

RESOLUTION NUMBER R- 259142

Adopted on AUG 22 1983

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, APPROVING A CERTAIN FINANCING PURSUANT TO THE CITY OF SAN DIEGO ECONOMIC DEVELOPMENT REVENUE BOND LAW; AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF ITS CITY OF SAN DIEGO, INDUSTRIAL DEVELOPMENT REVENUE BONDS, SERIES 1983A (DRIVER INSURANCE BUILDING PROJECT), FOR THE PURPOSE OF PROVIDING FUNDS FOR THE ACQUISITION AND CONSTRUCTION OF SUCH PROJECT; APPROVING A CERTAIN TRUST INDENTURE WHICH CREATES A TRUST ESTATE AND MAKES CERTAIN PROVISIONS THEREFOR AND FOR THE BONDS; APPROVING A CERTAIN LOAN AGREEMENT WITH ROBERT F. DRIVER COMPANY, INC.; APPROVING A BOND PURCHASE AGREEMENT AND AUTHORIZING ITS EXECUTION; APPROVING A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING ITS USE AND AUTHORIZING ITS EXECUTION WHEN IN FINAL FORM; APPROVING A LETTER OF CREDIT AND AUTHORIZING ITS EXECUTION; DECLARING ITS ELECTION TO HAVE THE \$10,000,000 LIMITATION OF SECTION 103(b)(6)(D) OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, APPLIED TO THE ISSUANCE OF THE BONDS; AUTHORIZING SUCH FURTHER ACTION AS MAY BE NECESSARY TO CONCLUDE THE ISSUANCE, SALE AND DELIVERY OF SUCH BONDS; AND MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH.

(DRIVER INSURANCE BUILDING PROJECT)

WHEREAS, The City of San Diego (the "City") is a "home rule city" duly organized and existing under and pursuant to a Charter adopted under the provisions of the Constitution of the State of California; and

WHEREAS, pursuant to its home rule powers, the City duly and regularly enacted The City of San Diego Economic Development Revenue Bond Law (the "Law") to finance various types of

projects, as defined in the Law, and to issue its special revenue bonds for the purpose of paying the cost of financing such projects; and

WHEREAS, there was filed with the City an Application (the "Application") pursuant to the provisions of the Law by Robert F. Driver Company, Inc. (referred to herein as the "Company"), requesting the issuance of revenue bonds for the purpose of financing, pursuant to the Law, the cost and expense of acquisition and construction of a certain Project, as more particularly described in said Application; i.e., a certain office building, to wit: a nine-story, approximately 86,510 square feet, office building and a six-story parking facility with capacity for approximately 236 cars, located on the entire block between Fourth and Fifth Avenues, Cedar Street and Interstate Highway 5 in the City of San Diego; and

WHEREAS, the Application was reviewed and the plan of financing was found to comply with the spirit, intent and provisions of the Law, and it has been determined by Resolution No. R-257642 (adopted on December 13, 1982) that the City should proceed with the financing, and said determination was further reviewed and on April 4, 1983, by Resolution No. R-258200, the Manager was authorized to continue with preparation of the appropriate documents for the issuance of Economic Development Revenue Bonds for the Company, pursuant to the provisions of Resolution No. R-257642, adopted December 13, 1982; and

WHEREAS, pursuant to the Tax Equity and Fiscal Responsibility Act of 1982, the issuance of the Bonds must be approved by an elected representative of the City after a public hearing; and

WHEREAS, the City Clerk has caused notice of such public hearing to be published once (giving at least fourteen days' notice) in the San Diego Daily Transcript and the San Diego Union; and

WHEREAS, the subject matter of the Hearing was the proposed financing by the City of the Project as above set forth; and

WHEREAS, at the time and place stated in said Notice, the financing of the Project was presented, and any and all persons who so desired appeared and were heard, and the hearing was continued to future meetings when the final financing package could be presented in a more definitive form, which has now been done, and the Council is fully informed in the premises; and

WHEREAS, the Council must now approve the financing and authorize the execution of various documents in connection with the issuance, sale and delivery of such Bonds; and

