

#58
10/18/16

ORDINANCE NUMBER O- 20735 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 19 2016

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO, ACTING IN ITS CAPACITY AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, (i) AUTHORIZING THE ISSUANCE AND SALE OF TAX ALLOCATION REFUNDING BONDS, (ii) APPROVING THE FORM OF A FIRST SUPPLEMENTAL INDENTURE OF TRUST, BOND PURCHASE AGREEMENT AND RELATED DOCUMENTS, AND (iii) AUTHORIZING CERTAIN RELATED ACTIONS.

WHEREAS, from its formation in 1958 until its elimination on February 1, 2012, the Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated areas throughout the City of San Diego; and

WHEREAS, the Former RDA was a public body, corporate and politic, duly created, established, and authorized to transact business and exercise its powers under and pursuant to the provisions of the Community Redevelopment Law, Part 1 of Division 24 (commencing with section 33000) of the California Health and Safety Code (Code), and the powers of the Former Agency included the power to issue bonds and incur debt for any of its corporate purposes; and

WHEREAS, the City Council, acting as the Former RDA's governing board, duly adopted, and in some instances amended, redevelopment plans (collectively, Redevelopment Plans) for each of the redevelopment project areas (collectively, Project Areas) in the City, now consolidated into fourteen Project Areas as a result of previous mergers, in compliance with all requirements of the Code; and

WHEREAS, from time to time, the Former RDA has issued tax allocation bonds and loans, including those bonds identified in Exhibit A to Staff Report No. 16-077 (Staff Report) accompanying this Ordinance (those bonds shown in Exhibit A are referred to herein as Refunded Bonds), and the Former RDA pledged a portion of its tax increment revenues from certain of the Project Areas as security for repayment of the Refunded Bonds; and

WHEREAS, the Former RDA dissolved as of February 1, 2012, in accordance with a deadline for elimination of all redevelopment agencies throughout California set forth in Assembly Bill x1 26 (AB 26), as modified by the California Supreme Court in *California Redevelopment Assn. v. Matosantos*, 53 Cal.4th 231 (2011); and

WHEREAS, pursuant to Resolution No. R-307238 adopted by the City Council effective January 12, 2012, the City of San Diego, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency), elected to serve as the successor agency to the Former RDA; and

WHEREAS, at the time of the Former RDA's dissolution on February 1, 2012, the Successor Agency became vested with all of the Former RDA's authority, rights, powers, duties, and obligations under the Code, including, without limitation, the obligations of the Former Agency under the Refunded Bonds and the related documents to which the Former Agency was a party, and, by operation of law, received all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former RDA; and

WHEREAS, the Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, Assembly Bill 1484, enacted on June 27, 2012, and subsequent legislation (collectively, the Dissolution Laws); and

WHEREAS, the Oversight Board has been formed to oversee certain actions and decisions of the Successor Agency in accordance with the Dissolution Laws; and

WHEREAS, the State of California Department of Finance (DOF) and other entities also possess certain rights and obligations under the Dissolution Laws with respect to the Successor Agency's administration of the Former RDA's operations; and

WHEREAS, Code Section 34177.5(a), enacted by AB 1484, authorizes each successor agency to refund outstanding bonds or other indebtedness of the former redevelopment agency provided that (i) the total interest cost to maturity on the refunding bonds or other indebtedness plus the principal amount of the refunding bonds or other indebtedness shall not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded plus the remaining principal of the bonds or other indebtedness to be refunded, and (ii) the principal amount of the refunding bonds or other indebtedness shall not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves, and to pay related costs of issuance; and

WHEREAS, the Successor Agency has previously refinanced a significant portion of bonded indebtedness of the Former Agency pursuant to its Ordinance No. O-20566 and that certain Indenture of Trust dated as of January 1, 2016 (the 2016 Indenture), by and between the Successor Agency and U.S. Bank National Association, providing for the issuance of the Successor Agency's Tax Allocation Refunding Bonds, Series 2016A and Series 2016B (Federally Taxable) (collectively, the 2016 Bonds) in the aggregate principal amount of \$175,185,000; and

WHEREAS, the Successor Agency desires to issue refunding bonds (collectively, Refunding Bonds), designated Tax Allocation Refunding Bonds, Series 2017A (2017A Bonds) and Tax Allocation Refunding Bonds, Series 2017B (Taxable) (2017B Bonds) for the purpose of refunding part or all of the Refunded Bonds and to achieve debt service savings; and

WHEREAS, the 2017A Bonds and 2017B Bonds shall be issued as Parity Debt under the 2016 Indenture pursuant to a First Supplemental Indenture of Trust described in this Ordinance; and

WHEREAS, the Refunding Bonds shall be issued in a principal amount not to exceed \$260 million, allocated in each case between the 2017A Bonds and the 2017B Bonds in such amounts as shall be determined in accordance with this Ordinance; and

WHEREAS, the City Debt Policy (Debt Policy) addresses terms for refunding obligations such as the Refunding Bonds, and the issuance of the Refunding Bonds will comply with the Debt Policy; and

WHEREAS, the Successor Agency wishes at this time to approve all matters relating to the issuance and sale of the Refunding Bonds; and

WHEREAS, the Successor Agency is authorized to undertake the actions described in this Ordinance pursuant to the Dissolution Laws and other applicable laws of the State of California; and

WHEREAS, Code section 34177.5(f) requires the Oversight Board and the DOF to approve the Successor Agency's issuance of the Refunding Bonds; NOW, THEREFORE,

BE IT ORDAINED, by the City Council of the City of San Diego, acting in its capacity as the governing board of the Successor Agency, as follows:

Section 1. The Council hereby finds and determines that the statements set forth above in the recitals to this Ordinance are true and correct.

