

RESOLUTION NO. 2020-52

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF A MASTER SITE LEASE, A MASTER LEASE AGREEMENT, A MASTER INDENTURE, A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE CERTIFICATE, A SECOND AMENDMENT TO SITE LEASE AND A SECOND AMENDMENT TO LEASE AGREEMENT IN CONNECTION WITH THE ISSUANCE OF HUNTINGTON BEACH PUBLIC FINANCING AUTHORITY LEASE REVENUE REFUNDING BONDS, IN ONE OR MORE SERIES, APPROVING THE ISSUANCE OF SUCH BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$21,000,000, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS IN CONNECTION THEREWITH

WHEREAS, in order to refinance certain capital improvements, including certain improvements to public facilities to be installed as a part of the City's Pier Plaza project and a portion of the City's share of the costs of a countywide 800 MHz coordinated communications system (the "1997 Project") and other capital projects, including South Beach Phase I and II Improvements, a Beach Maintenance Facility, energy retrofitting of various facilities, design costs of the City's Sports Complex, water system improvements and the City's Emerald Cove Senior Housing project (the "2000 Project"), the Huntington Beach Public Financing Authority (the "Authority") issued its Huntington Beach Public Financing Authority Lease Revenue Refunding Bonds, 2010 Series A (the "Prior 2010A Bonds"), payable from certain lease payments to be made by the City of Huntington Beach (the "City"); and

In order to refinance certain capital improvements, including certain improvements to the Civic Center, including the Police Administration Building (the "1993 Project") and the Huntington Central Park Sports Complex and certain beach improvements along Pacific Coast Highway from First Street and Pacific Coast Highway to Huntington Street and Pacific Coast Highway (the "2001 Project" and together with the Prior 1993 Project, the 1997 Project and the 2000 Project, the "Projects"), the City leased certain real property owned by the City, including the improvements thereto, known as the Civic Center (collectively, the "2011 Property"), to the Authority pursuant to a Site Lease, dated as of September 1, 2011, as heretofore amended and supplemented (the "2011 Site Lease"), and subleased the 2011 Property back from the Authority pursuant to a Lease Agreement, dated as of September 1, 2011, as heretofore amended and supplemented (the "2011 Lease Agreement"); and

The City and the Authority determined that it would be in the best interests of the City and the Authority to provide the funds necessary to refinance the 1993 Project and the 2001 Project through the issuance by the Authority of Huntington Beach Public Financing Authority (Orange County, California) Lease Revenue Refunding Bonds, 2011 Series A (Capital Improvement Refinancing Project) (the "Prior 2011A Bonds" and, together with the Prior 2010A Bonds, the "Prior Bonds"), pursuant to an Indenture, dated as of September 1, 2011, as heretofore amended and supplemented (the "2011 Indenture"), by and among the Authority, the City and U.S. Bank

RESOLUTION NO. 2020-52

National Association, as successor trustee (the "2011 Trustee"), payable from certain lease payments to be made by the City under the 2011 Lease Agreement and the other assets pledged therefor under the 2011 Indenture; and

In order to achieve certain savings, the City and the Authority desire to refund all or a portion of the Prior Bonds and, therefore, refinance all or a portion of the Projects; and

In order to refund the Prior Bonds and, therefore, refinance all or a portion of the Projects, the City is leasing certain real property, and the improvements thereto, consisting of Donald W. Kiser Corporation Yard (the "Property"), to the Authority pursuant to a Master Site Lease (the "Site Lease"), and sublease the Property back from the Authority pursuant to a Master Lease Agreement (the "Lease Agreement"); and

In order to provide the funds necessary to refund all or a portion of the Prior Bonds and, therefore, refinance all or a portion of the Projects, the Authority and the City desire to provide for the issuance of Huntington Beach Public Financing Authority Lease Revenue Refunding Bonds (collectively, the "Series 2020 Bonds"), to be issued in one or more series, on a tax-exempt or taxable basis, with such series designations as authorized hereby in an aggregate principal amount of not to exceed \$21,000,000, pursuant to a Master Indenture (the "Indenture"), by and among the Authority, the City and U.S. Bank National Association, as trustee (the "Trustee"), payable from the base rental payments to be made by the City pursuant to the Lease Agreement and the other assets pledged therefor under the Indenture; and

All rights to receive such base rental payments will be assigned without recourse by the Authority to the Trustee pursuant to the Indenture; and

