

ORDINANCE NUMBER O- 21734 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 23 2023

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A MASTER LEASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP TO FINANCE THREE POLICE HELICOPTERS WITH MISSION CONFIGURATION INSTALLATION IN AN AMOUNT NOT TO EXCEED \$16,000,000 AND DECLARING ITS OFFICIAL INTENT TO REIMBURSE ITSELF FROM THE PROCEEDS OF TAX-EXEMPT LEASE-PURCHASE OBLIGATIONS.

WHEREAS, from time to time the City of San Diego (City) needs to acquire projects, vehicles, and equipment for the purpose of providing public services and frequently uses lease-purchase financing to acquire such projects, vehicles and equipment; and

WHEREAS, on August 1, 2023, the Council of the City of San Diego (City Council) adopted Resolution R-315086, approving the purchase of three new H125 helicopters with mission configuration installation (Helicopters) under an agreement with Airbus Helicopters, Inc., and financing for the purchase of the Helicopters through the City's equipment and vehicle lease-purchase financing program; and

WHEREAS, the City has negotiated a Master Lease Agreement (Agreement) with Banc of America Public Capital Corp (BAPCC) allowing the City to borrow funds on a tax-exempt basis in an amount not to exceed \$16,000,000 (Obligations) to finance the purchase of the Helicopters through a lease-purchase arrangement; and

WHEREAS, the Helicopters to be financed are described in the Report to City Council dated September 1, 2023 (Report); and

WHEREAS, the City expects to expend moneys (other than moneys derived from the issuance of tax-exempt obligations) on expenditures related to the costs of the Helicopters

(Expenditures) prior to incurring the Obligations, which Expenditures will be properly chargeable to a capital account under general federal income tax principles; and

WHEREAS, the City reasonably expects to reimburse itself for the Expenditures with the proceeds of the Obligations; and

WHEREAS, at the time of the reimbursement, the City will evidence the reimbursement in a writing which identifies the allocation of the proceeds of the Obligations to the City for the purpose of reimbursing the City for the Expenditures made prior to the issuance of the Obligations; and

WHEREAS, the City expects to make the reimbursement allocation no later than eighteen (18) months after the later of (i) the date on which the earliest original Expenditure is paid or (ii) the date on which the Helicopters are placed in service (or abandoned), but in no event later than three (3) years after the date on which the earliest original Expenditure is paid; and

WHEREAS, the City will not, within one (1) year of the reimbursement allocation, use the proceeds of the Obligations received in the reimbursement allocation in a manner that will result in the creation of replacement proceeds of the Obligations or another issue (*e.g.*, the City will not pledge or use the proceeds received for the payment of lease payments on the Obligations or another issue); and

WHEREAS, this Ordinance is intended to be a “declaration of official intent” in accordance with section 1.150-2 of the United States Treasury Regulations (Declaration of Intent); and

WHEREAS, San Diego Charter section 99 (Charter Section 99) generally provides that no contract, agreement or obligation creating City indebtedness and 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; 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 of the City of San Diego, as follows:

Section 1. The Mayor is authorized and directed to finance the purchase of the Helicopters described in the Report under the Agreement with BAPCC, approved by this Ordinance.

Section 2. The Mayor, the Chief Operating Officer, the Chief Financial Officer and any of their designees are authorized and directed to sign, for and on behalf of the City, the Agreement with BAPCC. The Agreement shall be substantially in the form presented to this City Council, on file in the Office of the City Clerk as Document No. OO- 21734, 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 cost of the Helicopters financed under the Agreement shall not exceed \$16,000,000; (ii) the interest rate shall not exceed six percent (6%) annually; and (iii) the lease term of the Agreement shall not exceed ten (10) years.

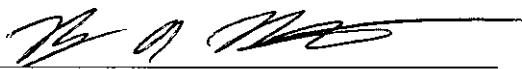
Section 3. The City's Declaration of Intent is made solely for the purpose of establishing compliance with section 1.150-2 of the Treasury Regulations, and the City declares its intention to incur Obligations, the proceeds of which will be used to pay, in part, for the costs of the Helicopters (and related issuance costs, if any), including the reimbursement to the City

for the Expenditures, provided that this Declaration of Intent does not bind the City to make any expenditure, incur any indebtedness, or proceed with purchasing the Helicopters.

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

Section 5. This Ordinance shall take effect and be in force on the thirtieth day from and after the date of its final passage.

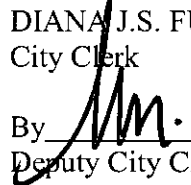
APPROVED: MARA W. ELLIOTT, City Attorney

By   
for: Marguerite E. Middaugh  
Deputy City Attorney

MEM:jdf  
09/18/2023  
Or.Dept:Debt Management  
Doc. No: 3419108

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 17 2023.

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk

Approved: 10/23/23  
(date)

  
TODD GLORIA, Mayor

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

\_\_\_\_\_  
TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on OCT 17 2023, 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 OCT 23 2023.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California.

By , 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

OCT 02 2023

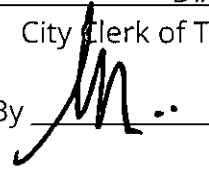
, and on OCT 23 2023.

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)

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

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