

REQUESTED COMMISSION ACTION:

Consent

X

Ordinance

Resolution

Consideration/
Discussion

Presentation

SHORT TITLE

An Ordinance of the City of Pompano Beach, Florida authorizing the issuance of Taxable Certificates of Participation (Parking Garage Project), Series 2015 in an aggregate principal amount not to exceed \$24,000,000, in addition to completion and refunding certificates; Approving the form of all related financing documents, to include a ground lease, lease-purchase agreement, an assignment of leases agreement, a trust agreement, a certificate purchase agreement, a preliminary offering statement, a continuing disclosure certificate and all schedules and exhibits thereof; Authorizing obtaining a commitment for the issuance of a municipal bond insurance policy and/or reserve account surety bond securing the certificates; Authoring the execution and delivery of a final offering statement; Authorizing all required actions in connection with the issuance of the certificates ; providing for severability; and providing an effective date.

Summary of Purpose and Why:

The City's Finance Team has determined that the most feasible means of financing the design of the pier parking garage and related public improvements (the "Project") is through the issuance of Certificates of Participation (COPs). The City, through an underwriter, will make a public market offering of the certificates to investors. Once issued, the investors will hold a secured interest in the certificates and ultimately an undivided proportionate secured interest in annual lease rental payments that the City will make to repay the COPs obligation.

Please refer to Finance Department Memorandum #15-51 for background information on the Project, the COPs financing structure, as well as a summary of all financing documents for which approval is being requested.

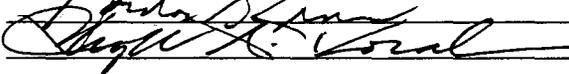
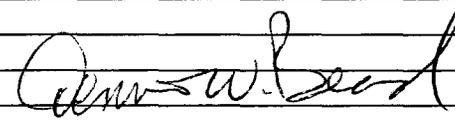
This is the 2nd reading of the Ordinance and 1st reading will occur on April 14, 2015 to allow for advertising of the item. **Due to size, backup found at:** www.pompanobeachfl.gov/copseries2015



Accomplishing this item supports achievement of Initiative 9.1, *Expand & Enhance Parking Facilities in the City.*

- (1) Origin of request for this action: Finance Department
- (2) Primary staff contact: Suzette Sibble, Finance Director Ext. 4680
- (3) Expiration of contract, if applicable: Preliminary-Lease Term to run from 2015 through 2040 (25 years)
- (4) Fiscal impact and source of funding: Preliminary (subject to approval of the Guaranteed Maximum Price Contract by the City Commission as to final project construction costs and actual market conditions at time of issuance) --- average annual rental payments of approximately \$1.4 million (subject to annual appropriation by the City Commission) over preliminary lease term of 25 years. City preliminarily plans on issuing Certificates in the principal amount of approximately \$20 million. Annual rental payment appropriation will be presented to the Commission as part of the Parking Enterprise Fund's proposed budget on an annual basis, with the planned source of repayment of the COPs obligation being parking

related revenues.

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Finance	3/13/15	Approval	
City Attorney	3/17/15		
Budget	3/18/15	Approve	
<input checked="" type="checkbox"/> City Manager			

ACTION TAKEN BY COMMISSION:

<u>Ordinance</u> <u>Workshop</u>	<u>Resolution</u>	<u>Consideration</u>
1 st Reading 4/14/15	1 st Reading _____	Results: _____
2 nd Reading 3/24/15	_____	Results: _____
Adopted	_____	_____
Ord. 2015-30	_____	_____

