

(HA-94-9)  
HOUSING AUTHORITY OF  
THE CITY OF SAN DIEGO  
RESOLUTION NO. 00662  
ADOPTED ON OCTOBER 26, 1993

A RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY MORTGAGE REVENUE REFUNDING BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$14,000,000 FOR THE PURPOSE OF MAKING A LOAN TO PROVIDE FUNDS TO REFINANCE THE COST OF DEVELOPING AN APPROXIMATELY 232-UNIT MULTIFAMILY RENTAL PROJECT KNOWN AS CARMEL DEL MAR APARTMENTS, DETERMINING AND PRESCRIBING CERTAIN MATTERS RELATING THERETO, AND APPROVING AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS.

WHEREAS, pursuant to Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California, the City of San Diego (the "City") by Resolution No. R-264285 of the City Council of The City of San Diego (the "City Council") and Resolution No. 00384 of the governing body of the Housing Authority of The City of San Diego (the "Authority") adopted on October 21, 1985, authorized the issuance of Multifamily Housing Revenue Bonds, 1985 Issue I (Carmel Del Mar Apartments Project) in an aggregate principal amount not to exceed \$20,000,000 to finance the acquisition and construction of a multifamily rental housing development located in the City of San Diego, California, known as Carmel Del Mar Apartments Project (the "Project"); and

WHEREAS, the Authority desires to provide funds to make a loan (the "Loan") to Hibiscus Investments, Inc., a California corporation (the "Owner"), to refinance the Project and in order to do so intends to sell and issue not to exceed \$14,000,000 of its Multifamily Housing Revenue Refunding Bonds, Issue 1993 (Carmel Del Mar Apartments Project) (the "Bonds"); and

WHEREAS, Article 5, Chapter 1 of Part 2 of Division 24 of Title 5 of the Health and Safety Code of the State of California (as amended to the date hereof, referred to herein as the "Multifamily Bond Act")

provides a complete, additional and alternative method for the issuance of multifamily mortgage revenue refunding bonds for the purpose of making loans or otherwise providing funds to finance the development of multifamily rental housing; and

WHEREAS, the Board of Commissioners of the Authority (the "Board of Commissioners") has now determined to provide financing for the Project for the purpose of refinancing the Project; and

WHEREAS, there have been prepared and presented to the Board of Commissioners for consideration at this meeting the following instruments:

- (1) The form of Indenture, including the form of Bond;
- (2) The form of Loan Agreement;
- (3) The form of First Amended and Restated Regulatory Agreement (the "Amended Regulatory Agreement");
- (4) The form of Bond Purchase Agreement;
- (5) The form of Preliminary Official Statement and Official Statement relating to the Bonds;
- (6) The form of Administration Agreement relating to the Bonds;
- (7) The form of Intercreditor Agreement;
- (8) The form of Escrow Agreement; and

WHEREAS, it appears that each of the documents and instruments above referred to which are 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., as representative for the underwriters (the "Underwriter") has expressed their intention to purchase the Bonds, and the Board of Commissioners finds that the public interest and necessity require that the Authority at this time make arrangements for the sale of the Bonds; and

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, this Board of Commissioners has held a public hearing regarding the issuance of the Bonds and now desires to authorize the issuance 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. Finding and Determination. It is hereby found and determined that it is necessary and desirable for the Authority to provide the refinancing for the Project through the issuance and sale of the Bonds in order to assist in the maintenance and development of the type of dwelling units to be provided by the Project.

Section 2. Authorization of the Bonds. For the purpose of raising moneys with which to refinance the original Mortgage Loan in order to facilitate the permanent financing of the Project, the Authority hereby determines to issue the Bonds, in a principal amount not to exceed \$14,000,000, said principal amount to be such amount as is necessary to provide funds to refinance the original Mortgage Loan for the Project.

The Bonds shall bear interest at a daily, weekly, variable term, term or other variable modes (the "Multimodal Bonds") at a net interest rate not to exceed twelve percent (12%) per annum. The Bonds shall be in substantially the form set forth in the Indenture, with such appropriate variations, omissions, insertions and provisions as are permitted or required by the Indenture, 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 and interest, and the obligations of the Authority under the Indenture shall be paid and satisfied, solely from the revenues, receipts and other moneys pledged therefor under the Indenture.

Section 3. 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 4. Approval of Indenture. 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 Mortgage Loan is to be originated and serviced, the Chairman, the Vice Chairman, the Executive Director, City Manager of the City and the Secretary or a 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 each hereby authorized to execute and deliver the Indenture, a copy of which is on file in the office of the Executive Director as Document No. 00545, in substantially the form presented to this meeting or with such changes as may be approved by the Designated Officer executing the same, upon consultation with the General Counsel to the Authority, such 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 5. Approval of Loan Agreement. To provide for the details of the Mortgage Loan, and the duties and obligations of Hibiscus Investments, Inc., a California corporation, as Owner, the Designated Officers are each hereby authorized to execute and deliver the Loan Agreement, a copy of the form of which is on file in the office of the Executive Director as Document No. 00546, in substantially the form presented to this meeting or with such changes as may be approved by the Designated Officer executing the same, 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 Loan Agreement is hereby in all respects approved and incorporated by

reference and made a part hereof.

