

OFFICE OF THE CITY CLERK
OAKLAND

Kathleen Salen-Royce
by J.L.

Oakland City Attorney's Office

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OAKLAND CITY COUNCIL

Resolution No. 79869 C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE SALE OF NOT TO EXCEED \$21,000,000 AGGREGATE PRINCIPAL AMOUNT OF CITY OF OAKLAND, CALIFORNIA, GENERAL OBLIGATION BONDS (SERIES 2006, MEASURE G) AND LEVYING AN *AD VALOREM* TAX WITH RESPECT THERETO; AUTHORIZING THE PUBLICATION OF NOTICE OF INTENTION TO SELL; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FISCAL AGENT AGREEMENT; APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT; APPROVING THE RETENTION OF BOND COUNSEL AND OTHER AGENTS; AUTHORIZING PAYMENT OF COSTS OF ISSUANCE; AND AUTHORIZING NECESSARY ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Oakland (the "City") is a municipal corporation and charter city duly organized and existing under the Constitution and laws of the State of California and its charter (the "Charter"); and

WHEREAS, the provisions of Article 1, Chapter 4, Division 4 of Title 4 (commencing with Section 43600) and Article 4.5, Chapter 4, Division 4 of Title 4 (commencing with Section 53506) of the California Government Code (collectively, the "Act") authorize local governments to issue general obligation bonds to finance the acquisition and improvement of real property serving municipal purposes upon full compliance therewith; and

WHEREAS, on March 5, 2002 more than two-thirds of the qualified voters of the City approved a proposition ("Measure G") and thereby authorized the issuance by the City of its general obligation bonds in an amount not to exceed \$59,000,000 to acquire, renovate, improve, construct and finance existing and additional educational facilities at the Oakland Museum of California, the Oakland Zoo and the Chabot Space & Science Center, as further described in Measure G (the "Project"); and

WHEREAS, pursuant to Measure G, the City has previously issued its City of Oakland General Obligation Bonds (Series 2002A, Measure G) in the aggregate principal amount of \$38,000,000; and

WHEREAS, the City Council has determined it is necessary and desirable to issue an additional series of bonds pursuant to Measure G in order to finance additional portions of the cost of the Project for the Oakland Museum of California and the Oakland Zoo, on the conditions set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED, as follows:

Section 1. Conditions Precedent. All conditions, things and acts required by law to exist, to happen and to be performed precedent to and in connection with the issuance of the City of Oakland, California General Obligation Bonds (Series 2006, Measure G) exist, have happened and been performed in due time, form and manner, in accordance with applicable law, and the City is now authorized pursuant to the Charter and applicable law to incur indebtedness in the manner and form provided in this Resolution, as may be supplemented from time to time.

Section 2. Issuance of Bonds. The City Council hereby authorizes the issuance of its general obligation bonds which shall be designated the "City of Oakland, California General Obligation Bonds (Series 2006, Measure G)" (the "Bonds") in an aggregate amount of not to exceed of \$21,000,000, subject to the terms and conditions set forth in the Official Notice Inviting Bids (described below in Section 8) and to the following:

(a) The Bonds shall not have a true interest cost in excess of eight percent (8%). For purposes of this paragraph, true interest cost means that nominal annual interest rate which, when compounded semiannually and used to discount all payments of principal and interest payable on the Bonds to the dated date of such Bonds results in an amount equal to the principal amount of such Bonds plus the amount of any premium, if any, offered (disregarding for the purposes of the calculation the accrued interest to the date of delivery of the Bonds);

(b) Costs incurred in connection with the issuance of the Bonds (excluding underwriters discount and any cost of credit enhancement) shall not exceed two percent (2%) of the aggregate principal amount of the Bonds; and

(c) Any original issue premium upon the purchase of the Bonds shall not exceed two percent (2%) of the aggregate principal amount of the Bonds;

Section 3. Form of Bonds. The form of the Bonds, in substantially the form attached as Exhibit A to the First Supplemental Agreement (described below), is hereby approved and adopted. The City Administrator (the "City Administrator") is hereby authorized and directed to approve and to execute the Bonds by manual or facsimile signature; and the Clerk of the City (the "City Clerk") is hereby authorized and directed to attest, by manual or facsimile signature and to cause the seal of the City to be reproduced or impressed on the Bonds, with such changes, additions, amendments or modifications made in accordance with Section 13 hereof.