The Series 2020 Bonds will be issued pursuant to the Marks-Roos Local Bond Pooling Act of 1985, constituting Section 6584 et seq. of the California Government Code (the "Act"); and

Stifel, Nicolaus & Company, Incorporated (the "Underwriter"), has submitted to the Authority and the City a proposal to purchase the Series 2020 Bonds in the form of a Bond Purchase Agreement (the "Bond Purchase Agreement"); and

Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 ("Rule 15c2-12") requires that, in order to be able to purchase or sell the Series 2020 Bonds, the underwriters thereof must have reasonably determined that the City has undertaken in a written agreement or contract for the benefit of the holders of the Series 2020 Bonds to provide disclosure of certain financial information and certain enumerated events on an ongoing basis; and

In order to cause such requirement to be satisfied, the City desires to execute a Continuing Disclosure Certificate (the "Continuing Disclosure Certificate"); and

A form of the Preliminary Official Statement (the "Preliminary Official Statement") to be distributed in connection with the public offering of the Series 2020 Bonds has been prepared; and

The City is a member of the Authority and the Projects are located within the boundaries of the City; and

Section 7.02 of the 2011 Lease Agreement provides that the City has the right to substitute alternate real property for any portion of the 2011 Property or to release a portion of the 2011 Property from the 2011 Lease Agreement if certain conditions specified therein are satisfied; and

Section 9.01(b) provides that the 2011 Lease Agreement and the 2011 Site Lease, and the rights and obligations of the City and the Authority thereunder, may be amended at any time by an amendment thereto, which shall become binding upon execution by the City and the Authority, without the written consents of any owners of the bonds issued under the 2011 Indenture, to provide for the substitution or release of any portion of the Property in accordance with the provisions of Section 7.02 of the 2011 Lease Agreement; and

In connection with the refunding of all or a portion of the Prior 2011A Bonds and, therefore, the refinancing of all or a portion of the Prior 1993 Project and the Prior 2001 Project, the City and the Authority desire to substitute certain real property, and the improvements thereto, consisting of Central Library (the "Library"), for the 2011 Property currently subject to the 2011 Lease Agreement; and

In connection therewith, the City and the Authority find it desirable to modify the 2011 Site Lease and the 2011 Lease Agreement pursuant to the Second Amendment to Site Lease, by and between the City and the Authority (the "Second Amendment to Site Lease") and the Second Amendment to Lease Agreement, by and between the City and the Authority (the "Second Amendment to Lease Agreement"); and

Section 5852.1 of the California Government Code requires that the City Council of the City (the "City Council") obtain from an underwriter, financial advisor or private lender and disclose, in a meeting open to the public, prior to authorization of the issuance of the Series 2020 Bonds, good faith estimates of (a) the true interest cost of the Series 2020 Bonds, (b) the sum of all fees and charges paid to third parties with respect to the Series 2020 Bonds, (c) the amount of proceeds of the Series 2020 Bonds expected to be received net of the fees and charges paid to third parties and any reserves or capitalized interest paid or funded with proceeds of the Series 2020 Bonds, and (d) the sum total of all debt service payments on the Series 2020 Bonds calculated to the final maturity of the Series 2020 Bonds, plus the fees and charges paid to third parties not paid with the proceeds of the Series 2020 Bonds; and

In compliance with Section 5852.1 of the California Government Code, the City Council has obtained from KNN Public Finance, the City's municipal advisor, the required good faith estimates and such estimates are disclosed and set forth in Exhibit A attached hereto; and

The City has previously adopted a local debt policy (the "Debt Management Policy") that complies with California Government Code Section 8855(i), and the sale and issuance of the Series 2020 Bonds as contemplated by this Resolution is in compliance with the Debt Management Policy; and

The City Council has been presented with the form of each document referred to herein relating to the actions contemplated hereby, and the City Council has examined and approved each document and desires to authorize and direct the execution of such documents and the consummation of such actions; and

All acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the actions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such actions for the purpose, in the manner and upon the terms herein provided;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve, determine and order as follows:

Section 1. All of the recitals herein contained are true and correct and the City Council so finds.

Section 2. The City Council, on behalf of the City, hereby finds that the use of the Act to assist the City in refinancing the Projects will result in significant public benefits to the citizens of the City because it is expected that such use will provide demonstrable savings in effective interest rate costs.

