

RESOLUTION NO. 2021-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH AUTHORIZING THE SALE OF TAXABLE PENSION OBLIGATION BONDS TO REFUND ALL OR A PORTION OF THE CITY'S OBLIGATION TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE CONTRACT AND A CONTINUING DISCLOSURE CERTIFICATE AND THE PREPARATION OF AN OFFICIAL STATEMENT AND OTHER MATTERS RELATED THERETO

WHEREAS, the City of Huntington Beach (the "City") is obligated by the Public Employees' Retirement Law, Section 20000 *et seq.* of the California Government Code (the "Retirement Law"), to make payments to the California Public Employees' Retirement System ("CalPERS") relating to pension benefits accruing to City employees who are CalPERS members; and

The City has entered into a contract with CalPERS with respect to the City's Safety Plan (the "Safety Plan") and the City's Miscellaneous Plan (the "Miscellaneous Plan"), effective October 1, 1945, witnessed October 27, 1945, and as amended effective January 1, 1950, March 1, 1952, November 1, 1957, March 1, 1958, October 1, 1961, January 1, 1971, January 12, 1974, April 18, 1975, February 21, 1976, August 7, 1976, September 17, 1977, September 30, 1978, June 6, 1981, March 18, 1982, February 24, 1983, December 4, 1986, March 18, 1988, November 4, 1999, April 20, 2000, June 30, 2001, October 5, 2001, February 6, 2003, May 8, 2003, March 11, 2006 and June 14, 2008, and as heretofore and hereafter amended from time to time (the "CalPERS Contract"), evidencing the City's obligation to pay the City's unfunded accrued actuarial liability and its normal annual contribution to CalPERS; and

The City is authorized pursuant to Articles 10 and 11 (commencing with Section 53570) of Chapter 3 of Division 2 of Title 5 of the California Government Code to issue refunding bonds for the purpose of refunding any evidence of indebtedness of the City; and

As of June 30, 2019, based upon the actuarial reports of pension liability as calculated by CalPERS with respect to the Safety Plan and the Miscellaneous Plan (together, the "Actuarial Reports"), the City had an obligation in the amount of \$435,994,000 (consisting of \$272,805,000 for the Safety Plan and \$163,189,000 for the Miscellaneous Plan) pursuant to the CalPERS Contract and the Retirement Law as an unfunded accrued actuarial liability; and

The City desires to issue, and the City Council has pursuant to Resolution No. 2019-89 entitled "Resolution Of The City Council Of The City Of Huntington Beach Providing For The Issuance Of One Or More Series Of City Of Huntington Beach Taxable Pension Obligation Bonds And Authorizing A Trust Agreement, A Validation Action And Other Matters Relating Thereto" adopted on November 19, 2019 (the "Initial Resolution"), authorized the issuance of, its City of Huntington Beach Taxable Pension Obligation Bonds, Series 2021 (the "Series 2021 Bonds") in an aggregate principal amount not exceeding the sum of (a) the City's unfunded accrued actuarial liability under the CalPERS Contract pursuant to the Retirement Law as of the date of issuance of the Series 2021 Bonds as determined by CalPERS, (b) any original issue

discount on the Series 2021 Bonds, and (c) the costs of issuance of the Series 2021 Bonds (including underwriters' discount on the Series 2021 Bonds), for the purpose of refunding all or a portion of the City's unfunded accrued actuarial liability for City employees under the CalPERS Contract and the Retirement Law and thereby providing funds to CalPERS for investment; and

CalPERS estimates that that the City's unfunded accrued actuarial liability for City employees under the CalPERS Contract and the Retirement Law will be an amount at least equal to \$426,388,332 as of the date of issuance of the Series 2021 Bonds; and

In order to provide for the authentication and delivery of the Series 2021 Bonds, to establish and declare the terms and conditions upon which the Series 2021 Bonds are to be issued and secured and to secure the payment of the principal thereof, premium, if any, and interest thereon, the City proposes to enter into a Trust Agreement with U.S. Bank National Association, as trustee (the "Trustee") (the "Trust Agreement"), and the City Council, pursuant to the Initial Resolution, has approved the form of the Trust Agreement and authorized 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"), for and in the name of the City, to execute and deliver the Trust Agreement, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Trust Agreement by such Authorized Officer, subject to the provisions of the Initial Resolution; and

The City Council, in the Initial Resolution, authorized an optional pledge of certain *ad valorem* property taxes to the payment of the Series 2021 Bonds and subsequently, in consultation with its Municipal Advisor and Bond Counsel, the City determined that it will not pledge those *ad valorem* taxes to the repayment of the Series 2021 Bonds; and

The City Council, in the Initial Resolution, authorized the issuance of the Series 2021 Bonds on the terms and conditions set forth in, and subject to the limitations specified in, the Trust Agreement, with a maturity no later June 30, 2043 (the current CalPERS final amortization of the City's unfunded accrued actuarial liability) but the amortized unfunded accrued actuarial liability is due to CalPERS in the year after the year it amortizes and, therefore, the City Council desires to extend the final maturity of the Series 2021 Bonds into 2044 to match the fiscal year in which the final amortized current unfunded accrued actuarial liability is due to be paid to CalPERS; and

