

RESOLUTION NO. 21-0063

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING A SECOND SUPPLEMENT TO TRUST AGREEMENT, A SECOND AMENDMENT TO SITE AND FACILITIES LEASE, A SECOND AMENDMENT TO LEASE AGREEMENT, A CERTIFICATE PURCHASE CONTRACT, AN OFFICIAL STATEMENT, A CONTINUING DISCLOSURE CERTIFICATE, AND AUTHORIZING THE TAKING OF CERTAIN ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF NOT TO EXCEED \$9,700,000 CERTIFICATES OF PARTICIPATION (FIRE STATION #2) SERIES 2021

WHEREAS:

(a) 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") has determined that financing the costs of constructing and equipping a fire station and related improvements (the "Improvements") is necessary and proper for City purposes and uses under the terms of applicable law and is for the common benefit of the City as a whole; and

(b) In order to implement the foregoing, the City and 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"), propose to enter into a Second Amendment to Site and Facilities Lease, dated as of August 1, 2021 (the "Second Amendment to Site and Facilities Lease"), which amends a Site and Facilities Lease, dated as of February 1, 2013 (the "Original Site Lease"), as amended by the First Amendment to Site and Facilities Lease, dated as of December 1, 2016, pursuant to which the City leased to the Corporation certain real property and improvements generally consisting of the police department and fire department headquarters facility (the "Leased Premises"); and

(c) The City and the Corporation propose to enter into a Second Amendment to Lease Agreement, dated as of August 1, 2021 (the "Second Amendment to Lease Agreement"), which amends a Lease Agreement, dated as of February 1, 2013 (the "Original Lease"), as amended by the First Amendment to Lease Agreement, dated as of December 1, 2016 (the "First Amendment to Lease Agreement," and together with the Original Lease and the First Amendment to Lease Agreement, dated as of December 1, 2016, the "Lease Agreement"), pursuant to which the Corporation leased the Leased Premises to the City in consideration for which the City will continue to make lease payments ("Lease Payments") for the use and possession of the Leased Premises; and

(d) The Corporation proposes to enter into a Second Amendment to Assignment Agreement, dated as of August 1, 2021 ("Second Amendment to Assignment Agreement"), which amends an Assignment Agreement, dated as of February 1, 2013 (the "Original Assignment Agreement"), as amended pursuant to the

First Amendment to Assignment Agreement, dated as of December 1, 2016, pursuant to which the Corporation assigned and transferred to U.S. Bank National Association, as trustee (the "Trustee"), certain of its rights, title and interest in and to the Lease Agreement, including its right to receive Lease Payments thereunder; and

(e) The City, the Corporation and the Trustee propose to enter into a Second Supplement to Trust Agreement, dated as of August 1, 2021 (the "Second Supplement to Trust Agreement"), which supplements the Trust Agreement, dated as of February 1, 2013, as supplemented by the First Supplement to Trust Agreement, dated as of December 1, 2016, pursuant to which the Trustee will execute and deliver Certificates of Participation (Fire Station #2) Series 2021 (the "2021 Certificates") representing proportionate undivided interests in the Lease Agreement, including the right to receive Lease Payments thereunder; and

(f) The City proposes to enter into a Continuing Disclosure Certificate, dated as of August 1, 2021 (the "Continuing Disclosure Certificate (as hereinafter defined) in order to assist the Underwriter (as defined herein) in complying with the Rule (as defined therein); and

(g) The City, the Corporation and the Underwriter propose to enter into a Purchase Contract (as hereinafter defined) pursuant to which the Underwriter will purchase the 2021 Certificates; and

(h) In compliance with SB 450, the City has obtained from its Municipal Advisor the required good faith estimates and such estimates are disclosed and set forth in an attachment to the staff report submitted herewith; and

(i) 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 Second Amendment to Site and Facilities Lease by and between the City and the Corporation, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby approved. The term of the Site and Facilities Lease, as extended by the Second Amendment to Site and Facilities Lease, shall not extend beyond January 1, 2051.
3. The form of Second Amendment to Lease Agreement by and between the City and the Corporation, a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference, is hereby approved. The term of the Lease Agreement, as extended by the Second Amendment to Lease Agreement, shall not extend beyond January 1, 2051. The amount of Lease Payments attributable to the 2021 Certificates shall not exceed \$575,000 in any year.

4. The form of Second Supplement to Trust Agreement among the City, the Corporation and the Trustee, a copy of which is attached hereto as Exhibit "C" and incorporated herein by this reference, is hereby approved. The Second Supplement to Trust Agreement may be amended to provide for the use of a debt service reserve fund if any Responsible Officer determines that inclusion of such reserve fund would be in the best interests of the City, which determination shall be evidenced by the execution of the Second Supplement to Trust Agreement by any Responsible Officer.