ORDINANCE NO. 2015-30

AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA APPROVING THE FORM, AND AUTHORIZING THE EXECUTION OF, A GROUND LEASE; APPROVING THE FORM, AND AUTHORIZING THE EXECUTION OF A TRUST AGREEMENT TO PROVIDE FOR THE ISSUANCE OF NOT EXCEEDING \$24,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF TAXABLE CERTIFICATES OF PARTICIPATION (PARKING GARAGE PROJECT), SERIES 2015, IN ADDITION TO COMPLETION CERTIFICATES AND REFUNDING CERTIFICATES; APPOINTING A FINANCIAL INSTITUTION TO SERVE AS TRUSTEE UNDER THE TRUST AGREEMENT; APPROVING THE FORMS, AND AUTHORIZING EXECUTION OF, A LEASE-PURCHASE AGREEMENT AND LEASE SCHEDULE TO THE LEASE-PURCHASE AGREEMENT TO REFLECT ISSUANCE OF THE TAXABLE CERTIFICATES OF PARTICIPATION (PARKING GARAGE PROJECT), SERIES 2015; APPROVING THE FORM OF AN ASSIGNMENT OF LEASES; AUTHORIZING THE NEGOTIATED SALE OF THE TAXABLE CERTIFICATES OF PARTICIPATION (PARKING GARAGE PROJECT), SERIES 2015 AND ESTABLISHING CERTAIN PARAMETERS OF SUCH SALE; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A CERTIFICATE PURCHASE AGREEMENT, SUBJECT TO THE PARAMETERS SET FORTH HEREIN PERTAINING TO THE SALE OF THE TAXABLE CERTIFICATES OF PARTICIPATION (PARKING GARAGE PROJECT), SERIES 2015; AUTHORIZING OBTAINING A COMMITMENT FOR THE ISSUANCE OF A MUNICIPAL BOND INSURANCE POLICY AND/OR RESERVE ACCOUNT SURETY BOND SECURING THE TAXABLE CERTIFICATES OF PARTICIPATION (PARKING GARAGE PROJECT), SERIES 2015 AND THE EXECUTION OF RELATED AGREEMENTS WITH THE INSURER; APPROVING A FORM OF PRELIMINARY OFFERING STATEMENT AND AUTHORIZING EXECUTION AND DELIVERY OF A FINAL OFFERING STATEMENT; APPROVING THE FORM OF AND AUTHORIZING EXECUTION OF A CONTINUING DISCLOSURE CERTIFICATE; AUTHORIZING ALL REQUIRED ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE TAXABLE CERTIFICATES OF PARTICIPATION (PARKING GARAGE PROJECT), SERIES 2015; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. AUTHORITY FOR THIS ORDINANCE; DEFINITIONS. The City of Pompano Beach, Florida (the “City”) is authorized to adopt this ordinance (the “Ordinance”) under the authority granted by the provisions of the City Charter of the City (the “City Charter”), Chapter 166, Florida Statutes, as amended, and other applicable provisions of law. All capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed thereto in the Trust Agreement (hereinafter defined), unless otherwise provided or unless the context otherwise clearly requires.

SECTION 2. FINDINGS. It is hereby found and determined that:

A. The City has the power, under the City Charter of the City, Chapter 166, Florida Statutes, as amended, and other applicable provisions of law to receive, purchase, acquire, lease, sell, hold, transmit and convey title to real and personal property for the purpose of providing municipal facilities and improvements and to enter into lease or lease purchase agreements with respect to real and personal property for such purpose.

B. The City is the owner of certain real property (the “Land”) within the City adjacent to the City’s public beach and public pier area, as more fully described in the Ground Lease (hereinafter defined). A portion of such Land is described as the “beach parking lot” or “pier parking lot” in the City Charter. The City hereby determines it is necessary and in the best interests of the City to lease-purchase, finance and refinance, all or in part, the acquisition, construction and installation of a new public parking garage and appurtenant public facilities and related public improvements, including roadways (which may include associated signalization), water, sewer and drainage facilities, landscaping and on-street parking spaces, as shall be finally described in the hereinafter defined

Lease Schedule (collectively, the “Project”). The City further finds and determines that the lease of the portion of the Land described as the “beach parking lot” or “pier parking lot” in the City Charter as contemplated by the Ground Lease and the Lease Purchase Agreement (as such terms are hereinafter defined) provides a benefit to the public at large as contemplated by the City Charter. The Ground Lease and the Lease Purchase Agreement require that such portion of the Land be used as the site of public parking garage for the benefit of the public at large throughout the term of the Ground Lease.

C. In furtherance of the foregoing, the City, as ground lessor, and the Pompano Beach Finance Corporation, a Florida not-for profit corporation (the “Corporation”), as ground lessee, desire to enter into a written ground lease agreement substantially in the form attached hereto (the “Ground Lease”) with respect to the Land, pursuant to which the City will ground lease the Land to the Corporation. Contemporaneously therewith, the Corporation, as lessor, and the City, as lessee, desire to enter into a written lease purchase-agreement substantially in the form attached hereto (the “Lease Purchase Agreement”) to provide for the lease of the Land back to the City and the lease-purchase and financing of the Project by the City and a Lease Schedule to the Lease Purchase Agreement to reflect, among other matters, the schedule of Basic Rent Payments to be made by the City relating to the Land and the Project (the “Lease Schedule” and, together with the Lease Purchase Agreement, the “Lease”), subject to the terms and conditions of the Lease.