Section 2. Subject to the provisions of the Supplemental Indenture defined in Section 3 below and provided (and to the extent) the Oversight Board and the DOF approve the Successor Agency's issuance of the Refunding Bonds, the issuance of the Refunding Bonds in the aggregate principal amount not to exceed Two Hundred Sixty Million Dollars (\$260,000,000) on the terms and conditions set forth in, and subject to the limitations specified in, the Indenture, is hereby authorized and approved. The Refunding Bonds shall be allocated between the 2017A Bonds and 2017B Bonds in such amount as is determined by the Chief Financial Officer to provide for the efficient refinancing of the Refunded Bonds, or any of them, in a manner consistent with applicable federal tax principles as determined by the Chief Financial Officer in consultation with Bond Counsel (designated below). The Refunding Bonds will be dated, will bear interest at the rates, will mature on the dates, will be issued in the form, will be subject to redemption, and will be as otherwise provided in the Supplemental Indenture (defined in Section 3), as the same will be completed as provided in this Ordinance. The proceeds of the sale of the Refunding Bonds shall be applied as provided in the Supplemental Indenture. The Refunding Bonds shall be issued pursuant to the provisions of Article 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (Bond Law) and the Dissolution Laws, specifically including Code section 34177.5. The approval of the issuance of the Refunding Bonds by the Successor Agency, the Oversight Board, and the DOF shall constitute the approval of each and every separate series of Refunding Bonds. The Successor Agency hereby determines that the interest on the 2017B Bonds is intended to be subject to all applicable federal income taxation without regard to any exemption under Section 103 of the

Internal Revenue Code of 1986. Notwithstanding the foregoing approval, prior to the issuance of the Refunding Bonds there shall first be presented to the Disclosure Practices Working Group and this Council for approval a form of preliminary official statement for the Refunding Bonds being sold pursuant to a public offering.

Section 3. The First Supplemental Indenture of Trust, in substantially the form on file in the Office of the City Clerk as Document No. OO- 20735-1 (Supplemental Indenture), is hereby approved. Collectively, the 2016 Indenture and the Supplemental Indenture are sometimes referred to in this Ordinance as the Indenture. The following officials of the City of San Diego (individually, an Authorized Signatory; collectively, the Authorized Signatories), are each hereby authorized and directed, acting individually, to execute and deliver the Supplemental Indenture with such changes and additions therein as such Authorized Signatory shall determine are necessary or desirable and in the best interest of the Successor Agency and as are approved as to form by the City Attorney or his specified designee, such approvals to be conclusively evidenced by the execution and delivery thereof: the Mayor, the Chief Financial Officer and the Chief Operating Officer. Without limiting the generality of the foregoing, in the event the Chief Financial Officer determines in consultation with the Municipal Advisor (defined below) and Bond Counsel that all or a portion of the Refunded Bonds shall not be refinanced as a part of or concurrently with the Refunding Bonds of a series issued pursuant to this authorization, the Indenture and all related documents approved or contemplated hereunder shall be modified to reflect that the pledge of Pledged Tax Revenues (as such term is defined in the Indenture) shall be and remain subordinate to such Refunded Bonds not refinanced and in such other respects as the Chief Financial Officer shall deem necessary or appropriate under the circumstances.

Section 4. The Council hereby finds and determines, based on all evidence and testimony contained in the record, that the Successor Agency has made diligent efforts to ensure that the lowest long-term cost financing will be obtained for the Refunding Bonds, that the financing shall not provide for any bullets or spikes and shall not use variable rates, and that the Successor Agency has retained a financial advisor (Municipal Advisor) in developing financing proposals and the Successor Agency shall make the work product of the Municipal Advisor available to the DOF at its request under the provisions of Code section 34177.5(h).

Section 5. The 2017A Bonds and the 2017B Bonds shall be sold by negotiated sale pursuant to the Bond Purchase Agreement between the Successor Agency, and Stifel, Nicolaus & Company, Incorporated (Stifel) as senior manager, and Citigroup Global Markets, Inc. (Citigroup) as co-senior manager with respect to the Refunding Bonds, acting on behalf of themselves and other participating underwriters, namely, Raymond James Financial, Inc., Morgan Stanley, Mesirow Financial Holdings, Inc. and William Blair & Company, L.L.C., in substantially the form on file in the Office of the City Clerk as Document Nos. OO- 20735² and OO- 20735³, and the same is hereby approved. The Authorized Signatories and any of them are each hereby authorized and directed to execute and deliver the Bond Purchase Agreement, with such changes and additions therein as such Authorized Signatory shall determine are necessary or desirable and in the best interest of the Successor Agency and as are approved as to form by the City Attorney or his specified designee, such approvals to be conclusively evidenced by the execution and delivery thereof; provided, however, that the Bond Purchase Agreement shall be signed only if the terms of the agreement are such that (i) the total interest cost to maturity on the Refunding Bonds plus the principal amount of the Refunding Bonds shall not exceed the total remaining interest cost to maturity on the Refunded Bonds to be

