

ORDINANCE NUMBER 0-17937 (New Series)

(0-93-188)

ADOPTED ON June 28, 1993

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 LOAN TO PROVIDE FUNDS TO REFINANCE THE COST OF DEVELOPING AN APPROXIMATELY 368-UNIT MULTIFAMILY RENTAL HOUSING PROJECT KNOWN AS CORAL POINTE AND LOCATED IN THE AREA OF NOBEL DRIVE AND REGENTS ROAD, 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") 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 (including refunding 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 "Multifamily Bond Act") provides a complete, additional and alternative method for the issuance of multifamily mortgage revenue bonds (including refunding bonds) for the purpose of making loans or otherwise

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

WHEREAS, Article 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (as amended to the date hereof, referred to herein as the "Refunding Bond Act") authorizes local agencies to incur indebtedness for the purpose of refunding any revenue bonds of the local agency and provides a complete, additional and alternative method for doing the things authorized thereby; and

WHEREAS, pursuant to the Law and the Multifamily Bond Act, the City previously issued its Multifamily Mortgage Revenue Bonds (Coral Point Apartments Project), 1985 Issue D (the "Prior Bonds"), for the purposes described in the Indenture dated as of April 15, 1985 (the "Prior Indenture") between the City and First Trust of California, National Association, as successor trustee thereunder (the "Prior Trustee"), and the Loan Agreement dated as of April 15, 1985 (the "Prior Loan Agreement") between the City and Lincoln LaJolla Coral Pointe, A California Limited Partnership (the "Original Developer"); and

WHEREAS, the City has been advised that the Original Developer has defaulted on its payment obligations under the Prior Loan Agreement and related documents (collectively, the "Continuing Defaults"); and

WHEREAS, as a consequence of the Continuing Defaults Continental Casualty Company, an Illinois insurance company (the "Surety"), as the credit instrument obligor under the Prior Indenture, and the Prior Trustee filed an action in the Superior

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Court of the State of California for the County of San Diego to foreclose the related deeds of trust; and

WHEREAS, pursuant to an agreement, the parties to the foreclosure proceeding entered into a Stipulated Judgment and Decree of Foreclosure which was entered by the Court in August of 1992, and which (i) foreclosed the interests of the Original Developer and related parties in the Project and (ii) ordered the holding of a foreclosure sale at such time as requested by the Surety; and

WHEREAS, if, as is very likely, the successful bidder at the foreclosure sale is the Surety, the Surety intends to assign its rights to take title to the Project to an affiliate of the Surety expected to be known as Coral Point Apartments, Inc. (the "New Owner"); and

WHEREAS, prior to the New Owner's acquisition of the Project, the Surety intends to give notice to the Prior Trustee to call the Prior Bonds for redemption pursuant to the Surety's rights under Section 601(c)(3) of the Prior Indenture; and

WHEREAS, in order to provide the moneys to pay a portion of the redemption price of the Prior Bonds the City has determined to issue its Multi-Family Housing Revenue Refunding Bonds (Coral Pointe Apartments Project) in an aggregate principal amount not to exceed \$32,000,000 (the "Bonds"); 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 Amendment No. 1 to Regulatory Agreement;
  - (4) The form of Intercreditor Agreement;
  - (5) The form of Bond Purchase Agreement;
  - (6) The form of Remarketing Agreement;
  - (7) Preliminary Official Statement relating to the Bonds;
  - (8) The form of Administration Agreement relating to the Bonds;
- Bonds;
- (9) The form of First Deed of Trust, Security Agreement and Assignment of Rents; and
  - (10) 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. and Grigsby Brandford & Co., Inc. (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 147(f) of the Internal Revenue Code of 1986 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 refinancing for the Project through the issuance and sale of the Bonds in order to assist in the development and maintenance of the type of dwelling units provided by the Project.