D. The City and the Corporation will provide for the payment of the cost of acquiring, constructing and installing the Project by (a) establishing a trust and assigning to The Bank of New York Mellon Trust Company, N.A. (the “Trustee”) as trustee under a Trust Agreement (the “Trust Agreement”), as same may be supplemented from time to time, among the City, the Corporation and the Trustee, substantially all of the Corporation’s right, title and interest in the Lease, (b) directing

the Trustee to execute and deliver not exceeding \$24,000,000 in aggregate principal amount of Taxable Certificates of Participation (Parking Garage Project), Series 2015, evidencing undivided proportionate interests in the right to receive Basic Rent Payments to be made by the City pursuant to the Lease (the "Series 2015 Certificates") (in addition to Completion Certificates and Refunding Certificates which may be issued under the Trust Agreement in accordance with the terms thereof, which are referred to collectively with the Series 2015 Certificates as the "Certificates"), and (c) directing the Trustee to hold the proceeds of the sale of the Certificates in trust, subject to application to pay the costs, all or in part, of the acquisition, construction and installation of the Project and to make payments to holders of the Certificates.

E. Due to the present volatility of the market for instruments such as the Series 2015 Certificates, and the complexity of the transactions relating to the Series 2015 Certificates, it is in the best interest of the City for the Series 2015 Certificates to be sold by a delegated, negotiated sale, rather than at a specified advertised date, in order to permit the Series 2015 Certificates to be sold at the most advantageous time and to obtain the best possible price and interest rates for the Series 2015 Certificates.

F. RBC Capital Markets, LLC (the "Underwriter") has offered to purchase the Series 2015 Certificates by negotiated sale and has submitted to the City and the Corporation a Certificate Purchase Agreement in the form attached hereto (the "Certificate Purchase Agreement"). The Underwriter will provide the City with a disclosure and truth-in-bonding statement containing the information required by Section 218.385, Florida Statutes prior to acceptance by the City of the Underwriter's offer to purchase the Series 2015 Certificates.

G. It is now appropriate to authorize the lease-purchase and financing and refinancing of the Project through the issuance of the Certificates and to determine the terms and details of the

Series 2015 Certificates, subject to the Parameters (hereinafter defined), among other matters related thereto.

H. All amounts payable by the City in connection with the lease-purchase and financing and refinancing of the Project, including all Basic Rent Payments due under the Lease, shall be payable solely from unpledged and legally available funds appropriated for such purpose by the City and it will not be necessary nor has there been authorized the levy of taxes on any property in the City to pay for same, and the full faith and credit of the City is not pledged for payment of such sums.

SECTION 3. APPROVAL AND AUTHORIZATION OF LEASE-PURCHASE AND FINANCING AND REFINANCING OF THE PROJECT. The City hereby approves and authorizes the lease-purchase and financing and refinancing, all or in part, of the Project. The City has previously declared its intent to reimburse certain costs of the Project incurred prior to the issuance of the Series 2015 Certificates from proceeds of the Series 2015 Certificates. Any such costs to be so reimbursed shall be specified in the Lease Schedule.

SECTION 4. GROUND LEASE. The Ground Lease, substantially in the form submitted at this meeting and attached hereto as Exhibit A, is hereby approved, with such insertions, modifications and changes as are necessary and appropriate to further evidence the details of the lease-purchase and financing of Project, consistent with the Parameters, and approved by the City Manager of the City (the “City Manager”), in consultation with the City Attorney and the City’s Special Counsel. Upon such approval, either of the Mayor of the City (the “Mayor”) or the Vice Mayor of the City (the “Vice Mayor”), or their respective designee, is hereby authorized and directed to execute, and the City Clerk of the City or her designee (collectively, the “City Clerk) is hereby authorized to attest, such instrument. The execution of the Ground Lease by the Mayor or Vice

Mayor or their respective designee shall constitute conclusive evidence of the approval thereof. The City also authorizes the execution and delivery of a notice or summary of the Ground Lease in the form of a memorandum with respect to the Ground Lease and the recording thereof in the official Public Records of Broward County, Florida.