5. The execution and delivery, pursuant to the Second Supplement to Trust Agreement, of the 2021 Certificates in an aggregate principal amount not to exceed \$9,700,000 is hereby approved.

6. The form of Contract of Purchase (the "Purchase Contract") between the City and BofA Securities, Inc. (the "Underwriter"), a copy of which is attached hereto as Exhibit "D" and incorporated herein by this reference, is hereby approved. In connection with the execution and delivery of the Purchase Contract, any Responsible Officer is further authorized and directed to negotiate the price and the interest rates for the 2021 Certificates to be sold pursuant to the Purchase Contract. The true interest cost of payments to be made in connection with the 2021 Certificates shall not exceed 4.00 percent per annum and the underwriter's discount from the principal amount of the 2021 Certificates shall not exceed 0.75% of the aggregate amount thereof.

7. Any one of the Mayor (or in the absence of the Mayor, the Mayor Pro Tem), the City Manager, or any deputy thereof (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 Second Amendment to Site and Facilities Lease, the Second Amendment to Lease Agreement, the Second Supplement to Trust Agreement, the Purchase Contract and the Continuing Disclosure Certificate, 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, and (ii) by Stradling Yocca Carlson & Rauth, a Professional Corporation, Special Counsel; such approval to be conclusively evidenced by the execution and delivery thereof by the person executing the same on behalf of the City.

8. The City hereby consents to the execution by the Corporation of the Second Amendment to Assignment Agreement and hereby approves the form of the Second Amendment to Assignment Agreement by and between the Corporation and the Trustee, a copy of which is attached hereto as Exhibit "E" and incorporated herein by this reference.

9. The proposed form of preliminary official statement relating to the 2021 Certificates, presented to this meeting and a copy of which is attached hereto as Exhibit "F," is hereby approved. The Underwriter of the 2021 Certificates and the Responsible Officers are hereby authorized to distribute to persons who may be interested in the purchase of the 2021 Certificates a preliminary official statement in substantially said form with such changes therein, deletions therefrom and additions thereto as may be

approved (i) by any such officer, and (ii) by Stradling Yocca Carlson & Rauth, a Professional Corporation, Special Counsel. Upon approval of such changes by any Responsible Officer as evidenced by execution of a certificate, substantially in the form on file with the City Clerk and incorporated herein by this reference, the preliminary official statement shall be deemed final as of its date except for the omission of certain information as provided in and pursuant to Rule 15c2-12 promulgated under the Securities and Exchange Act of 1934, as amended. Any Responsible Officer is, hereby authorized, for and in the name of and on behalf of the City, to execute a final official statement for the 2021 Certificates authorized hereby, in substantially the form of said preliminary official statement, with such insertions and changes therein as such officer or officers, with the advice of said Special Counsel, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The underwriter or underwriters of the 2021 Certificates and the Responsible Officers of the City are hereby authorized and directed to deliver copies of the final official statement to all actual purchasers of the 2021 Certificates.

10. The form of Continuing Disclosure Certificate, in substantially the form of the draft attached hereto as Exhibit "G" and incorporated herein by reference, to be dated the date of initial delivery of the 2021 Certificates is hereby authorized to be executed and delivered by any Responsible Officer. The City covenants with the holders from time to time of the 2021 Certificates that it will, and hereby authorizes the appropriate officers and employees of the City to take all action necessary or appropriate to, comply with and carry out all of the provisions of the Continuing Disclosure Certificate as amended from time to time. Notwithstanding any other provision of this Resolution, failure of the City to perform in accordance with the Continuing Disclosure Certificate shall not constitute a default or an Event of Default under the Resolution or the Trust Agreement, and the rights and remedies provided by the Resolution and the Trust Agreement upon the occurrence of such a default or an Event of Default shall not apply to any such failure, but the Continuing Disclosure Certificate may be enforced only as provided therein.

11. All actions heretofore taken by the Responsible Officers and by any other officers, employees or agents of the City with respect to the execution and delivery of the 2021 Certificates, or in connection with or related to any of the agreements or documents referenced herein, are hereby approved, confirmed and ratified.

12. 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 or desirable to effectuate the purposes of this resolution, including the execution and delivery of the 2021 Certificates, and the publication of any notices necessary or desirable in connection with the sale of the 2021 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 Official Statement.

14. 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.

ADOPTED on July 20, 2021.

Ayes:
Noes:
Absent:
Abstain:

SUZANNE HADLEY
Mayor

ATTEST:

LIZA TAMURA
City Clerk