Section 4. Fiscal Agent Agreement. The form of the First Supplemental Agreement dated as of June 1, 2006 (the "First Supplemental Agreement") to the Fiscal Agent Agreement, dated as of November 1, 2002 (collectively, the "Fiscal Agent Agreement"), between the City and the fiscal agent named therein (the "Fiscal Agent"), in substantially the form of the First

Supplemental Agreement on file with the City Clerk, is hereby approved and adopted. The Director of the Finance and Management Agency is hereby authorized and directed to execute, the City Administrator is hereby authorized and directed to approve and the City Clerk is hereby authorized to attest to, the First Supplemental Agreement in substantially such form, with such changes, additions, amendments or modifications (including but not limited to changes, additions, amendments or modifications necessary to obtain ratings on the Bonds), which are approved by the Director of the Finance and Management Agency, in consultation with the City Attorney (the "City Attorney"), in the interest of the City, such approval to be conclusively evidenced by said execution. The City hereby agrees to comply with, or cause to be complied with, all covenants of the City set forth in the Fiscal Agent Agreement, as supplemented by the First Supplemental Agreement, including, but not limited to, covenants with the owners of the Bonds that the City shall not take any action, or fail to take any action, if such action or failure would adversely affect the exclusion from gross income of interest on the Bonds under Section 103 of the Internal Revenue Code of 1986, as amended.

Section 5. Tax Levy. For the purpose of paying the principal of and interest on the Bonds as it becomes due, the City Council at the time of fixing the general tax levy shall continue to fix, and in the manner provided for such general tax levy, levy and collect annually each year an *ad valorem* tax in an amount sufficient to pay the principal of and interest on the Bonds when due until all outstanding Bonds have been paid, or provision for their payment has been made in accordance with the Fiscal Agent Agreement; provided, however, that if the City Council expects to sell any Bonds at such time that the principal of or interest on such Bonds will become due before the proceeds of a tax levied after such sale would be available to pay such principal or interest, the City, at the time of fixing the annual tax levy, may levy a tax in an amount sufficient to pay that portion of the principal of and interest on the Bonds which it expects will become due before the proceeds of the next succeeding tax levy will be available.

Said tax shall be in addition to all other taxes levied for City purposes and shall be collected at the same time and in the same manner as other taxes of the City are collected.

Pursuant to this Resolution, the City hereby pledges as security for the Bonds and the interest thereon, the proceeds of said tax. The Director of the Finance and Management Agency is hereby directed to transfer the proceeds of the aforementioned tax to the Fiscal Agent for deposit into the 2006 Debt Service Account established under the Fiscal Agent Agreement for the Bonds. Such fund or funds shall be kept separate and apart from all other funds. The Director of the Finance and Management Agency shall also transfer to the Fiscal Agent for deposit into the 2006 Debt Service Account from the proceeds of sale of the Bonds, any moneys received on account of any premium paid on such Bonds and interest accrued on such Bonds to the date of payment of the purchase price thereof. So long as any of the Bonds are outstanding, moneys in said funds shall be used solely for the purpose of paying the principal of and interest on the Bonds as such principal and interest shall become due and payable; provided, however, that when all of the principal and interest on all of the Bonds has been paid, any balance of money then remaining in said funds shall be transferred by the Fiscal Agent to the City for deposit into the General Fund of the City.

Section 6. Appointment of Depositories and Other Agents. The Director of the Finance and Management Agency is hereby authorized and directed to appoint from time to time one or more depositories for the Bonds as she may deem desirable. The Director of the Finance

and Management Agency is hereby also authorized and directed to appoint from time to time one or more agents as she may deem necessary or desirable. To the extent permitted by applicable law, and under the supervision of the Director of the Finance and Management Agency, such agents may serve as paying agent, fiscal agent or registrar for the Bonds, or financial printer or may assist the Director of the Finance and Management Agency in performing any or all of such functions and other duties as the Director of the Finance and Management Agency shall determine. Such agents shall serve under such terms and conditions as the Director of the Financial Management Agency shall determine. The Director of the Finance and Management Agency may remove or replace agents appointed pursuant to this section at any time.

Section 7. Authorization of Sale and Award of Bid. The Director of the Finance and Management Agency is hereby authorized and directed to establish a date, time and place to receive bids for the purchase of the Bonds as described in and subject to the terms and conditions of the Official Notice Inviting Bids (described below). The Director of the Finance and Management Agency is authorized to receive bids for the purchase of the Bonds, and to award such Bonds to the bidder whose responsible bid for the Bonds results in the lowest true interest cost to the City, all in accordance with and determined by the procedures described in the Official Notice Inviting Bids, as approved by the Director of the Finance and Management Agency, whose approval shall be evidenced by executing a counterpart of the final Official Notice Inviting Bids.