SECTION 5. TRUST AGREEMENT. The Trust Agreement, substantially in the form submitted at this meeting and attached hereto as Exhibit B, is hereby approved, with such insertions, modifications and changes as are necessary and appropriate to further evidence the details of the lease-purchase and financing of Project, consistent with the Parameters, and approved by the City Manager, in consultation with the City Attorney and the City's Special Counsel. Upon such approval, either of the Mayor or the Vice Mayor, or their respective designee, is hereby authorized and directed to execute, and the City Clerk is hereby authorized to attest, such instrument. The execution of the Trust Agreement by the Mayor or Vice Mayor or their respective designee shall constitute conclusive evidence of the approval thereof. The Bank of New York Mellon Trust Company, N.A. is hereby appointed to serve as the Trustee under the Trust Agreement and other financing documents pertaining to the Certificates.

SECTION 6. LEASE-PURCHASE AGREEMENT AND LEASE SCHEDULE. The Lease-Purchase Agreement and Lease Schedule, each substantially in the form submitted at this meeting and attached hereto as Exhibit C, are hereby approved, with such insertions, modifications and changes as are necessary and appropriate to further evidence the details of the lease-purchase and financing of Project, consistent with the Parameters, and approved by the City Manager, in consultation with the City Attorney and the City's Special Counsel. Upon such approval, either of the Mayor or the Vice Mayor, or their respective designee, is hereby authorized and directed to execute, and the City Clerk is hereby authorized to attest such instruments. The execution of the Lease-

Purchase Agreement and Lease Schedule by the Mayor or Vice Mayor or their respective designee shall constitute conclusive evidence of the approval thereof. The City also authorizes the execution and delivery of a notice or summary of the Lease in the form of a memorandum with respect to the Lease and the recording thereof in the official Public Records of Broward County, Florida.

SECTION 7. ASSIGNMENT AGREEMENT. The Assignment of Leases between the Corporation and the Trustee (the "Assignment Agreement"), substantially in the form submitted at this meeting and attached hereto as Exhibit D, is hereby approved, with such insertions, modifications and changes as are necessary and appropriate to further evidence the details of the lease-purchase and financing of Project, consistent with the Parameters, and approved by the City Manager, in consultation with the City Attorney and the City's Special Counsel. The execution of the Assignment Agreement by the Corporation and the Trustee shall constitute conclusive evidence thereof.

SECTION 8. CERTIFICATE PURCHASE AGREEMENT. The Series 2015 Certificates shall be sold to the Underwriter upon the terms and conditions set forth in the Certificate Purchase Agreement. The Certificate Purchase Agreement, substantially in the form annexed hereto as Exhibit E, is hereby approved, with such insertions, deletions, modifications and changes as are necessary and appropriate to further evidence the details of the lease-purchase and financing of Project, consistent with the Parameters, and approved by the City Manager, in consultation with the City Attorney and the City's Special Counsel, and, upon such approval, either of the Mayor or Vice Mayor, or their respective designee, is hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest, such instrument and accept the disclosure and truth-in-bonding statement to be provided by the Underwriter pursuant to Section 218.385, Florida Statutes; provided, however, such Certificate Purchase Agreement shall be subject to the following

parameters (collectively, the “Parameters”): (i) the aggregate principal amount of the Series 2015 Certificates shall not exceed \$24,000,000, (ii) the final maturity of the Series 2015 Series 2015 Certificates shall not be later than January 1, 2046 ; (iii) the true interest rate per annum on the Series 2015 Certificates shall not exceed 5.50%; (iv) the Series 2015 Certificates shall be subject to optional redemption not later than approximately ten years from their date of issuance at a redemption price of par; and (v) the price (exclusive of original issue discount) at which the Series 2015 Certificates shall be sold to the Underwriter shall not be less than 99% of the amount for which the Series 2015 Certificates are initially offered to the public as reflected in the final Offering Statement referred to in Section 9 hereof. The execution and delivery of the Certificate Purchase Agreement as aforesaid shall constitute conclusive evidence of the approval thereof.

