

RESOLUTION NO. 2019-72

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON  
BEACH AUTHORIZING THE EXECUTION AND DELIVERY OF A  
SECOND SUPPLEMENTAL INDENTURE IN CONNECTION WITH A  
CHANGE IN THE AUTHORIZED USE OF PROCEEDS OF THE  
HUNTINGTON BEACH PUBLIC FINANCING AUTHORITY (ORANGE  
COUNTY, CALIFORNIA) LEASE REVENUE BONDS, 2014 SERIES A, AND  
AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND  
CERTIFICATES AND RELATED ACTIONS IN CONNECTION THEREWITH

WHEREAS, in order to finance and refinance various capital improvement projects (collectively, the "Projects"), the City of Huntington Beach (the "City") leased certain real property owned by the City, including the improvements thereto, known as the Civic Center (collectively, the "Property"), to the Huntington Beach Public Financing Authority (the "Authority") pursuant to a Site Lease, dated as of September 1, 2011, by and between the City and the Authority, as amended and supplemented by the First Amendment to Site Lease, dated as of November 1, 2014, by and between the City and the Authority, and subleased the Property back from the Authority pursuant to a Lease Agreement, dated as of September 1, 2011, by and between the City and the Authority, as amended and supplemented by the First Amendment to Lease Agreement, dated as of November 1, 2014, by and between the City and the Authority (collectively, the "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 finance and refinance the Projects through the issuance by the Authority of (i) the Huntington Beach Public Financing Authority (Orange County, California) Lease Revenue Refunding Bonds, 2011 Series A (Capital Improvement Refinancing Project) (the "Series 2011A Bonds"), and (ii) the Huntington Beach Public Financing Authority (Orange County, California) Lease Revenue Bonds, 2014 Series A (Senior Center Project) (the "Series 2014A Bonds" and together with the Series 2011A Bonds, the "Bonds"), pursuant to an Indenture, dated as of September 1, 2011, by and among the Authority, the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), as amended and supplemented by the First Supplemental Indenture, dated as of November 1, 2014, by and among the Authority, the City and the Trustee (collectively, the "Indenture"), payable from the base rental payments (the "Base Rental Payments") to be made by the City under the Lease Agreement and the other assets pledged therefor under the Indenture; and

All rights to receive such Base Rental Payments were assigned without recourse by the Authority to the Trustee pursuant to the Indenture; and

In consideration of such assignment and the execution of the Indenture, the Authority issued the Bonds (capitalized undefined terms used in these recitals shall have the meanings ascribed thereto in the Indenture); and

The Indenture provides that, subject to the conditions set forth therein, the Indenture and the rights and obligations of the Authority, the City, the Trustee and the Owners under the

Indenture may be modified or amended from time to time and at any time by a Supplemental Indenture, which the Authority, the City and the Trustee may enter into without the consent of any Owners for any reason not otherwise provided for in the Indenture, provided such amendment or supplement does not adversely affect the rights or interests of the Owners; and

A portion of the proceeds of the Series 2014A Bonds remains unspent and the City and the Authority have determined that it would be in the best interests of the City and the Authority to amend the Indenture to expand the Projects funded with the Series 2014A Bonds to include the Police Building Modernization Project to be completed for the Police Department building at the Civic Center (the "Police Building Modernization Project") and any other capital improvement project the City deems a priority (collectively, the "Expanded Projects"); and

The City and the Authority have determined that such an amendment to the Indenture would not adversely affect the rights or interests of the Owners under the Indenture; and

The Authority and the City desire that the Trustee, the Authority and the City enter into a Second Supplemental Indenture (the "Second Supplemental Indenture") in order to provide for the amendment of the Indenture to expand the Projects funded with the Series 2014A Bonds to include the Expanded Projects; and

The City Council of the City (the "City Council") has been presented with the form of the Second Supplemental Indenture, and the City Council has examined and approved the Second Supplemental Indenture and desires (i) to authorize and direct the execution of such document and the consummation of the amendment of the Indenture to expand the Projects funded with the Series 2014A Bonds to include the Expanded Projects, and (ii) authorize the expenditure of the remaining Series 2014A Bond proceeds on the Expanded Projects; 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 form of the Second Supplemental Indenture, submitted to and on file with the City Clerk, 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 Second Supplemental 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, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to expend the remaining Series 2014A Bond proceeds on the Expanded Projects.

**Section 3.** 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 transaction herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution.

**Section 4.** All actions heretofore taken by the officers, employees and agents of the City with respect to the transaction set forth above are hereby approved, confirmed and ratified.

**Section 5.** This Resolution and the declaration herein 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 \_\_\_\_\_, 2019.

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Mayor

REVIEWED AND APPROVED:

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City Manager

INITIATED AND APPROVED:

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Interim Chief Financial Officer

APPROVED AS TO FORM:

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City Attorney