

(HA-91-19)
HOUSING AUTHORITY OF
THE CITY OF SAN DIEGO
RESOLUTION NO. 00536
ADOPTED ON JANUARY 29, 1991

A RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$32,000,000 FOR THE PURPOSE OF FINANCING THE ACQUISITION OF CERTAIN MULTIFAMILY RENTAL HOUSING PROJECTS, DETERMINING AND PRESCRIBING CERTAIN MATTERS RELATING THERETO, AND APPROVING AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS.

WHEREAS, the Housing Authority of The City of San Diego (the "Authority") is authorized pursuant to the provisions of Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California, as amended (the "Law"), to issue revenue bonds for the purpose of making loans or otherwise providing funds to finance the development of multifamily rental housing in order to meet a substantial housing need identified by the community; and

WHEREAS, on March 27, 1990, the Authority adopted its Resolution No. 00496 expressing its intention to issue revenue bonds to finance the acquisition of the Projects (as defined herein); and

WHEREAS, the Authority desires to issue bonds to enable Bank of America, National Trust & Savings Association, its assignee or another lender selected by the Executive Director (the "Lender"), to make a loan (the "Mortgage Loan") either to Penasquitos Associates, a California limited partnership, or its general partner, the San Diego Housing Development Corporation (collectively, "Penasquitos Associates") to finance the acquisition and rehabilitation of a 504-unit multifamily rental housing project known as "Penasquitos Gardens Apartments" ("Penasquitos"), and in order to do so intends to sell and issue not to exceed \$19,200,000 of its Multifamily Housing Revenue

Bonds, Issue A of 1991 (GNMA Collateralized -- Penasquitos Gardens Apartments) (the "Penasquitos Bonds"); and

WHEREAS, the Authority also desires to issue bonds to enable the Lender to make a loan to Mt. Aguilar Associates, a California limited partnership, or to its general partner, the San Diego Housing Development Corporation, (collectively, "Mt. Aguilar Associates"), to finance the acquisition and rehabilitation of a 312-unit multifamily rental housing project known as "Mt. Aguilar Apartments" ("Mt. Aguilar"), and in order to do so intends to sell and issue not to exceed \$12,800,000 of its Multifamily Housing Revenue Bonds, Issue B of 1991 (GNMA Collateralized -- Mt. Aguilar Apartments) (the "Mt. Aguilar Bonds"); and

WHEREAS, the Board of Commissioners of the Authority has now determined to issue the Penasquitos Bonds and the Mt. Aguilar Bonds (collectively, the "Bonds") to facilitate the making of the Mortgage Loans to Penasquitos Associates and Mt. Aguilar Associates (collectively, the "Owners") to provide funds to acquire and rehabilitate the Penasquitos and Mt. Aguilar projects (collectively, the "Projects") for the purpose of enhancing the supply of decent housing for low income persons and families; and

WHEREAS, there have been prepared and presented to the Board of Commissioners of the Authority for consideration at this meeting the following documents, the forms of which will be used for each of the Penasquitos Bonds and the Mt. Aguilar Bonds:

- (1) The form of Trust Indenture (the "Indenture"), including the form of Bond;
- (2) The form of Financing Agreement;
- (3) The form of Supplemental Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement");
- (4) The form of Bond Purchase Agreement; and
- (5) The form of Preliminary Official Statement relating to the Bonds; and

WHEREAS, it appears that each of the documents referred to above which is now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered for the purposes intended; and

WHEREAS, Newman and Associates, Inc. (the "Underwriter") has expressed its intention to purchase the Bonds, and the Board of Commissioners of the Authority finds that the public interest and necessity require that the Authority at this time make arrangements for the sale of the Bonds in order to finance the acquisition of and the provision of capital improvements with respect to the Projects; and

WHEREAS, the Authority has applied for an allocation (the "Allocation") of a portion of the State of California's private

activity bond volume cap, within the meaning of Section 146 of the Internal Revenue Code of 1986, as amended (the "Code"), for the Bonds in accordance with the procedures established by the Governor, the California Debt Limit Allocation Committee ("CDLAC") and the Mortgage Bond Allocation Committee of the State of California and expects either that such Allocation will be awarded at the February, 1991 meeting of CDLAC or that no allocation will be needed in the event the decision is made to issue the Bonds under provisions of the Code where no Allocation is required; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council intends to hold a public hearing regarding the issue of the Bonds; NOW, THEREFORE,

BE IT RESOLVED, by the Board of Commissioners of the Housing Authority of The City of San Diego, as follows:

Section 1. Recitals. Each of the above recitals is true and correct.

Section 2. Finding and Determination. It is hereby found and determined that it is necessary and desirable for the Authority to assist in the financing of the Projects through the issuance and sale of the Bonds in order to develop and improve the supply of dwelling units to be occupied by low income persons in the community.