Section 2. Authorization of the Bonds. For the purpose of raising moneys with which to effectuate the refinancing of the Project, the City hereby determines to issue the Bonds, in a principal amount not to exceed \$32,000,000. The principal amount of Bonds issued shall not exceed such amount as is necessary to refund all outstanding Prior Bonds (including accrued interest thereon). The Bonds shall bear interest at a rate of interest producing an initial interest rate on the Bonds not to exceed eight percent (8%) per annum, maturing as provided in the Indenture, but not later than 30 years from the date of issue. The Bonds shall be in substantially the forms 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, 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. 00-17937-1, 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 loan financed by the bonds (the "Loan"), and the duties and obligations of the New 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. 00-17937-2 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 Amendment No. 1 to Regulatory Agreement. To evidence the requirements of the Act, the Multifamily Bond Law, the Refunding Bond Law and the Internal Revenue Code with respect to the Loan and to implement the public purpose for which the Bonds are to be issued, 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 Amendment No. 1 to Regulatory Agreement, a copy of which is on file in the office of the City Clerk as Document No. 00-17937-3, 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 Amendment No. 1 to Regulatory Agreement presented to this meeting, which form of Amendment No. 1 to Regulatory Agreement is hereby in all respects approved and incorporated by reference and made a part hereof.

Section 7. Approval of Intercreditor Agreement. To provide for certain details with respect to the Loan and the Surety, 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. 00-17937-4 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 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 8. 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. 00-17937-5, 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 Underwriters 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 9. Approval of Remarketing Agreement. The form of Remarketing Agreement presented to this meeting, a copy



of which is on file in the office of the City Clerk as Document No. 0017937-6 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 Underwriters a Remarketing 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 Remarketing Agreement presented to this meeting, which form of Remarketing 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, in substantially the form presented to this meeting, a copy of which is on file with the City Clerk as Document No. 0017937-7, 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. 00-17937-8, 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 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. Approval of First Deed of Trust. The City Manager or a deputy City Manager and the City Clerk or a deputy City Clerk are hereby authorized to execute an acceptance of the First Deed of Trust, Security Agreement and Assignment of Rents, a copy of which is on file in the office of the City Clerk as Document No. 00-17937-9, 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 First Deed of Trust, Security Agreement and Assignment of Rents presented to this meeting, which form of First Deed of Trust, Security Agreement and Assignment of Rents is hereby in all respects approved and incorporated by reference and made a part hereof.

Section 13. Approval of Escrow Agreement. The form of Escrow Agreement by and between the City, the trustee for the Prior Bonds, the trustee for the Bonds and the Surety, 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. 00-17937-10, 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 a Escrow 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 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 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 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 or Remarketing 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 and administration of the Loan in accordance with the Law, the Multifamily Bond Act, the Refunding Bond Act, the Internal Revenue Code 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 147(f) of the Internal Revenue Code of 1986.


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  
05/28/93  
Or.Dept:Hsg.Comm.  
0-93-188

JUN 28 1993

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

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

SUSAN GOLDING  
Mayor of The City of San Diego, California.

(Seal)

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

By *Blanda B. Barnes* 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

JUN 14 1993, and on JUN 28 1993

~~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.

(Seal)

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

By *Blanda B. Barnes* Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17937 Adopted JUN 28 1993

RECEIVED

93 JUN -4 AM 9: 17

CITY CLERKS OFFICE  
SAN DIEGO, CA

JUN 4 1993

100

CERTIFICATE OF PUBLICATION

RECEIVED  
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93 JUL 15 AM 10:17

SAN DIEGO, CALIF.

P.

OFFICE OF THE CITY CLERK  
2ND FLOOR  
CITY ADMINISTRATION BUILDING  
202 C STREET  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND...

I, Corey Donahue, 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 0-17937 (New Series)**  
AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY MORTGAGE REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$82,000,000 FOR THE PURPOSE OF MAKING A LOAN TO PROVIDE FUNDS TO REFINANCE THE COST OF DEVELOPING AN APPROXIMATELY 368-UNIT MULTIFAMILY RENTAL HOUSING PROJECT KNOWN AS CORAL POINTE AND LOCATED IN THE AREA OF NOBEL DRIVE AND REGENTS ROAD, DETERMINING AND PRESCRIBING CERTAIN MATTERS RELATING THERETO, AND APPROVING AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS.  
A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration, 202 "C" Street, San Diego, CA 92101.  
INTRODUCED ON JUN 14 1993  
Passed and adopted by the Council of the City of San Diego on JUN 23 1993.  
AUTHENTICATED BY:  
SUSAN GOLDING  
Mayor of The City of San Diego, CA  
CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, CA  
By Rhonda R. Barnes, Deputy  
Pub. July 12 278249

ORDINANCE NUMBER 0-17937 (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:

JULY 12

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

Dated at San Diego, California this 12th day of JULY, 19 93.

*Corey Donahue*  
\_\_\_\_\_  
(Signature)

2 5/8" x 2 = \$ 66.56