WHEREAS, in connection with the approval of the various documents, the provisions of Section 103(b)(6)(D) of the Internal Revenue Code of 1954, as amended, and the regulations thereunder apply to the issuance of such Bonds; and

WHEREAS, in order that said Bonds be exempt under the provisions of Section 103(b) of said Internal Revenue Code and

said Regulations thereunder as tax-exempt municipal Bonds, it is necessary that the Council, as the issuing body of said Bonds on behalf of the City, make an election pursuant to said Section 103(b)(6)(D) in the manner hereinafter set forth.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SAN DIEGO DOES HEREBY FIND, RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The recitals set forth hereinabove are true and correct in all respects; and all actions heretofore taken by or at the direction of the City and its officers directed toward the sale and issuance of the Bonds therefor are hereby approved and ratified.

Section 2. The City hereby determines that the Project as described in the recitals hereof proposed by the Company is in compliance with the purposes of the law and with the criteria established pursuant thereto.

Section 3. The financing of the Project as described above and as described in the Application is hereby authorized and approved.

Section 4. The issuance by the City of the "City of San Diego, California, Industrial Development Revenue Bonds, Series 1983A (Driver Insurance Building Project)," in an amount not to exceed \$9,000,000 and at an average interest rate not to exceed twelve percent (12%) per annum is hereby approved. The Bonds shall be issued in substantially the form and in accordance with the terms of the Trust Indenture, between the City and California First Bank on file in the Office of the City Clerk as

Document No. RR-259142-1 and incorporated herein by reference, with such corrections, changes, modifications, additions or deletions as may be approved and recommended by the City Attorney and the City's Bond Counsel, James Warren Beebe, A Law Corporation, to the City Manager, or, in his absence or disability, his designated representative, and approved by him, his execution thereof to be conclusive evidence of his approval; and the City Manager, or, in his absence or disability, his designated representative, and the City Clerk are hereby authorized and directed to execute such final Trust Indenture when the same shall have been prepared for execution, with the seal of the City to be affixed thereto. The Bonds shall be issued and sold to purchasers (the "Purchasers") upon such terms and conditions as are provided in the Bond Purchase Agreement hereafter approved.

Section 5. The Bonds shall be special obligations of the City and shall not be deemed to constitute a debt or liability of the City or a pledge of the faith and credit of the City, but shall be payable solely from the payments received under the terms of the Loan Agreement, described hereinafter. The issuance of such Bonds shall not directly or indirectly or contingently obligate the City to levy or pledge any form of taxation whatsoever therefor or to make any appropriation for their payment. Neither the members of the Council, the officers or employees of the City, nor any person executing such Bonds

shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 6. A form of Loan Agreement has been presented to the Council and has been reviewed. The Council, acting for and on behalf of the City, hereby approves the Loan Agreement with the Company, substantially in the form on file in the Office of the City Clerk as Document No. R-259142-2, and incorporated herein by reference, with such corrections, changes, modifications, additions or deletions as may be approved and recommended by the City Attorney and the City's Bond Counsel, James Warren Beebe, A Law Corporation, to the City Manager, or, in his absence or disability, his designated representative, and approved by him, his execution thereof to be conclusive evidence of his approval; and the City Manager, or, in his absence or disability, his designated representative, and City Clerk are hereby authorized and directed to execute such final Loan Agreement when the same shall have been prepared for execution with the seal of the City to be affixed thereto.

Section 7. A form of Bond Purchase Agreement has been presented to the Council and has been reviewed. The Council, acting for and on behalf of the City, hereby approves the Bond Purchase Agreement, substantially in the form on file in the Office of the City Clerk as Document No. R-259142-3, and incorporated herein by reference, with such corrections, changes, modifications, additions or deletions as may be

approved and recommended by the City Attorney and the City's Bond Counsel, James Warren Beebe, A Law Corporation, to the City Manager, or, in his absence or disability, his designated representative, and approved by him, his execution thereof to be conclusive evidence of his approval; and the City Manager, or, in his absence or disability, his designated representative, and City Clerk are hereby authorized and directed to execute such final Bond Purchase Agreement when the same shall have been prepared for execution, with the seal of the City to be affixed thereto.