Section 3. Authorization of the Bonds. For the purpose of raising moneys with which to effectuate the acquisition and rehabilitation of the Projects and subject to the prior public approval from the City pursuant to Section 147(f) of the Code, the Authority hereby determines to issue the Penasquitos Bonds in a principal amount not to exceed \$19,200,000 and the Mt. Aguilar Bonds in a principal amount not to exceed \$12,800,000, with the exact principal amount to be such amount as is set forth in the Bond Purchase Agreement (as hereinafter defined) for each series of Bonds. Unless Bond Counsel to the Authority advises the Executive Director that the Bonds may be sold without the Allocation from CDLAC, the sale of the Bonds is subject to the prior receipt of the Allocation from CDLAC. The Bonds shall bear interest at a rate or rates producing a net interest cost not to exceed twelve percent (12 percent) per annum, and maturing as provided in the Bond Purchase Agreements, but not later than 40 years from the date of issue. The Bonds shall be in substantially the form set forth in the Indentures, with such appropriate variations, omissions, insertions and provisions as are permitted or required by the Indentures, which shall be appropriately completed when the Bonds are prepared.

The Bonds shall be limited obligations of the Authority and shall be payable as to principal, premium, if any, and interest,

and the obligations of the Authority under the Indentures shall be paid and satisfied, solely from the revenues, receipts and other moneys pledged therefor under the respective Indentures.

Section 4. Execution and Delivery of the Bonds. The Bonds shall be executed on behalf of the Authority by the manual or facsimile signature of the Chairman or Vice Chairman, and the official seal of the Authority, or a facsimile thereof, shall be impressed or imprinted thereon and attested with the manual or facsimile signature of the Secretary or a deputy Secretary.

Section 5. Approval of Indentures. To provide for the details of the Bonds, and to prescribe the terms and conditions upon which they are to be issued, secured, executed, authenticated and held and upon which the proceeds of the Bonds are to be made available for the benefit of Penasquitos Associates and Mt. Aguilar Associates, the Executive Director and the Secretary or deputy Secretary, or the designee of any such officer (such officer and any of his or her respective designees are hereinafter referred to as the "Designated Officers"), are hereby authorized to execute and deliver an Indenture for each series of Bonds, the form of which is on file in the office of the Executive Director as Document No. 00494, in substantially the form presented to this meeting or with such changes as may be approved by the Designated Officers executing the same (including, but not limited to, the provision of a reserve fund, the designation of letter credit banks other than those set forth in the Indentures and any modifications of the Indentures required in order to obtain a policy of insurance with respect to some or all of the Bonds), upon consultation with the General Counsel to the Authority, their execution thereof to constitute conclusive evidence of their approval of all changes from the form of Indenture presented to this meeting, which form of Indenture is hereby in all respects approved and incorporated by reference and made a part hereof.

Section 6. Approval of Financing Agreements. To provide for the duties and obligations of the Owners with respect to the Bonds and the acquisition, rehabilitation and operation of the Projects, the Designated Officers each are hereby authorized to execute and deliver a Financing Agreement for each series of Bonds, the form of which is on file in the office of the Executive Director as Document No. 00495, in substantially the form presented to this meeting or with such changes as may be approved by the Designated Officers executing the same, upon consultation with the General Counsel of the Authority, their execution thereof to constitute conclusive evidence of their approval of all changes from the form of Financing Agreement presented to this meeting, which form of Financing Agreement is

hereby in all respects approved and incorporated by reference and made a part hereof.

Section 7. Approval of Supplemental Regulatory Agreements. To provide for certain conditions and terms of the operation of the Projects and the duties and obligations of the Owners, each of the Designated Officers is hereby authorized to execute a Supplemental Regulatory Agreement for each series of Bonds, the form of which is on file in the office of the Executive Director as Document No. 00496, in substantially the form presented to this meeting or with such changes as may be approved by the Designated Officers executing the same, upon consultation with the General Counsel of the Authority, their execution thereof to constitute conclusive evidence of their approval of all changes from the form of Supplemental Regulatory Agreement presented to this meeting, which form of Supplemental Regulatory Agreement is in all respects approved and incorporated by reference and made a part hereof.