SECTION 9. PRELIMINARY OFFERING STATEMENT AND OFFERING STATEMENT. The Preliminary Offering Statement relating to the Series 2015 Certificates in substantially the form submitted at this meeting and attached hereto as Exhibit F (the “Preliminary Offering Statement”), is hereby approved with respect to the information therein contained, with such insertions, deletions, modifications and changes as are necessary and appropriate to further evidence the details of the lease-purchase and financing of Project, consistent with the Parameters, and approved by the City Manager, in consultation with the City Attorney, the City’s Financial Advisor and the City’s Special Counsel and Disclosure Counsel. The distribution and use of the Preliminary Offering Statement in connection with the public offering for sale of the Series 2015 Certificates is hereby authorized. The execution by the Mayor or Vice Mayor or their respective designee of a certificate deeming the Preliminary Offering Statement final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934 is hereby authorized. Either of the Mayor or the Vice Mayor, or their respective designee, is hereby authorized to execute, and the City Clerk is

hereby authorized to attest, a final Offering Statement to be dated the date of the sale of the Series 2015 Certificates to the Underwriter (the “Offering Statement”), and, upon such execution, to deliver the same to the Underwriter for use by it in connection with the sale and distribution of the Series 2015 Certificates. The Offering Statement shall contain such information as necessary to confirm the details of the Series 2015 Certificates. The execution and delivery of the Offering Statement by the Mayor or the City Manager or their respective designee shall constitute conclusive evidence of the approval thereof. The City hereby authorizes the Offering Statement and the information contained therein to be used in connection with the offering and sale of the Series 2015 Certificates.

SECTION 10. INSURANCE MATTERS. If it is determined by the City Manager, in consultation with the City’s Financial Advisor, that obtaining a municipal bond insurance policy with respect to all or a portion of the Series 2015 Certificates will provide a lower interest cost on the Series 2015 Certificates than if the Series 2015 Certificates are not insured, obtaining such municipal bond insurance policy is hereby authorized and approved. If it is determined by the City Manager, in consultation with the City’s Financial Advisor, that it is necessary in order to market the Series 2015 Certificates to fund the Reserve Account for the Series 2015 Certificates, obtaining a Reserve Account Surety Bond to fund the Reserve Account, in whole or in part, is hereby authorized and approved. Either of the Mayor or the Vice Mayor, or their respective designee, is hereby authorized to execute, and the City Clerk is hereby authorized to attest, in consultation with the City Attorney, the City’s Financial Advisor and the City’s Special Counsel, any agreements with the provider of such municipal bond insurance policy and/or Reserve Account Surety Bond necessary to set forth the requirements of such provider.

SECTION 11. CONTINUING DISCLOSURE. The Continuing Disclosure Certificate to be executed by the City at the time of issuance of the Series 2015 Certificates (the “Continuing

Disclosure Certificate”), substantially in the form attached as Exhibit G, is hereby authorized and approved, with such insertions, modifications and deletions as are approved by the City Manager. Either of the Mayor or the City Manager, or their respective designee, is hereby authorized to execute, and the City Clerk is hereby authorized to attest, the Continuing Disclosure Certificate. The execution and delivery of the Continuing Disclosure Certificate by the Mayor or the City Manager or their respective designee shall constitute conclusive evidence of the approval thereof.

SECTION 12. GENERAL AUTHORITY. The Mayor, Vice Mayor, City Manager, City Clerk and any other proper officials of the City are hereby authorized to do all acts and things required of them by this ordinance, the Ground Lease, the Lease, the Trust Agreement, the Assignment Agreement, the Certificate Purchase Agreement, the Offering Statement, and the Series 2015 Certificates, or that may otherwise be desirable or consistent with accomplishing the full, punctual and complete performance of all the terms, covenants and agreements contained in any of the foregoing and each member, employee, attorney and officer of the City is hereby authorized and directed to execute and deliver any and all papers and instruments and to cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated thereby.

SECTION 13. SEVERABILITY AND INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, but not expressly prohibited or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way effect the validity of the other provisions hereof.

SECTION 14. EFFECTIVE DATE. This Ordinance shall be effective as the date of its passage and enactment.

PASSED AND ADOPTED on second reading this 24th day of March, 2015.

PASSED AND ENACTED on first reading this 14th day of April, 2015.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK