the payment, equally and ratably, of the Additional Bonds and the Prior Bonds, the Authority and the City will enter into one or more amendments to the Master Site Lease pursuant to which the City may add to the property leased to the Authority thereunder additional property of the City (the Additional Leased Property and, together with the Existing Leased Property, the Leased Property), and one or more amendments to the Master Facilities Lease, pursuant to which the Authority may add to the property leased to the City thereunder the Additional Leased Property and the City will agree to make base rental payments to the Authority (Base Rental Payments) calculated to be sufficient to enable the Authority to pay the principal of and interest on the Additional Bonds and the Prior Bonds, when due and payable; and

WHEREAS, various portions of the Existing Leased Property have been appraised by independent appraisers or City appraisers at various times and such appraisals aggregate to a combined market value of \$458,353,000 for such Existing Leased Property; and

WHEREAS, any Additional Leased Property will be appraised prior to it being added as a part of the Leased Property to increase the annual fair rental value of the Leased Property to the amount required by Section 2.13(d) of the Original Indenture upon the issuance of each series of Additional Bonds; and

WHEREAS, based on such appraisals, the Council hereby determines that the annual fair rental of the Leased Property will equal or exceed the annual Base Rental Payments due under the Master Facilities Lease upon the issuance of each series of Additional Bonds; and

WHEREAS, the City has determined that the Additional Bonds be sold by a negotiated sale pursuant to the terms of one or more Bond Purchase Agreements (the Purchase Agreements) among the City, the Authority and the underwriters to be named therein; and

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

1. a proposed form of Sixth Amendment to Site Lease between the City and the Authority, a copy of which is on file in the office of the City Clerk as Document No.

O- 21586-1 under which the City will lease the Leased Property to the Authority;

2. a proposed form of Seventh Amendment to Facilities Lease between the Authority and the City, a copy of which is on file in the office of the City Clerk as Document No. O- 21586-2, under which the Authority will lease the Leased Property to the City and the Base Rental Payments will be adjusted to reflect the issuance of the Additional Bonds;

3. a proposed form of Seventh Supplemental Indenture between the Authority and the Trustee, a copy of which is on file in the office of the City Clerk as Document No. O- 21586-3, under which the Authority will issue one or more series of the Additional Bonds;

4. a proposed form of Purchase Agreement regarding the Additional Bonds among the City, the Authority and the underwriters to be selected as described herein, a copy of which is on file in the office of City Clerk as Document No. O- 21586-4, under which the Additional Bonds will be sold to such underwriters;

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 No. O- 21586-5 (the

documents described in paragraphs 1 through 4 above and this paragraph 5, are collectively referred to as the Financing Documents); and

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

WHEREAS, the City is authorized to undertake the actions described in this Ordinance pursuant to the Constitution, the San Diego City Charter and other applicable laws of the State of California; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT ORDAINED by the Council, 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 and are adopted by the Council with respect to the issuance by the Authority of the Additional Bonds and the execution by the City of the Financing Documents.

Section 2. The Council hereby finds that the financing of the Projects, including through the retirement of the Commercial Paper Notes, through the issuance of the Additional Bonds 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 Sixth Amendment to Site Lease, pursuant to which the City leases the Leased Property to the Authority, are 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) is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver one or more amendments to the Master Site Lease substantially in the form of the Sixth Amendment to Site Lease (with each amendment to be numbered sequentially in the event that, pursuant to the authority of this Ordinance, more than one amendment to the Master Site Lease is executed and delivered in connection with the issuance of more than one series of Additional Bonds) presented to and considered at this meeting for the purpose of financing the Projects, and the City Clerk or specified designees thereof, and each of them, is authorized and directed to attest thereto, with such additions and changes therein (including, without limitation, the description of any Additional Leased Property to be leased thereunder and changes necessary to allow the Additional Bonds to be issued on a tax-exempt or taxable basis) as any Authorized Signatory, in consultation with the City Attorney, shall determine are necessary or desirable and shall 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 specified designees thereof, such approvals to be conclusively evidenced by such Authorized Signatory's execution and delivery thereof.