Section 3. The form of the Site Lease, submitted to and on file with the City Clerk of the City, is hereby approved, and the Mayor of the City, and such other member of the City Council as the Mayor may designate, the City Manager, the Assistant City Manager and the Chief Financial Officer of the City, and such other officers of the City as the City Manager may designate (collectively, the "Authorized Officers"), are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Site Lease in substantially said form, with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. The form of the Lease Agreement, submitted to and on file with the City Clerk of the City, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Lease Agreement in substantially said form, with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the aggregate amount of the principal portions of the base rental payments payable under the Lease Agreement shall not exceed \$21,000,000, the term of the Lease Agreement shall not exceed 12 years (provided that such term may be extended as provided therein) and the true interest cost applicable to the interest portions of the base rental payments shall not exceed 3.00% per annum.

Section 5. The form of the Indenture, submitted to and on file with the City Clerk of the City, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Indenture in substantially said form, with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that (a) the aggregate principal amount of the Series 2020 Bonds shall not exceed \$21,000,000, (b) the final maturity date of the Series 2020 Bonds shall be no later than the date which is 12 years from the date of the Series 2020 Bonds, and (c) the present value of debt

service savings shall not be less than 3.00% of the aggregate principal amount of the Prior Bonds to be refunded.

Section 6. The issuance of not to exceed \$21,000,000 aggregate principal amount of Series 2020 Bonds, in one or more series and on a tax-exempt or taxable basis, with such series designations, in the principal amounts, bearing interest at the rates and maturing on the dates as specified in the Indenture as finally executed, is hereby approved.

Section 7. The form of the Bond Purchase Agreement, submitted to and on file with the City Clerk of the City, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Bond Purchase Agreement in substantially said form, with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the underwriters' discount for the sale of the Series 2020 Bonds shall not exceed 0.40% of the aggregate principal amount of the Series 2020 Bonds.

Section 8. The form of Continuing Disclosure Certificate, submitted to and on file with the City Clerk of the City, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Continuing Disclosure Certificate in substantially said form, with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 9. The form of Preliminary Official Statement, submitted to and on file with the City Clerk of the City, with such changes therein as may be approved by an Authorized Officer, is hereby approved, and the use of the Preliminary Official Statement in connection with the offering and sale of the Series 2020 Bonds is hereby authorized and approved. The Authorized Officers are each hereby authorized to certify on behalf of the City that the Preliminary Official Statement is deemed final as of its date, within the meaning of Rule 15c2-12 (except for the omission of certain final pricing, rating and related information as permitted by Rule 15c2-12). If and to the extent it is necessary to make substantial changes to the Preliminary Official Statement prior to the offering and sale of the Series 2020 Bonds, the use of the Preliminary Official Statement in connection with the offering and sale of the Series 2020 Bonds, and the certification of its finality within the meaning of Rule 15c2-12 by an Authorized Officer, shall follow the distribution to the City Council of a revised draft of the Preliminary Official Statement with accompanying directions and instructions to members of the City Council to review such revised Preliminary Official Statement and provide comments to such Authorized Officer.

Section 10. The preparation and delivery of an Official Statement, and its use by the Underwriters in connection with the offering and sale of the Series 2020 Bonds, is hereby authorized and approved. The Official Statement shall be in substantially the form of the Preliminary Official Statement with such changes, insertions and omissions as may be approved by an Authorized Officer. The Authorized Officers are each hereby authorized and directed, for and in the name of and on behalf of the City, to execute the final Official Statement and any amendment or supplement thereto and thereupon to cause the final Official Statement and any such amendment or supplement to be delivered to the Underwriters.

Section 11. The City Council hereby authorizes the substitution of the Library for the 2011 Property currently subject to the 2011 Lease Agreement pursuant to Section 7.02 of the 2011 Lease Agreement.

Section 12. The form of Second Amendment to Site Lease, submitted to and on file with the City Clerk of the City, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Second Amendment to Site Lease in substantially said form, with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 13. The form of Second Amendment to Lease Agreement, submitted to and on file with the City Clerk of the City, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Second Amendment to Lease Agreement in substantially said form, with such changes therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 14. The Authorized Officers are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable in order to consummate the transactions herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, including, without limitation, entering into necessary lease termination agreements with respect to the defeasance of the Prior Bonds, obtaining title insurance with respect to the Property and entering into an agreement to indemnify and hold the insurance company providing the same harmless with respect to encumbrances recorded against the Property between the last title continuation as set forth in such agreement and the recording of the documents (or notice thereof) herein approved.

