

ORDINANCE NUMBER 016472 (New Series)

Adopted on July 22, 1985

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$18,500,000 FOR THE PURPOSE OF MAKING A 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. 0-15746 (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 "Developer Loan") to N.B. Partners, a California general partnership (the "Developer"), to finance the construction of a multifamily rental housing development (the "Development"), and in order to do so intends to sell and issue not to exceed \$18,500,000 of

its Multifamily Housing Revenue Bonds, Issue G of 1985 (the "Bonds"); and

WHEREAS, the City Council has now determined to make the Developer Loan to provide funds to assist in the financing of the Development 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 of Trust (the "Indenture"), including the form of Bond;
- (2) The form of Loan Agreement;
- (3) The form of Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement");
- (4) The form of Bond Purchase Agreement;
- (5) The form of Official Statement relating to the Bonds;
- (6) The form of Intercreditor Agreement;

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

(8) The forms of First Deed of Trust, Security Agreement and Memorandum of Assignment of Deed of Trust.

WHEREAS, it appears that each of the documents and instruments 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, Security Pacific Capital Markets Group and Newman and Associates, Inc. (collectively, the "Underwriter") 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:

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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 Development 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 Developer Loan in order to effectuate the construction and permanent financing of the Development, the City hereby determines to issue the Bonds, in a principal amount not to exceed \$18,500,000, with the exact principal amount to be such amount as is necessary to finance the Developer Loan for the Development. The Bonds shall bear interest at a rate or rates producing a net interest cost not to exceed twelve and one-half percent (12.5%) per annum, and maturing as provided in the Indenture. 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

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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. 0016472-1 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 Developer Loan, and the duties and obligations of the Developer, the City Manager or a deputy City Manager and the City Clerk or 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. 00-16472-2, 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 Regulatory Agreement. To provide for certain conditions and terms of the operation of the Development 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. 00-16472-3, 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 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. 00-16472-4, 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 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 8. Approval of Official Statement. The form of Preliminary Official Statement presented to this meeting, a copy of which is on file with the City Clerk as Document No. 00-16472-5, is hereby in all respects approved and incorporated herein by reference and made a part hereof and the Underwriter

is authorized to distribute the Preliminary Official Statement in connection with the sale of the Bonds, and the City Manager or a deputy City Manager of the City is 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 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 Preliminary Official Statement presented to this meeting, which form of Preliminary Official Statement is in all respects approved and incorporated by reference and made a part hereof.

Section 9. Approval of Intercreditor Agreement. The form of Intercreditor Agreement 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. 00-16472-6, is hereby approved, and the City Manager or a deputy City Manager and the City Clerk or a deputy City Clerk are hereby authorized to execute and deliver an Intercreditor Agreement in substantially such form or with such changes therein as may be approved by the officers of the City executing the same, upon consultation with the City Attorney, such execution to constitute conclusive evidence of the approval by such officers 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 10. 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. 00-16472-7, 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 11. N.B. Partners, a California general partnership, is hereby approved as the owner of the Development.

Section 12. Approval of First Deed of Trust, Security Agreement and Memorandum of Assignment of Deed of Trust. The forms of First Deed of Trust, Security Agreement and Memorandum of Assignment of Deed of Trust, copies of which are on file in

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the office of the City Clerk as Document Nos. 00-16472-8,  
00-16472-9 and 00-16472-10, respectively, are hereby approved,  
and the City Manager or a deputy City Manager is hereby  
authorized to execute and deliver the Memorandum of Assignment  
of Deed of Trust in substantially the form presented, 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  
Memorandum of Assignment of Deed of Trust presented to this  
meeting, which form of Memorandum of Assignment of Deed of  
Trust is in all respects approved and incorporated by reference  
and made a part hereof.