The City Council, in the Initial Resolution, authorized and directed the Authorized Officers, and each of them, for and in the name of the City, to bring a validation action under Section 860 of the California Code of Civil Procedure seeking a judgment determining, among other things, that the Series 2021 Bonds and the Trust Agreement will be valid, legal and binding obligations of the City; and

On May 18, 2020, a default judgment (the "Validation Judgment") was entered by the Superior Court of the State of California for the County of Orange in the case entitled *City of Huntington Beach v. All Persons Interested et al.* (Case No. 30-2019-01113643-CU-MC-CJC); and

Stifel, Nicolaus & Company, Incorporated, as representative of itself, BofA Securities and Hilltop Securities Inc. (collectively, the "Underwriters"), has presented the City with a proposal, in the form of a Bond Purchase Contract, to purchase the Series 2021 Bonds (such Bond Purchase Contract, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Purchase Contract"); 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 2021 Bonds, the Underwriters must have reasonably determined that an obligated person has undertaken in a written agreement or contract for the benefit of the holders of the Series 2021 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 enter into a Continuing Disclosure Certificate (such Continuing Disclosure Certificate, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Continuing Disclosure Certificate"); and

There has been prepared a Preliminary Official Statement to be distributed in connection with the public offering of the Series 2021 Bonds (such Preliminary Official Statement in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Preliminary Official Statement"); and

There has been prepared and submitted to this meeting a form of the Purchase Contract, the Continuing Disclosure Certificate and the Preliminary Official Statement; and

All acts, conditions and things required by the 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 refunding of all or a portion of the City's unfunded accrued actuarial liability for City employees under the CalPERS Contract and the Retirement Law 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 refunding 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 as follows:

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

Section 2. The City Council hereby finds and declares that the issuance of the Series 2021 Bonds to refund all or a portion of the City's unfunded accrued actuarial liability for City employees under the CalPERS Contract and the Retirement Law and the other actions contemplated hereby are in the best interests of the City and are expected, based on investment and other assumptions, to result in significant savings to the taxpayers of the City. The City Council hereby authorizes the extension of the final maturity of the Series 2021 Bonds to not

later than June 30, 2044, to match the fiscal year in which the final amortized current unfunded accrued actuarial liability is due to be paid to CalPERS.

Section 3. The Purchase Contract, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the name of the City, to execute and deliver the Purchase Contract, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Purchase Contract by such Authorized Officer; provided, however, that, the aggregate underwriters' discount (not including any original issue discount) from the principal amount of the Series 2021 Bonds shall not exceed 0.40% of the aggregate principal amount of the Series 2021 Bonds.

Section 4. The Continuing Disclosure Certificate, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the name of the City, to execute and deliver the Continuing Disclosure Certificate, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Continuing Disclosure Certificate by such Authorized Officer.

Section 5. The Preliminary Official Statement, in substantially the form presented to this meeting and made a part hereof as though set forth in full herein, with such changes therein as may be approved by an Authorized Officer, be and the same is hereby approved, and the use of the Preliminary Official Statement in connection with the offering and sale of the Series 2021 Bonds is hereby authorized and approved. The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the name of the City, to certify to the Underwriters that the Preliminary Official Statement has been "deemed final" for purposes of Rule 15c2-12.

Section 6. The preparation and delivery of a final Official Statement (the "Official Statement"), and its use in connection with the offering and sale of the Series 2021 Bonds, be and the same 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, such approval to be conclusively evidenced by the execution and delivery thereof. The Authorized Officers are, and each of them is, hereby authorized and directed to execute the final Official Statement, and any amendment or supplement thereto, for and in the name of the City.

Section 7. The Authorized Officers are, and each of them hereby is, authorized and directed to execute and deliver any and all agreements, documents, certificates and instruments and to do and cause to be done any and all acts and things which they or any of them deem necessary or advisable in order to carry out the issuance of the Series 2021 Bonds and to consummate the transactions contemplated by the Trust Agreement, the Purchase Contract, the Continuing Disclosure Certificate, the Official Statement, the Initial Resolution and this Resolution.

Section 8. The City Council hereby approves the execution and delivery of any and all agreements, documents, certificates and instruments referred to herein with electronic signatures as may be permitted under the California Uniform Electronic Transactions Act and digital signatures as may be permitted under Section 16.5 of the Government Code using DocuSign.

Section 9. All actions heretofore taken by the officers and employees of the City with respect to the issuance and sale of the Series 2021 Bonds, or in connection with or related to any of the agreements, documents, certificates or instruments referenced herein, are hereby approved, confirmed and ratified.

Section 10. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 1st day of March, 2021.

Mayor

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

City Manager



Chief Financial Officer

APPROVED AS TO FORM:



City Attorney