Section 8. Approval of Bond Purchase Agreement. The form of Bond Purchase Agreement presented to this meeting, a copy of which is on file in the office of the Executive Director as Document No. 00497, is hereby approved in all respects and incorporated herein by reference and made a part hereof. Upon notification from the Executive Director that the City of San Diego has approved the issuance of the Bonds as required by Section 147(f) of the Code, that, if required under Section 3 above, CDLAC has awarded an Allocation to the Bonds and that all other preconditions of the Authority to the sale of the Bonds have been satisfied, the Underwriter is authorized to sell the Bonds. Upon receipt of an executed and completed copy thereof from the Underwriter, the Designated Officers are each hereby authorized to execute and deliver to the Underwriter a Bond Purchase Agreement for each series on Bonds in substantially the form presented to this meeting or with such changes as may be approved by the Designated Officers executing the same, upon consultation with the General Counsel to the Authority, such execution to constitute conclusive evidence of the approval by such officer of all changes from the form of Bond Purchase Agreement presented to this meeting, which form of Bond Purchase Agreement is in all respects approved and incorporated by reference and made a part hereof.

Section 9. Approval of Preliminary Official Statement. The form of Preliminary Official Statement presented to this meeting, a copy of which is on file with the Executive Director as Document No. 00498, is hereby in all respects approved and incorporated herein by reference and made a part hereof. The Executive Director is hereby authorized and directed to make

whatever changes to the Preliminary Official Statement for each series of Bonds that he, General Counsel to the Authority, or Bond Counsel to the Authority deem necessary to make the Preliminary Official Statements final for purposes of Rule 15c2-12 promulgated pursuant to the Securities Exchange Act of 1934 and then to deliver to the Underwriter a certificate for each series of Bonds stating that the Preliminary Official Statement for such series has been deemed final for such purpose. Upon receipt of the Rule 15c2-12 certificate for a series of Bonds, the Underwriter is authorized to distribute the Preliminary Official Statement in connection with the offering of the Bonds for such series, and the Designated Officers are each hereby authorized to execute and deliver a final Official Statement in substantially such form, or with such changes therein as may be approved by the Designated Officer executing the same, upon consultation with the General Counsel to the Authority, such execution to constitute conclusive evidence of the approval by such officers of all changes from the form of Preliminary Official Statement presented to this meeting.

Section 10. Approval of Administration Agreement. The form of Administration Agreement by and between the Authority and the San Diego Housing Commission, substantially in the form submitted to this meeting, a copy of which is on file in the office of the Executive Director as Document No. 00499, is hereby approved for use in connection with each Project, and each of the Designated Officers is hereby authorized to execute and deliver an Administration Agreement for each Project in substantially such form or with such changes therein as may be approved by the Designated Officers executing the same, upon consultation with the General Counsel to the Authority, such execution to constitute conclusive evidence of the approval by such officers of all changes from the form of Administration Agreement presented to this meeting, which form of Administration Agreement is in all respects approved and incorporated by reference and made a part hereof.

Section 11. Selection of Trustee and Lender. The Executive Director, or his designee, is hereby authorized and directed to select a trustee to serve as Trustee under the Indentures, provided that such Trustee must comply with the qualification requirements set forth in Section 708 of the Indentures and to select the Lender who shall be a Government National Mortgage Association approved seller/servicer which the Executive Director determines has the experience necessary to make the Mortgage Loans to the Owners. The Trustee so selected is hereby requested and directed to authenticate the Bonds by executing the Trustee's Certificate of Authentication and Registration appearing thereon

and to deliver the Bonds, when duly executed and authenticated, to the Underwriter, in accordance with written instructions executed on behalf of the Authority by a Designated Officer or a duly authorized representative of the San Diego Housing Commission, which instructions said officer is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver to the Trustee. Such instructions shall provide for the delivery of the Bonds in accordance with the Bond Purchase Agreements, upon payment of the purchase price thereof.

Section 12. Actions Ratified and Authorized. All actions heretofore taken by the officers and agents of the Authority with respect to the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the Designated Officers, or any representative of the San Diego Housing Commission duly designated by the Executive Director, are hereby authorized and directed, for and in the name and on behalf of the Authority, 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 but not limited to those described in the Bond Purchase Agreements, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this resolution.

Section 13. Feasibility of Very Low Income Tenant Occupancy. Based upon information available to it, the Authority has determined that it is economically feasible to make at least twenty percent (20 percent) of the units available to Very Low Income Tenants (as defined in the Supplemental Regulatory Agreements) to the extent set forth in the Supplemental Regulatory Agreements.

Section 14. Conflicting Resolutions Repealed. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 15. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any remaining provisions of this resolution.

Section 16. Designation of Officers. The Executive Secretary to the Executive Director is hereby designated as a deputy secretary of the Authority. In the event that the Executive Director is unavailable to execute any documents as specified herein, the Executive Secretary may sign in his place.

Section 17. Effective Date. This resolution shall take effect immediately upon its adoption.

APPROVED: JOHN W. WITT, General Counsel

By Harold O. Valderhaug
Deputy General Counsel

HOV:ps

01/07/91

Or.Dept:Hsg.Comm.

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