Section 15. All actions heretofore taken by the officers, employees and agents of the City with respect to the transactions set forth above are hereby approved, confirmed and ratified.

Section 16. This Resolution shall take effect from and after its date of adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the ____ day of _____, 2020.

Mayor

REVIEWED AND APPROVED:

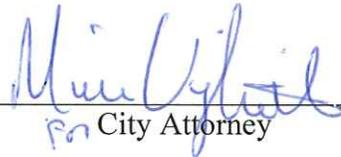
INITIATED AND APPROVED:

City Manager



Chief Financial Officer

APPROVED AS TO FORM:



City Attorney

EXHIBIT A**GOOD FAITH ESTIMATES**

The good faith estimates set forth herein are provided with respect to the Series 2020 Bonds in compliance with Section 5852.1 of the California Government Code. Such good faith estimates have been provided to the City and the Authority by KNN Public Finance, the City's municipal advisor under Section 15B of the Securities Exchange Act of 1934 (the "Municipal Advisor").

Principal Amount. The Municipal Advisor has informed the City and the Authority that, based on the City's and the Authority's financing plan and based on market conditions prevailing at the time of preparation of such estimate, its good faith estimate of the aggregate principal amount of the Series 2020 Bonds to be sold in a public offering is \$19,695,000.00 (the "Estimated Principal Amount").

True Interest Cost of the Series 2020 Bonds. The Municipal Advisor has informed the City and the Authority that, assuming that the Estimated Principal Amount of the Series 2020 Bonds is sold, and based on market conditions prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Series 2020 Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Series 2020 Bonds, is 2.02%.

Finance Charge of the Series 2020 Bonds. The Municipal Advisor has informed the City and the Authority that, assuming that the Estimated Principal Amount of the Series 2020 Bonds is sold, and based on market conditions prevailing at the time of preparation of such estimate, its good faith estimate of the finance charge for the Series 2020 Bonds, which means the sum of all fees and charges paid to third parties (or costs associated with the Series 2020 Bonds), is \$362,323.11.

Amount of Proceeds to be Received. The Municipal Advisor has informed the City and the Authority that, assuming that the Estimated Principal Amount of the Series 2020 Bonds is sold, and based on market conditions prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by the City and the Authority for sale of the Series 2020 Bonds, less the finance charge of the Series 2020 Bonds, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the Series 2020 Bonds, is \$20,537,644.54.

Total Payment Amount. The Municipal Advisor has informed the City and the Authority that, assuming that the Estimated Principal Amount of the Series 2020 Bonds is sold, and based on market conditions prevailing at the time of preparation of such estimate, its good faith estimate of the total payment amount, which means the sum total of all payments the Authority will make to pay debt service on the Series 2020 Bonds, plus the estimated finance charge for the Series 2020 Bonds, as described above, not paid with the proceeds of the Series 2020 Bonds, calculated to the final maturity of the Series 2020 Bonds, is \$23,534,285.82.

The foregoing estimates constitute good faith estimates only and are based on market conditions prevailing at the time of preparation of such estimates. The actual principal amount of the Series 2020 Bonds issued and sold, the true interest cost thereof, the finance charges thereof,

the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates for a variety of reasons, including, without limitation, due to (a) the market conditions prevailing on the actual date of the sale of the Series 2020 Bonds being different than the market conditions prevailing at the time of preparation of the estimates contained herein, (b) the actual principal amount of Series 2020 Bonds sold being different from the Estimated Principal Amount, (c) the actual amortization of the Series 2020 Bonds being different than the amortization assumed for purposes of preparing the estimates contained herein, (d) the actual interest rates at which the Series 2020 Bonds are sold being different than those estimated for purposes of preparing the estimates contained herein, (e) other market conditions, or (f) alterations in the City's and the Authority's financing plan, or a combination of such factors. The actual date of sale of the Series 2020 Bonds and the actual principal amount of Series 2020 Bonds sold will be determined by the City and the Authority based on various factors. The actual interest rates borne by the Series 2020 Bonds will depend on market conditions at the time of sale thereof. The actual amortization of the Series 2020 Bonds will also depend, in part, on market conditions at the time of sale thereof. Market conditions, including, without limitation, interest rates are affected by economic and other factors beyond the control of the City, the Authority and the Municipal Advisor.