Section 8. Form of Notice Inviting Bids. The form of proposed Official Notice Inviting Bids, in substantially the form, on file with the City Clerk (the "Official Notice Inviting Bids"), inviting bids for the Bonds, is hereby approved and adopted with such changes, additions, amendments or modifications as may be made in accordance with Section 13 hereof.

Section 9. Notice of Intention to Sell. The City Clerk is hereby authorized and directed to cause to be published once in the Oakland Tribune, a newspaper of general circulation and circulated within the boundaries of the City and once in The Bond Buyer, a financial publication generally circulated throughout the State of California, a Notice of Intention to Sell the Bonds, no later than five days prior to the sale date, in a form as approved by the Director of the Finance and Management Agency.

Section 10. Official Statement. The Director of the Finance and Management Agency is hereby authorized and directed, in consultation with the City Attorney, to prepare a preliminary official statement for the Bonds authorized by this Resolution. The form of proposed preliminary official statement (the "Preliminary Official Statement"), in substantially the form presented to this City Council and on file with the City Clerk, is hereby approved and adopted with such changes, additions, amendments or modifications as may be made in accordance with Section 13 hereof. The Director of the Finance and Management Agency is hereby authorized to cause the distribution of a Preliminary Official Statement for the Bonds, deemed final by this City Council for purposes of Rule 15c2-12 of the Securities and Exchange Act of 1934, as amended, and the City Administrator and the Director of the Finance and Management Agency are each separately authorized to execute a certificate to the effect that the Preliminary Official Statement is "deemed final" by the City. The City Administrator and the Director of the Finance and Management Agency are each separately authorized and directed to sign a final Official Statement for the Bonds. The Director of the Finance and Management Agency is hereby authorized and directed to cause to be printed and mailed, or electronically posted and made available, to prospective bidders of the

Bonds copies of the Preliminary Official Statement. The Director of the Finance and Management Agency is hereby authorized and directed to cause to be printed and delivered to the purchaser of the Bonds copies of the final Official Statement in substantially the form of the final Preliminary Official Statement, with such changes, additions, amendments or modifications as may be made in accordance with Section 13 hereof.

Section 11. Appointment of Bond Counsel and Financial Advisor. The retention of the law firm of Squire, Sanders & Dempsey L.L.P. as bond counsel to the City in connection with the issuance of the Bonds is hereby approved. The City Attorney is hereby authorized to negotiate and execute contractual agreements with Squire, Sanders & Dempsey L.L.P. in connection with the issuance of the Bonds. The retention of the firm of Public Financial Management, Inc. as financial advisor to the City on this issuance is hereby approved. The Director of the Finance and Management Agency is hereby authorized to negotiate and execute contractual agreements with Public Financial Management, Inc. in connection with the issuance of the Bonds.

Section 12. Payment of Costs of Issuance. The Director of the Finance and Management Agency is hereby authorized and directed to pay, or cause to be paid on behalf of the City, the costs of issuance associated with the Bonds.

Section 13. Modification to Documents. Any City official authorized by this Resolution to execute any document is hereby further authorized, in consultation with the Director of the Finance and Management Agency and the City Attorney, to approve and make such changes, additions, amendments or modifications to the document or documents the official is authorized to execute as may be necessary or advisable, provided that such changes, additions, amendments or modifications shall (a) not authorize an aggregate principal amount of Bonds in excess of \$21,000,000 and (b) comply with the limitations on the use of the proceeds of the Bonds set forth in Section 2 of Resolution No. 76887 adopted by this Council on December 4, 2001. The approval of any change, addition, amendment or modification to any of the aforementioned documents shall be evidenced conclusively by the execution and delivery of the document in question.

Section 14. Ratification. All actions heretofore taken by the officials, employees and agents of the City with respect to the sale and issuance of the Bonds are hereby approved, confirmed and ratified.

Section 15. General Authority. The Mayor, the City Administrator, the Director of the Finance and Management Agency, the City Clerk, and any other officials of the City and their duly authorized deputies and agents are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute and deliver any

and all certificates, agreements and other documents including an Continuing Disclosure Certificate, a Tax Compliance Certificate, letters of representation to any depository for the Bonds, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds, and to effectuate the purposes thereof and of the documents herein approved in accordance with this Resolution.

The Director of the Finance and Management Agency may designate in writing one or more persons to perform any act which such Director is authorized by this Resolution to perform.

MAY 2 2006

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND
PRESIDENT DE LA FUENTE — 8

NOES - 0

ABSENT - 0

ABSTENTIONS - 0

ATTEST: Latonda Simmons
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California