

O-16325
ORDINANCE NUMBER _____ (New Series)

(O-85-66)

Adopted on NOV 13 1984

AN ORDINANCE 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 MAKING A LENDER LOAN TO PROVIDE FUNDS TO PROVIDE THE INTERIM AND PERMANENT FINANCING OF THE COST OF DEVELOPING A MULTIFAMILY RENTAL PROJECT, DETERMINING AND PRESCRIBING CERTAIN MATTERS RELATING THERETO, AND APPROVING AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS.

WHEREAS, by Ordinance No. O-15746 (New Series), adopted on May 3, 1982, the City Council of the City of San Diego (the "City Council") has adopted The City of San Diego Multifamily Residential Mortgage Revenue Bond Law (as amended to the date hereof, referred to herein as the "Law") in order to establish a procedure for the authorization, issuance and sale of multifamily mortgage revenue bonds by The City of San Diego (the "City") for the purpose of making loans or otherwise providing funds to finance the development of affordable multifamily rental housing in order to meet a substantial housing need identified in the community; and

WHEREAS, the City desires to make a loan (the "Lender Loan") to Mercantile Capital Finance Corporation Number 3 (the "Lender"), to enable the Lender to assist in the financing of a multifamily rental housing development (the "Project") through the making of a loan (the "Developer Loan") to Lincoln La

Jolla, A California Limited Partnership, (the "Developer"), and in order to do so intends to sell and issue not to exceed \$32,000,000 of its Multifamily Housing Revenue Bonds, 1984 Issue F (the "Bonds"); and

WHEREAS, the City Council has now determined to make the Lender Loan to provide funds to assist in the financing of the Project for the purpose of providing housing for low and moderate income persons or families; and

WHEREAS, there have been prepared and presented to the City Council for consideration at this meeting the following instruments:

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

(6) The form of Administration Agreement relating to the Bonds; and

WHEREAS, it appears that each of the documents and instruments referred to above 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., (the "Underwriter") has expressed its intention to purchase the Bonds, and the City Council finds that the public interest and necessity require that the City at this time make arrangements for the sale of the Bonds; and

WHEREAS, pursuant to Section 103(k) of the Internal Revenue Code of 1954, as amended, this City Council 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 ORDAINED, by the Council 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 City to assist in the financing of the Project through the issuance and sale of the Bonds in order to assist in the

development of dwelling units to be occupied by low and moderate income persons in the community.

Section 2. Authorization of the Bonds. For the purpose of raising moneys with which to make the Lender Loan in order to effectuate the construction and permanent financing of the Project, the City hereby determines to issue the Bonds, in a principal amount not to exceed \$32,000,000, with the exact principal amount to be such amount as is necessary to finance the Developer Loan for the Project. The Bonds shall bear interest at a rate or rates producing a net interest cost not to exceed nine and nine-tenths percent (9.9%) per annum, and maturing as provided in the Indenture, but not later than 12 years from the date of issue. 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 City and shall be payable as to principal, premium, if any, and interest, and the obligations of the City 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 City by the manual or facsimile signature of the Mayor or Deputy Mayor, and the official seal of the City, or a facsimile thereof, shall be impressed or imprinted thereon and attested with the manual or facsimile signature of the City Clerk.

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 Developer Loan is to be made and serviced, the City Manager or a deputy City Manager and the City Clerk or deputy City Clerk are hereby authorized to execute and deliver the Indenture, a copy of which is on file in the office of the City Clerk as Document No. 00-16325-1, in substantially the form presented to this meeting or with such changes as may be approved by the officers of the City executing the same, upon consultation with the City Attorney, 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 5. Approval of Lender Loan Agreement. To provide for the details of the making of the Lender Loan, and

the duties and obligations of the Lender, the City Manager or a deputy City Manager and the City Clerk or deputy City Clerk are hereby authorized to execute and deliver the Lender Loan Agreement, a copy of which is on file in the office of the City Clerk as Document No. 00-16325⁻² in substantially the form presented to this meeting or with such changes as may be approved by the officers of the City executing the same, upon consultation with the City Attorney, their execution thereof to constitute conclusive evidence of their approval of all changes from the form of Lender Loan Agreement presented to this meeting, which form of Lender Loan Agreement is hereby in all respects approved and incorporated by reference and made a part hereof.

Section 6. Approval of Regulatory Agreement. To provide for certain conditions and terms of the Developer Loan, and the duties and obligations of the Developer, the City Manager or a deputy City Manager and the City Clerk or a deputy City Clerk are hereby authorized to execute the Regulatory Agreement, the form of which is on file in the office of the City Clerk as Document No. 00-16325⁻³ in substantially the form presented to this meeting or with such changes as may be approved by the officers of the City executing the same, upon consultation with the City Attorney, their execution thereof to constitute conclusive evidence of their approval of all changes from the form of Regulatory Agreement presented to this

meeting, which form of Regulatory Agreement is in all respects approved and incorporated by reference and made a part hereof.

