

RESOLUTION NO. 12-6392

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING A REIMBURSEMENT AGREEMENT, A FEE AGREEMENT, A REMARKETING AGREEMENT AND A REMARKETING CIRCULAR; AND AUTHORIZING THE TAKING OF CERTAIN ACTIONS IN CONNECTION WITH THE SUBSTITUTION OF A LETTER OF CREDIT RELATING TO VARIABLE RATE DEMAND REFUNDING CERTIFICATES OF PARTICIPATION (MARINE SPORTS FIELD CAPITAL LEASE REFINANCING) SERIES 2002

WHEREAS:

(a) The Manhattan Beach Capital Improvements Corporation, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California (the "Corporation") and the City of Manhattan Beach, a political subdivision duly organized and existing under and pursuant to the Constitution and laws of the State of California (the "City") previously entered into a Lease Agreement (the "Lease Agreement"), dated as of April 1, 2002 for the purpose of financing the acquisition of certain property and improvements for the City described therein (the "Marine Sports Complex"); and

(b) In order to finance the Marine Sports Complex, the City executed and delivered the Variable Rate Demand Refunding Certificates of Participation (Marine Sports Field Capital Lease Refinancing) Series 2002 (the "2002 Certificates") (which are currently outstanding in the principal amount of \$7,235,000) pursuant to a Trust Agreement, dated as of April 1, 2002 (the "2002 Trust Agreement"), by and among the City, the Corporation and U.S. Bank, N.A., as trustee (the "Trustee"), and

(c) The payment of the principal and interest, and purchase price, with respect to the 2002 Certificates are secured by a letter of credit issued by Bank of America, N.A., which is expiring by its terms on November 1, 2012 (the "Existing Letter of Credit");

(d) In order to provide a Substitute Security (as defined in the 2002 Trust Agreement), the City proposes to enter into a Reimbursement Agreement, dated as of October 1, 2012 (the "Reimbursement Agreement"), with Union Bank, N.A. (the "Credit Bank"), pursuant to which the Credit Bank will agree to issue a direct pay letter of credit (the "Letter of Credit"), and enter into a Fee Agreement, dated as of October 1, 2012 (the "Fee Agreement"), with the City, pursuant to which the City agrees to pay certain fees and expenses to the Credit Bank; and

(e) In connection with the issuance of the Letter of Credit, the City also proposes to appoint Loop Capital Markets LLC, as remarketing agent with respect to the 2002 Certificates (the "remarketing Agent"), pursuant to a Remarketing Agreement, dated as of October 1, 2012 (the "Remarketing Agreement"); and

(f) In order to facilitate the remarketing of the 2002 Certificates in connection with the effective date of the issuance of the Letter of Credit in substitution of the Existing Letter of Credit, the City has prepared a Remarketing Circular, which describes the City, the 2002 Certificates, and the security therefor; and

(g) The City is authorized to undertake all of the above pursuant to applicable laws of the State of California.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

1. The Council hereby determines the above findings are true and correct.
2. The form of Reimbursement Agreement by and between the City and the Credit Bank, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby approved.
3. The form of Fee Agreement by and between the City and the Credit Bank, a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference, is hereby approved.
4. The form of Remarketing Agreement between the City and the Remarketing Agent, a copy of which is attached hereto as Exhibit "C" and incorporated herein by this reference, is hereby approved.
5. Any one of the Mayor, the City Manager, the Finance Director, or any deputy thereof, or person duly appointed in writing to act in the stead of such officer (collectively, the "Responsible Officers"), is hereby authorized and directed for and in the name of and on behalf of the City to execute and deliver the Reimbursement Agreement, the Fee Agreement and the Remarketing Agreement, each in substantially the form presented to and considered at this meeting, with such changes therein, deletions therefrom and additions thereto as may be approved (i) by any Responsible Officer, in such person's discretion, as being in the best interests of the City, (ii) by Stradling Yocca Carlson & Rauth, Special Counsel, and, (iii) as to form, by City Attorney; such approval to be conclusively evidenced by the execution and delivery thereof by the person executing the same on behalf of the City.
6. The proposed form of Remarketing Circular, presented to this meeting and a copy of which is attached hereto as Exhibit "D", is hereby approved. Any Responsible Officer is, hereby authorized, for and in the name of and on behalf of the City, to execute the Remarketing Circular, in substantially the form attached hereto, with such insertions and changes therein as such officer or officers, with the advice of said Special Counsel and the City Attorney, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The Remarketing Agent is hereby authorized to distribute the Remarketing Circular to persons who may be interested in the purchase of the 2002 Certificates.
7. All actions heretofore taken by any officer of the City with respect to the matters contemplated by this Resolution, the Reimbursement Agreement, the Remarketing Agreement or the Remarketing Circular, are hereby approved, confirmed and ratified.
8. The Responsible Officers are, and each of them acting alone is, hereby authorized and directed to take such actions and to execute such documents and certificates as may be necessary to effectuate the purposes of this resolution, including the execution and delivery of the Reimbursement Agreement, the Fee Agreement, the Remarketing Agreement and the Remarketing Circular, the issuance of the Letter of Credit, the appointment of the Remarketing Agent, the

mandatory tender of the 2002 Certificates in connection with the issuance of the Letter of Credit, payment of fees and expenses of the Remarketing Agent, Special Counsel to the City, the Credit Bank and counsel to the Credit Bank, publication of any notices necessary or desirable in connection with the remarketing of the 2002 Certificates and execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, deem necessary or advisable in order to consummate the transactions as described herein and in the Remarketing Circular.

9. This Resolution shall take effect upon its adoption by this Council. The City Clerk shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect.

PASSED, APPROVED and ADOPTED this 4th day of September, 2012.

Ayes:

Noes:

Absent:

Abstain:

Wayne Powell, Mayor
City of Manhattan Beach, California

ATTEST:

Liza Tamura, City Clerk

APPROVED AS TO FORM:

By Jm Banow
City Attorney