

(O-85-126)

ORDINANCE NUMBER 0 - 16377 (New Series)

ADOPTED ON FEB 25 1985

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY MORTGAGE REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$12,000,000 FOR THE PURPOSE OF MAKING A MORTGAGE LOAN TO PROVIDE FUNDS TO PROVIDE THE INTERIM AND PERMANENT FINANCING OF THE COST OF DEVELOPING A 175-UNIT MULTIFAMILY RENTAL HOUSING PROJECT LOCATED AT THE SOUTHWEST CORNER OF PASEO LUCIDO AND CORTE SABIO, 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 Multi-family 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, Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (as amended to the date hereof, referred to herein as the "Act") provides a complete, additional and alternative method for the issuance of multifamily mortgage revenue bonds for the purpose of making loans or

otherwise providing funds to finance the development of multifamily rental housing; and

WHEREAS, the City desires to make a loan (the "Mortgage Loan") to Sabio Associates, a California general partnership, (the "Owner"), to finance a 175-unit multifamily rental housing development known as La Serena Apartments, located at the southwest corner of Paseo Lucido and Corte Sabio, (the "Project") and in order to do so intends to sell and issue not to exceed \$12,000,000 of its Variable Rate Multifamily Mortgage Revenue Demand Bonds, 1985 Issue C (the "Bonds"); and

WHEREAS, the City Council has now determined to make the Mortgage Loan to provide financing for 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 Loan Agreement;
- (3) The form of Financing and Regulatory Agreement and Declaration of Restrictive Covenants;
- (4) The form of Remarketing Agent Agreement;
- (5) The form of Intercreditor Agreement;
- (6) The form of Bond Purchase Agreement;
- (7) The form of Preliminary Official Statement relating to the Bonds; and

(8) The form of Administration Agreement relating to the Bonds; 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, Citicorp Capital Markets Group, Newman and Associates, Inc. and Security Pacific Capital Markets Group (the "Underwriters") have expressed their 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 provide the financing for the Project through the issuance and sale of the Bonds in order to assist in the 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 make the Mortgage 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 \$12,000,000, said principal amount to be such amount as is necessary to finance the Mortgage Loan for the Project and to pay costs of issuance of the Bonds. The Bonds shall bear interest at a variable rate of interest producing a net interest cost on the Bonds not to exceed fourteen percent (14%) per annum, and with an initial rate of interest not to exceed seven percent (7%) per annum and maturing as provided in the Indenture, but not later than 25 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 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 Mortgage Loan is to be made and serviced, the City Manager or a deputy City Manager and the City Clerk or a 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. 00-16377-1 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 Loan Agreement. To provide for the details of the making of the Mortgage Loan, and the duties and obligations of Sabio Associates, a California general partnership, as Owner, the City Manager or a deputy City Manager and the City Clerk or a deputy City Clerk are hereby authorized to execute and deliver the Loan Agreement, a copy of which is on file in the office of the City Clerk as Document No. 00-16377-2 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 Loan Agreement presented to this meeting, which form of Loan Agreement is hereby in all respects approved and incorporated by reference and made a part hereof.

Section 6. Approval of Financing and Regulatory Agreement and Declaration of Restrictive Covenants. To evidence the requirements of the Act and the Law with respect to the Mortgage Loan, the City Manager or a deputy City Manager and the City Clerk or a deputy City Clerk are hereby authorized to execute and deliver the Financing and Regulatory Agreement and Declaration of Restrictive Covenants, a copy of which is on file in the office of the City Clerk as Document No. 00-16377-3, 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 Financing and Regulatory Agreement and Declaration of Restrictive Covenants presented to this meeting, which form of Financing and Regulatory Agreement and Declaration of Restrictive Covenants is hereby in all respects approved and incorporated by reference and made a part hereof.

Section 7. Approval of Remarketing Agent Agreement. To provide for the details of the remarketing of Bonds in accordance with the Indenture, and the duties and obligations of the remarketing agent, the City Manager or a deputy City Manager and the City Clerk or a deputy City Clerk are hereby authorized to execute and deliver the Remarketing Agent Agreement, a copy of which is on file in the office of the City Clerk as Document No. 00-16377-4, 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 Remarketing Agent Agreement presented to this meeting, which form of Remarketing Agent Agreement is hereby in all respects approved and incorporated by reference and made a part hereof.