Section 4. The form and content of the Seventh Amendment to Facilities Lease, pursuant to which the City will agree to pay Base Rental Payments as revised to reflect the issuance of the Additional Bonds, are hereby authorized and approved. Each Authorized Signatory is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver one or more amendments to the Master Facilities Lease substantially in the

form of the Seventh Amendment to Facilities Lease (with each amendment to be numbered sequentially in the event that, pursuant to the authority of this Ordinance, more than one amendment to the Master Facilities Lease is executed and delivered in connection with the issuance of more than one series of Additional Bonds) presented to and considered at this meeting for the purpose of financing the Projects, and the City Clerk or specified designees thereof, and each of them, is authorized and directed to attest thereto, with such additions and changes therein (including, without limitation, the description of any Additional Leased Property to be leased thereunder and changes necessary to allow the Additional Bonds to be issued on a tax-exempt or taxable basis) as any Authorized Signatory, in consultation with the City Attorney, shall determine are necessary or desirable and shall 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 specified designees thereof, such approvals to be conclusively evidenced by such Authorized Signatory's execution and delivery thereof.

Section 5. The form and content of the Seventh Supplemental Indenture, pursuant to which the Authority will issue one or more series of Additional Bonds for the purpose of financing the Projects, including through the retirement of the Commercial Paper Notes, and the execution, delivery and performance by the Authority of one or more Supplemental Indentures substantially in the form of the Seventh Supplemental Indenture (with each supplement to be numbered sequentially in the event that, pursuant to the authority of this Ordinance, more than one supplement is executed and delivered in connection with the issuance of more than one series of Additional Bonds) presented to and considered at this meeting, are hereby approved. Subject to the provisions of Section 6 below, each Authorized Signatory is authorized and directed to execute a certificate in accordance with section 2.13 of the Original Indenture with

respect to the issuance of each series of Additional Bonds and to take such other action as is necessary or appropriate to effectuate the transactions set forth in the Supplemental Indentures with such additions and changes therein (including, without limitation, any changes necessary to allow the Additional Bonds to be issued on a tax-exempt or taxable basis) as any Authorized Signatory shall determine are necessary or desirable and shall require or approve and that such Authorized Signatory believes to be in the best interests of the City.

Section 6. The City hereby determines that Additional Bonds should be executed and delivered in accordance with section 2.13 of the Master Indenture in accordance with the terms of this Ordinance, and requests the Authority to approve and authorize, the issuance and sale by the Authority of its Additional Bonds in one or more series in a total aggregate principal amount not to exceed \$175,000,000 by negotiated sale, provided that: (i) the true interest cost of each series of the Additional Bonds shall not exceed 6.50%, (ii) the final maturity of each series of the Additional Bonds shall occur no later than in the 30th calendar year following their date of issuance, and (iii) prior to the issuance of a series of Additional Bonds, there shall first be presented to the Disclosure Practices Working Group and this Council for approval a form of preliminary official statement for such series of Additional Bonds. Each Authorized Signatory, or their designees, in consultation with the City's Municipal Advisor, is hereby authorized to consent to the timing and number of Additional Bond series, together with the pricing, redemption provisions, maturity dates, interest rates, and other terms of the Additional Bonds.

Section 7. The form and content of the Purchase Agreement are hereby authorized and approved. Each Authorized Signatory is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver one or more Purchase Agreements in connection with the purchase and sale of such Additional Bonds, substantially in the form presented to and

considered at this meeting, with such changes and additions therein (including without limitation naming the underwriters for each series of Additional Bonds and changes necessary to allow the Additional Bonds to be issued on a tax-exempt or taxable basis), as any Authorized Signatory, in consultation with the City Attorney, shall determine are necessary or desirable and shall 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 specified designees thereof, such approvals to be conclusively evidenced by such Authorized Signatory's execution and delivery thereof.