Section 13. Selection of Trustee. The City Manager or a  
deputy City Manager is hereby authorized and directed to select  
a trustee to serve as Trustee under the Indenture, provided  
that such Trustee must comply with the qualification  
requirements set forth in Section 901 of the Indenture. The  
Trustee 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 parties named in  
the Bond Purchase Agreement, in accordance with written  
instructions executed on behalf of the City by the City  
Manager, a deputy City Manager 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 City, to execute and deliver to the Trustee. Such instructions shall provide for the delivery of the Bonds in accordance with the Bond Purchase Agreement, upon payment of the purchase price thereof.

Section 14. 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 or any representative of the San Diego Housing Commission duly designated by the City Manager or a deputy City Manager 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 Developer Loan in accordance with the Law and this ordinance.

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


Section 16. 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 17. 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 18. 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 19. 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  
6/26/85  
Or. Dept: Hsg. Comm.  
O-85-232

6374p/2177-

Passed and adopted by the Council of The City of San Diego on JUL 22 1985,  
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 Struikama	<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"/>
District 7-vacant	<input 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 Ellen Bovard, 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

JUL 9 1985, and on JUL 22 1985.

~~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 Ellen Bovard, Deputy.

Office of the City Clerk, San Diego, California

C1049

Ordinance Number 0-16472 Adopted JUL 22 1985

CERTIFICATE OF PUBLICATION

THE CITY OF SAN DIEGO  
OFFICE OF THE CITY CLERK  
202 "C" STREET - 12TH FL.  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND  
DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS

**ORDINANCE NUMBER O-16472  
(NEW SERIES)  
ADOPTED ON JULY 22, 1985**

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$2,500,000 FOR THE PURPOSE OF MAKING A LOAN TO FINANCE FUNDS TO PROVIDE THE INTEREST AND PRINCIPAL FINANCING OF THE COST OF DEVELOPING A MULTIFAMILY RENTAL PROJECT, DETERMINING AND PASSING CERTAIN MATTERS RELATING THERE TO, APPROVING AND AUTHORIZING THE EXECUTION OF SAID DOCUMENTS, AGREEMENTS AND ACTIONS.

The Ordinance authorizes the issuance, sale and delivery of multifamily housing revenue bonds in a principal amount not to exceed \$2,500,000 for the purpose of making a loan to provide the interest and principal financing of the cost of developing a multifamily rental housing project located on Federal Street and 10th Street, San Diego, California, and authorizes the City Clerk to execute and deliver the same together with related documents, agreements and actions. A copy of the Ordinance and the related documents, agreements and actions, is on file in the office of the City Clerk and available for public inspection.

Enacted and adopted by the Council of The City of San Diego on July 22, 1985, by the following vote:

AYES: Mitchell, Cleaver, McColl, Jones, Strickman, Garcia, McLaughlin, and the City Clerk.  
NAYS: None.  
ABSENT: District 7 - vacant.

CERTIFIED BY:  
CITY CLERK  
JAMES G. ABDELNOUR,  
City of The City of San Diego, California.

WITNESSED AND ADDED TO THE RECORDS OF THE CITY OF SAN DIEGO, CALIFORNIA, ON JULY 22, 1985, BY THE CITY CLERK:  
JAMES G. ABDELNOUR,  
City of The City of San Diego, California.

I, JAMES G. ABDELNOUR, City Clerk of The City of San Diego, California, do hereby certify that the foregoing ordinance was not passed until twelve calendar days had elapsed between the day of its passage and the day of its final passage, to wit, on July 22, 1985.

I, JAMES G. ABDELNOUR, City Clerk of The City of San Diego, California, do hereby certify that the reading of said ordinance of 1985 was made with by a vote of not less than a majority of the members of the Council, and that there was available for the inspection of each member of the Council and the public prior to the passage a written or printed copy of said ordinance.

JAMES G. ABDELNOUR,  
City Clerk of The City of San Diego, California.

I, Martha Duran, 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

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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:

August 5, 1985

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

Dated at San Diego, California this 5th day of Aug., 19 85.

Martha Duran  
(Signature)

5' x 2 x 9.76 = 97.60

C1050