Section 8. Approval of Intercreditor Agreement. To provide for certain details with respect to the Mortgage Loan, the City Manager or a deputy City Manager and the City Clerk or a deputy City Clerk are hereby authorized to execute and deliver the Intercreditor Agreement, a copy of which is on file in the office of the City Clerk as Document No. 00-16377-5, 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 Intercreditor Agreement presented to this meeting, which form of Intercreditor Agreement is hereby in all respects approved and incorporated by reference and made a part hereof.

Section 9. 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 City Clerk as Document No. 00-16377-6, 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 Agreement

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 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 10. Approval of Preliminary Official Statement and Official Statement. The form of Preliminary Official Statement relating to the Bonds, is substantially the form presented to this meeting, a copy of which is on file with the City Clerk as Document No. 00-16377-7, is hereby in all respects approved and incorporated herein by reference and made a part hereof, and the City Council hereby ratifies and approves distribution of the Preliminary Official Statement to prospective purchasers of the Bonds. The City Manager or a deputy City Manager of the City is 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 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 11. 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. 00-16377⁸, 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 12. 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 and directed, 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 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, the Act and this ordinance.

Section 13. Non-feasibility of Very Low Income Tenants. The City Council hereby determines that it is not feasible to require that at least one-half of the 20% of the units in the Project reserved for occupancy by low or moderate income tenants be occupied on a priority basis by individuals or families whose adjusted gross income does not exceed 50% of the median adjusted gross income for the area, as median adjusted gross income may from time to time be determined pursuant to Section 8 of the United States Housing Act of 1937.

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

Section 15. 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.

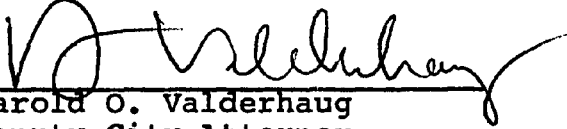
Section 16. Ordinance Constitutes Approval. It is the purpose and intent of this City Council that this ordinance constitute approval of the Bonds by the applicable elected representative in accordance with Section 103(k) of the Internal Revenue Code of 1954, as amended.

Section 17. 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 18. 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:559
01/30/85
Or.Dept:Hsg.Comm.
O-85-126
Form=o.hsg

#2-0/23

FEB 25 1985

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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 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 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

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By June A. Blackwell, 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

FEB 11 1985

FEB 25 1985

and on _____

~~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 June A. Blackwell, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16377 Adopted FEB 25 1985

RECEIVED
CITY CLERK'S OFFICE
1984 JAN 31 PM 4: 06
SAN DIEGO, CALIF.

FEB 27 1982

FEB 11 1982

FEB 22 1982

00297

FEB 22 1982

CERTIFICATE OF PUBLICATION

RECEIVED
PUBLIC WORKS OFFICE
1985 MAR 14 AM 10:13
SAN DIEGO, CALIF.

THE CITY OF SAN DIEGO
202 C Street, 12th Fl.
San Diego, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY
OF MULTIFAMILY MORTGAGE REVENUE BONDS IN A PRINCIPAL AMOUNT
NOT TO EXCEED \$12,000,000

ORDINANCE NUMBER 0-16377
AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY MORTGAGE REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$12,000,000 FOR THE PURPOSE OF MAKING A MORTGAGE LOAN TO PROVIDE FUNDS TO PROVIDE THE INTERIM AND PERMANENT FINANCING OF THE COST OF DEVELOPING AND CONSTRUCTION OF MULTIFAMILY RENTAL HOUSING PROJECTS LOCATED AT THE SOUTHWEST CORNER OF PASEO LINDERO AND CORTE SABIO, DETERMINING AND APPROVING CERTAIN MATTERS RELATING THEREAS, AND APPROVING AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS.
The ordinance authorizes the issuance, sale and delivery of mortgage revenue bonds in a principal amount not to exceed \$12,000,000 for the purpose of making a mortgage loan to establish a California general partnership, to provide funds for the interim and permanent financing of the cost of developing and construction of multifamily rental housing projects located at the southwest corner of Paseo Lindero and Corte Sabio, determine and approve certain matters relating thereto, and approve and authorize 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 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.
Adopted on FEB 11 1985
and adopted by the Council of The City of San Diego on FEB 11 1985.
ATTESTED BY:
CITY CLERK
THE CITY OF SAN DIEGO, CALIFORNIA
CITY CLERK
THE CITY OF SAN DIEGO, CALIFORNIA
CITY CLERK
THE CITY OF SAN DIEGO, CALIFORNIA

I, Michael L. Ungashick, 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 0-16377

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:

March 11, 1985

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

Dated at San Diego, California this 11th day of Mar., 19 85

Michael L. Ungashick
(Signature) 00298

3 1/2" x 9.46 x 2 = 68.32