Section 7. Approval of Bond Purchase Contract. The form of Bond Purchase Contract presented to this meeting, a copy of which is on file in the office of the City Clerk as Document No. 00-16325-4 is hereby approved in all respects and incorporated herein by reference and made a part hereof, and the City Manager or a deputy City Manager is hereby authorized to execute and deliver to the Underwriter a Bond Purchase Contract in substantially such form or with such changes as may be approved by the officer of the City executing the same, upon consultation with the City Attorney, such execution to constitute conclusive evidence of the approval by such officer of all changes from the form of Bond Purchase Contract presented to this meeting, which form of Bond Purchase Contract is in all respects approved and incorporated by reference and made a part hereof.

Section 8. Approval of Official Statement. The form of Official Statement presented to this meeting, a copy of which is on file with the City Clerk as Document No. 00-16325-5 is hereby in all respects approved and incorporated herein by reference and made a part hereof, and the City Manager or a deputy City Manager of the City is hereby authorized to execute and deliver an Official Statement in substantially such form or

with such changes therein as may be approved by the officer of the City executing the same, upon consultation with the City Attorney, 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 City 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 City Clerk as Document No. 00-16325⁶ is hereby approved, and the City Manager or a deputy City Manager is 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 City executing the same, upon consultation with the City Attorney, 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. Actions Ratified and Authorized. All actions heretofore taken by the officers and agents of the City

with respect to the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the officers of the City are hereby authorized, 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 but not limited to those described in the Bond Purchase Contract, 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 Lender Loan and the Developer Loan in accordance with the Law and this ordinance.

Section 11. Conflicting Resolutions Repealed. All ordinances and resolutions or parts thereto in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 12. Severability. If any section, paragraph or provision of this ordinance 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 ordinance.


Section 13. Ordinance Constitutes Approval. It is the purpose and intent of this City Council that this ordinance constitute approval of the Bonds by the applicable elected representative in accordance with Section 103(k) of the Internal Revenue Code of 1954, as amended.

Section 14. Publication of Notice. The City Clerk is hereby authorized and directed to cause a digest or a copy of this ordinance to be published at least once in "The San Diego Daily Transcript" within fifteen (15) days after the adoption of this ordinance pursuant to Section 18 of the City Charter.

Section 15. Effective Date. This ordinance shall take effect on the thirtieth day after its adoption.

APPROVED: John W. Witt, City Attorney

By:


Harold O. Valderhaug
Deputy City Attorney

HOV:ps
10/17/84
Or.Dept. Hsg.Comm.

NOV 13 1984

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 type="checkbox"/> | <input type="checkbox"/> | <input checked="" 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 Struiksma | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mike Gotch | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dick Murphy | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" 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

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Barbara Bayer*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

OCT 29 1984

NOV 13 1984

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Barbara Bayer*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16325 Adopted NOV 13 1984

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE

1984 NOV 28 AM 10:02

SAN DIEGO, CALIF. C-11

CITY OF SAN DIEGO
202 C St., 12th Floor
San Diego, CA 92101

IN THE MATTER OF

NO.

ORDINANCE NUMBER O-16325

ORDINANCE NUMBER O-16325

(New Series)

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY MORTGAGE REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$32,000,000 FOR THE PURPOSE OF MAKING A LENDER LOAN TO PROVIDE FUNDS TO PROVIDE THE INTERIM AND PERMANENT FINANCING OF THE COST OF DEVELOPING A MULTIFAMILY RENTAL PROJECT, DETERMINING AND PRESCRIBING CERTAIN MATTERS RELATING THERETO, AND APPROVING AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS.

This ordinance authorizes the issuance, sale and delivery of Multifamily Mortgage Revenue Bonds, 1984 Issue F, in a principal amount not to exceed \$32 million, for the purpose of making a lender loan to provide funds to provide the interim and permanent financing of the cost of developing a multifamily rental project consisting of 312 units located on Charmant Drive west of Regents Road; determines and prescribes certain matters relating thereto, and approves and authorizes the execution of related documents, agreements and actions. A copy of the ordinance together with related documents is on file in the office of the City Clerk and available for public inspection.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th Floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Passed and adopted by the Council of The City of San Diego on November 13, 1984, by the following vote:

YEAS: Mitchell, McColi, Jones, Struiksma, Gotch, Martinez, Hedgecock.

NAYS: None.

NOT PRESENT: Cleator, Murphy.

AUTHENTICATED BY:

ROGER HEDGECOCK,

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR,

City Clerk of The City of San Diego, California.

(Seal)

By BARBARA BAXTER, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on October 29, 1984, and on November 13, 1984.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By BARBARA BAXTER, Deputy

Pub. Nov.28

8889

9 3/4" x 7.76 = 95.16

I, Linda S. Lawson, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER O-16325

(New Series)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

November 26, 1984

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 26th day of Nov., 1984.

Linda S. Lawson

01868 (Signature)