

#58
10/29/24

(O-2025-39)

ORDINANCE NUMBER O- 21891 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 06 2024

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 ONE FIRE-RESCUE HELICOPTER AND CERTAIN ESSENTIAL VEHICLES AND EQUIPMENT IN AN AMOUNT NOT TO EXCEED \$40,000,000 AND DECLARING ITS OFFICIAL INTENT TO REIMBURSE ITSELF FROM THE PROCEEDS OF TAX-EXEMPT LEASE-PURCHASE OBLIGATIONS.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. 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.

B. 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 \$40,000,000 (Obligations) to finance the purchase of one Bell 412EPX Fire-Rescue helicopter and certain essential vehicles and equipment through a lease-purchase arrangement.

C. The helicopter and vehicles and equipment to be financed are described in the Report to City Council dated August 30, 2024 (Report).

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

E. The City reasonably expects to reimburse itself for the Expenditures with the proceeds of the Obligations.

F. 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.

G. 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 helicopter and vehicles and equipment 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.

H. 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).

I. 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).

J. 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 Council.

K. The Office of the City Attorney prepared this Ordinance based on the information provided by City staff, with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. The Mayor is authorized and directed to finance the purchase of the helicopter and vehicles and equipment described in the Report, with such additions and changes 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.

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- 21891, 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 helicopter and vehicles and equipment financed under the Agreement shall not exceed \$40,000,000; (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 helicopter and vehicles and equipment (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 helicopter and vehicles and equipment.

Section 4. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

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

APPROVED: MARA W. ELLIOTT, City Attorney

By Marguerite Midaugh
Marguerite E. Midaugh
Deputy City Attorney

MEM:jdf
09/24/2024
Or.Dept: Debt Management
Doc. No. 3805782

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on Oct 29 2024

DIANA J.S. FUENTES
City Clerk

By Kristell Medina
Deputy City Clerk

Approved: 11/4/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(Note: The date of final passage is November 6, 2024, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

OCT 29 2024

Passed by the Council of The City of San Diego on _____, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input 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 NOV 06 2024.

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 Krystle 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

OCT 08 2024, and on NOV 06 2024.

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 Krystle Medina, Deputy

Office of the City Clerk, San Diego, California
21891
Ordinance Number O-_____