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

Section 9. The form and content of the Continuing Disclosure Certificate are hereby authorized and approved. Each Authorized Signatory is hereby authorized and directed for and in the name and on behalf of the City, to execute and deliver one or more Continuing Disclosure Certificates in connection with the purchase and sale of the Additional Bonds, substantially in the form presented to and considered at this meeting, with such additions and changes therein (including, without limitation, changes necessary to allow for the Additional Bonds to be issued on a tax-exempt or taxable basis) as such Authorized Signatory shall determine are necessary or desirable and shall 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 specified designees thereof, 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 consent to the payment of all the fees and other costs of issuance of the Additional Bonds in

accordance with the Supplemental Indentures, the Purchase Agreements and as otherwise agreed with the City and the respective parties thereto.

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 Additional Bonds, 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, the Chief Financial Officer or the Chief Operating Officer, and each of them acting alone, is hereby authorized and directed, for and in the name and on behalf of the City: (i) 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, adding or removing real property assets of the City from the Leased Property for each series of Additional Bonds and the payment of necessary and appropriate fees and expenses of bond counsel, disclosure counsel, the Municipal Advisor and other services retained by the City; and (ii) to execute and deliver any and all certificates, agreements and other documents (including, without limitation, a tax compliance certificate for any tax-exempt series) required in connection with the issuance of any Additional Bonds, or which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Additional 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, the Chief Financial Officer and the Chief Operating 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, the redemption provisions of the Additional Bonds and determining which parcel or parcels of City property shall be included as a part of the Leased

Property for each series of Additional Bonds and which Additional Bonds are to be issued on a tax-exempt or taxable basis), which additions and changes the Mayor, the Chief Financial Officer or the Chief Operating Officer shall believe, with the advice of the City's Municipal Advisor for the Additional Bonds, to be in the best interest of the City in light of the financing costs, credit and market conditions, such determination to be conclusively evidenced by the execution and delivery of such Financing Documents and other documents to which the City is a party; provided that no such addition or changes may be inconsistent with limitations in Sections 6 or 8 hereof.

Section 12. The Chief Financial Officer is authorized to establish one or more special interest-bearing funds for the deposit of proceeds of the Additional Bonds.

Section 13. The Mayor or a specified designee thereof is authorized to retain Stradling Yocca Carlson & Rauth, a Professional Corporation as bond counsel and disclosure counsel to the City in connection with the issuance of the Additional Bonds under such contracts or arrangements as the Mayor or a specified designee thereof shall approve and believes to be in the best interests of the City. Such contracts or other arrangements shall be in an amount not to exceed \$90,000 for the issuance of the Additional Bonds.

Section 14. Following the issuance of the final series of Additional Bonds under this Ordinance, which determination shall be made by an Authorized Signatory in writing, any unissued portion of the principal amount authorized in Section 6 hereof shall be considered lapsed and the Chief Financial Officer and the Chief Operating Officer, or their designees, shall not be authorized to consent to the issuance of any further Additional Bonds pursuant to the terms of this Ordinance.

Section 15. That a full reading of this Ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the Council and the public prior to the day of its passage.

Section 16. That this Ordinance shall take effect and be in force on the thirtieth (30th) day from and after its final passage and, prior to the expiration of fifteen (15) days from the final passage hereof, the City Clerk or specified designees thereof shall cause this Ordinance to be published in accordance with San Diego City Charter section 18.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Bret A. Bartolotta
Bret A. Bartolotta
Deputy City Attorney

BAB:jdf
10/31/2022
Or. Dept.: Debt Management
Doc. No.: 3112686

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of DEC 06, 2022.

ELIZABETH S. MALAND
City Clerk

By Kristell Medina
Deputy City Clerk

Approved: 12/14/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on DEC 06 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 14 2022

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

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

By Kristell Medina, 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

NOV 15 2022, and on DEC 14 2022

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 Kristell Medina, Deputy

<p>Office of the City Clerk, San Diego, California</p> <p style="text-align: right;">21586</p> <p>Ordinance Number O-_____</p>