Section 8. A draft of a Preliminary Official Statement has been presented to the Council and has been reviewed. The Council, acting for and on behalf of the City, hereby approves the Preliminary Official Statement, and authorizes its use by the Company and Rauscher, Pierce, Refsnes, Inc. in connection with the Bond offering. When the final facts are known, the City authorizes and directs the City's Bond Counsel and Rauscher, Pierce, Refsnes, Inc. to prepare a final Official Statement and the City hereby authorizes the execution of such final Official Statement by the City Manager, or, in his absence or disability, his designated representative. The final Official Statement shall be in substantially the form on file in the Office of the City Clerk as Document No. RR-259142-4, and incorporated herein by reference, with such corrections, changes, modifications, additions or deletions as may be proposed by Rauscher, Pierce, Refsnes, Inc., approved and

recommended by the City Attorney and the City's Bond Counsel, James Warren Beebe, A Law Corporation, to the City Manager, or, in his absence or disability, his designated representative, and approved by the City Manager, or in his absence or disability, his designated representative, his execution thereof to be conclusive evidence of his approval.

Section 9. A form of Letter of Credit has been presented to the Council and has been reviewed. The Council, acting for and on behalf of the City, hereby approves the Letter of Credit, substantially in the form on file in the Office of the City Clerk as Document No. RR-259142-5, and incorporated herein by reference, with such corrections, changes, modifications, additions or deletions as may be approved and recommended by the City Attorney and the City's Bond Counsel, James Warren Beebe, A Law Corporation, to the City Manager, or, in his absence or disability, his designated representative, and approved by him, his execution thereof to be conclusive evidence of his approval; and the City Manager, or, in his absence or disability, his designated representative, and City Clerk are hereby authorized and directed to execute such final Letter of Credit when the same shall have been prepared for execution, with the seal of the City to be affixed thereto.

Section 10. That the Council, acting for and on behalf of the City, hereby makes this election pursuant to the provisions of said Section 103(b)(6)(D) of said Internal Revenue Code and

the Regulations thereunder, that the limitation as set forth therein be declared to be a limitation of \$10,000,000 rather than \$1,000,000 as otherwise set forth therein.

Section 11. That in the documents pertaining to the issuance of such Bonds in the manner and for the Project described in the recitals hereof, there shall be requirements that the Company set forth the "capital expenditures" which said Company has made for facilities and projects of said Company or any related persons within said City within a period of three (3) years prior to the issuance date of the Bonds referred to hereinabove; and further that said Company can be required to report such capital expenditures on all such income tax returns to be filed by such Company henceforth; and such requirements shall be set forth as covenants and agreements of said Company made to and with said City.

Section 12. That the City Clerk is hereby authorized and directed to file a certified copy of this resolution with the Regional Director of Internal Revenue in Fresno, California, together with the statement referred to in Section 1.103-10(b)(2)(vi)(a) and (b) of the Treasury Regulations.

Section 13. The Mayor is hereby authorized and directed to execute this resolution pursuant to said Tax Equity and Fiscal Responsibility Act of 1982.

Section 14. The Mayor, or, in his absence or disability, the Deputy Mayor, the City Manager, the City Clerk and such other City officers and employees as are appropriate are

authorized and directed to execute such other documents and take such further action as shall be consistent with the intent and purpose of this resolution and shall be needed to conclude the issuance, delivery and sale of the Bonds.

Section 15. This resolution shall take effect immediately upon its passage.

APPROVED: John W. Witt, City Attorney

By Stuart H. Swett
Stuart H. Swett
Chief Deputy City Attorney

SHS:rc:112.4
6/28/83 REV.8/18/83
Or.Dept.:Prop.
Form=r.none

Executed pursuant to the Tax Equity
and Fiscal Responsibility Act of 1982
August 23, 1983.

Roger Hedgecock
Roger Hedgecock, Mayor
The City of San Diego

AUG 22 1983

Passed and adopted by the Council of The City of San Diego on
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struikma	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

Roger Hedgecock
ROGER HEDGECOCK

Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *Jane A. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

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