Section 6. Approval of Amended Regulatory Agreement. To provide the requirements of the Law with respect to the Bonds, the Designated Officers are each hereby authorized to execute the Amended Regulatory Agreement, 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. 00547, in substantially the form presented to this meeting or with such changes as may be approved by the Designated Officer executing the same, 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 Amended Regulatory Agreement presented to this meeting, which form of Amended Regulatory Agreement is in all respects approved and incorporated by reference and made a part hereof.

Section 7. Approval of Bond Purchase Agreement. The form of Bond Purchase Agreement by and between the Authority, Owner, and Underwriter, 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. 00548, is hereby approved in all respects and incorporated herein by reference and made a part hereof, and the Designated Officers are each hereby authorized to execute and deliver to the Underwriter a Bond Purchase Agreement in substantially such form or with such changes 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 their approval 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 8. Approval of Preliminary Official Statement. The form of Preliminary Official Statement relating to the Bonds, substantially in the form presented to this meeting, a copy of which is on file in the office of the Executive Director as Document No. 00549, is hereby in all respects approved and incorporated herein by reference and made a part hereof, and the Board of Commissioners hereby ratifies and approves distribution of the Preliminary Official Statement to prospective purchasers of the Bonds. The Designated Officers are each hereby authorized to execute and deliver, at the time of sale of the Bonds, said form of Preliminary Official Statement as the final Official Statement, 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 officer of all changes from the form of Official Statement presented to this meeting, which form of Official Statement is in all respects approved and incorporated by reference and made a part hereof.

Section 9. 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. 00555, is hereby approved, and the Designated Officers are each hereby authorized to execute and deliver an Administration Agreement in substantially such form or with such changes therein as may be approved by the officer of 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 officer 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 10. Approval of Intercreditor Agreement. The form of Intercreditor Agreement by and between the Trustee, the Authority and Citicorp Real Estate, Inc., to provide for certain details with respect to the Loan and the Letter of Credit, the Designated Officers are hereby authorized to execute and deliver the Intercreditor Agreement, 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. 00550, in substantially the form presented to this meeting or with such changes as may be approved by the Designated Officer of the Authority executing the same, upon consultation with the General Counsel to the Authority, such execution thereof to constitute conclusive evidence of their approval of all changes from the form of Intercreditor Agreement presented to this meeting, which form of Intercreditor Agreement is in all respects approved and incorporated by reference and made a part hereof.

Section 11. Approval of Escrow Agreement. The form of Escrow Agreement by and between the Authority, the Trustee, the Owner and Citicorp Real Estate, Inc., 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. 00551, is hereby approved, and the Designated Officers are each hereby authorized to execute and deliver an Escrow Agreement 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 officer of all changes from the form of Escrow Agreement presented to this meeting, which form of Escrow Agreement is in all respects approved and incorporated by reference and made a part hereof.

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 are each hereby authorized, 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 Agreement, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds and the making of the Mortgage Loan in accordance with the Law and this ordinance.

Section 13. Non-feasibility of Requiring 50% of Median Income Tenants. This Board of Commissioners hereby finds and determines that it is not economically feasible to require reservation of ten percent (10%) of the units in the Project for occupancy on a priority basis by individuals and families whose adjusted gross income does not exceed 50% of the median gross income for the area, in accordance with Section 34312.3(c)(2) of the Law. In making such finding and determination, the Authority has considered (i) the availability of rent subsidies and other financial aid from federal, state, or local government; (ii) the availability to secure density bonuses, reductions in land use requirements, expedited processing, or other procedural incentives from local government; and (iii) the ability to obtain a reduction in rents to the fair market level or below for existing housing pursuant to Section 8 of the United States Housing Act of 1937 or a successor federal program in units to be occupied by very low income households by imposing higher rents in other units.

Section 14. Official Action. It is the purpose and intent of the Authority that this Resolution constitute official action toward the issuance of obligations by the Authority in accordance with Section 1.103-8(a)(5)(iii) of the Regulations of the United States Department of the Treasury.

Section 15. Conflicting Resolutions Repealed. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 16. 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 17. Effective Date. This Resolution shall take effect immediately upon its adoption.

APPROVED: JOHN W. WITT, General Counsel

By Harold O. Valderhaug

Chief Deputy Counsel

HOV:ps

10/14/93

Or.Dept:Hsg.Comm.

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