

(R-97-376)

RESOLUTION NO. 287974

ADOPTED ON OCT 28 1996

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A THIRD SUPPLEMENTAL INDENTURE OF TRUST WITH RESPECT TO THE CITY OF SAN DIEGO MULTIFAMILY MORTGAGE REVENUE BONDS 1984 ISSUE B, DETERMINING AND PRESCRIBING CERTAIN MATTERS RELATING THERETO, AND APPROVING AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS.

WHEREAS, The City of San Diego (the "City"), acting under and pursuant to the powers reserved to the City under Article 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California, and under and pursuant to Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 2 of a freeholders' charter adopted April 7, 1931, as amended, has enacted The City of San Diego Multifamily Residential Mortgage Revenue Bond Law (the "Law"), constituting Division 24 of Article I of Chapter VI of the Municipal Code of the City, in order to establish a procedure for the authorization, issuance and sale of multifamily residential mortgage revenue bonds by the City for the purpose of making construction loans and mortgage loans, to provide funds to encourage the availability of adequate housing and home finance for persons and families of low or moderate income, and to develop viable communities by providing decent housing, enhanced living environment, and increased economic opportunities for persons and families of low or moderate income; and

WHEREAS, the City has heretofore issued its \$21,285,000 Multifamily Mortgage Revenue Bonds, 1984 Issue B (the "Bonds"), to enable the making of mortgage loans to provide financing for multifamily residential developments located within the City (the "Projects"), to be

occupied partially (at least 20 percent) by Lower-Income Tenants as required by Section 103(b)(4)(A) of the Internal Revenue Code of 1954, as amended, all for the public purpose of assisting persons of low or moderate income within the City to obtain decent, safe and adequate housing at rentals they can afford (the "Program"); and

WHEREAS, the Bonds were issued pursuant to an Indenture, dated as of May 1, 1984 (the "Original Indenture," and, together with any amendments or supplements thereto, the "Indenture"), between the City and Security Pacific National Bank, as trustee (together with its successor trustees, the "Trustee"); and

WHEREAS, the Original Indenture has been supplemented by a First Supplemental Indenture, dated as of April 20, 1993 (the "First Supplemental Indenture"), between the City and the Trustee, and by a Second Supplemental Indenture, dated as of June 1, 1993 (the "Second Supplemental Indenture") between the City and the Trustee; and

WHEREAS, the proceeds of the Bonds were loaned to a lender for the purpose of making mortgage loans, including the loans to finance the Projects (the "Project Loans" made pursuant to the "Project Loan Agreements"); and

WHEREAS, the Project Loans and the Bonds are currently owned by TE-TWO Real Estate Limited Partnership (the "Owner"); and

WHEREAS, the City Council of the City expressly determined in 1984 that the issuance of the Bonds for the purpose of financing the Projects would accomplish a valid public purpose of the City by assisting persons of low or moderate income in the City in obtaining decent, safe and adequate housing; and

WHEREAS, the Bonds mature on November 1, 1996; and

WHEREAS, the City, in order to assist in the financing of the Projects and to insure the

continued availability of decent, safe and adequate housing to persons of low or moderate income in the City, may consider the refunding of the Bonds and the refinancing of the Projects in the near future; and

WHEREAS, in order to provide the necessary time to structure a possible refunding of the Bonds and the refinancing of the Projects, the City desires to extend the maturity of the Bonds for a period of six months by means of the execution and delivery of a Third Supplemental Indenture of Trust (the "Third Supplemental Indenture"); and

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), notice of public hearing with respect to the proposed execution and delivery of the Third Supplemental Indenture was published; and

WHEREAS, a public hearing was called and conducted pursuant to law at which public hearing interested persons were allowed to present arguments for and against the execution and delivery of the Third Supplemental Indenture; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

Section 1. Finding and Determination. It is hereby found and determined that, in order to refinance the Projects and refund the Bonds so as to maintain the Projects as viable sources of decent, safe and adequate housing to persons of low or moderate income in the City, it is necessary to supplement the Indenture by means of a Third Supplemental Indenture (the "Third Supplemental Indenture") extending the maturity of the Bonds for a period of six months, to May 1, 1997.

Section 2. Approval of Third Supplemental Indenture. The Third Supplemental Indenture provides for the extension of the maturity of the Bonds for a period of six months to May 1, 1997, and prescribes other terms and conditions necessary and desirable for such

extension. The City Manager or a Deputy City Manager and the City Clerk or Deputy City Clerk are hereby authorized to execute and deliver the Third Supplemental Indenture, a copy of which is on file in the office of the City Clerk as Document No R-287974 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 the Third Supplemental Indenture presented to this meeting, which form of Indenture is hereby in all respects approved and incorporated by reference and made a part hereof.

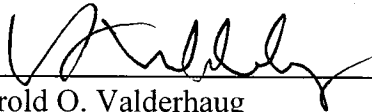
Section 3. Compliance with Internal Revenue Code. It is the purpose and intent of the City that this resolution constitutes the approval of the Third Supplemental Indenture by the appropriate applicable elected representative in accordance with Section 147(f) of the Code.

Section 4. Actions Ratified and Authorized. All actions heretofore taken by the officers and agents of the City with respect to the Third Supplemental Indenture 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 which they, or any of them, may deem necessary or advisable in order to consummate the lawful execution and delivery of the Third Supplemental Indenture.

Section 5. Severability. If any section, paragraph or provision of this resolution 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 resolution.

Section 6. Effective Date. This resolution shall take effect on the day of its adoption.

APPROVED: JOHN W. WITT, City Attorney

By   
Harold O. Valderhaug  
Head Deputy City Attorney

HOV:cdk  
10/04/96  
Or.Dept:Hsg.Comm.  
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