refunded plus the remaining principal of the Refunded Bonds to be refunded, (ii) the principal amount of the Refunding Bonds shall not exceed the amount required to defease the Refunded Bonds to be refunded, to establish customary debt service reserves, and to pay related costs of issuance, and (iii) aggregate net present value savings from the issuance of the Refunding Bonds, expressed as a percentage of the par amount of the Refunded Bonds, shall be at least 3% in the aggregate for Refunding Bonds attributable to a current refunding (as such term is defined in the Debt Policy) and 4% in the aggregate in the case of any Refunding Bonds which are attributable to an advance refunding (as such term is defined in the Debt Policy) and for each separate issue of Refunded Bonds, as determined by the Chief Financial Officer in consultation with the Municipal Advisor, which determination shall be final and conclusive; provided, however, savings for an individual prior issue of Refunded Bonds may be less than the amount described above if the Chief Financial Officer determines pursuant to the Debt Policy that the debt restructuring of any individual issue of Refunded Bonds included in the 2017A Bonds, 2017B Bonds is in the City's overall best financial interest. Any such determination of the Chief Financial Officer shall be final and conclusive.

Section 6. The Escrow Agreement for each issue of Refunded Bonds in substantially the form on file in the Office of the City Clerk as Document No. OO- 20735-4 is hereby approved. The Authorized Signatories and any of them are each hereby authorized and directed to execute and deliver the Escrow Agreements for each of the Refunded Bonds, with such changes, insertions and omissions to reflect the individual issues of Refunded Bonds addressed by each instrument and otherwise with such changes and additions therein as such Authorized Signatory shall determine are necessary or desirable and in the best interest of the Successor

Agency and as are approved as to form by the City Attorney or his specified designee, such approvals to be conclusively evidenced by the execution and delivery thereof.

Section 7. The form and content of the Continuing Disclosure Certificate on file in the Office of the City Clerk as Document No. OO- 20735⁵, are hereby authorized and approved. The Authorized Signatories and any of them are each hereby authorized and directed to execute and deliver one or more Continuing Disclosure Certificates in connection with the purchase and sale of the Refunding Bonds, with such changes, insertions and omissions therein as such Authorized Signatory shall determine are necessary or desirable and in the best interest of the Successor Agency and as are approved as to form by the City Attorney or his specified designee, such approvals to be conclusively evidenced by the execution and delivery thereof.

Section 8. The Authorized Signatories, acting singly, are and each of them hereby is authorized and directed to execute and deliver any and all documents and instruments relating to the Refunding Bonds, and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by the Indenture, the Bond Purchase Agreement, the Continuing Disclosure Certificate, the Escrow Agreements, this Ordinance, and any such agreements.

Section 9. The Chief Financial Officer, acting in consultation with the Municipal Advisor, is hereby authorized to negotiate the terms of a commitment for a policy of bond insurance and a commitment for a debt service reserve fund surety bond (each a Commitment) from one or more municipal bond insurance companies (each an Insurer) and, if such officer determines that the acquisition of an insurance policy and/or a surety bond from an Insurer will result in net interest rate savings, to pay the insurance premium of for such policy and/or surety

bond from the proceeds of the Refunding Bonds and to approve changes to the Indenture to the extent necessary to conform to the terms of the Commitments.

Section 10. The City Attorney or his specified designee is authorized to retain Stradling Yocca Carlson & Rauth, a Professional Corporation, as Bond Counsel and Disclosure Counsel for the Successor Agency in connection with the issuance of the Refunding Bonds under such contracts or other arrangements as the City Attorney or his specified designee shall approve and believes to be in the best interests of the Successor Agency. Such contracts or other arrangements, including reasonable out-of-pocket expenses, shall be in an amount not to exceed \$195,000 for the first issue of Refunding Bonds.

Section 11. The source of revenue for payment of the Refunding Bonds is the Pledged Tax Revenues to be received by the Successor Agency under and as defined in the Indenture.

Section 12. Authorized Signatories of the Successor Agency and their specified designees are hereby authorized and directed to pay all the fees and other costs of issuance of the Refunding Bonds in accordance with the Indenture, the Bond Purchase Agreement and as otherwise agreed with the Successor Agency and the respective parties thereto.

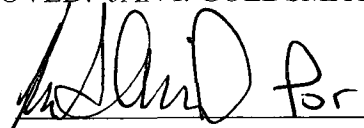
Section 13. All actions heretofore taken by any officers, employees or agents of the Successor Agency with respect to the issuance, delivery or sale of the Refunding Bonds, or in connection with or related to any of the financing documents or of the other documents referenced herein or related to consummating the refinancing contemplated by this Ordinance, are hereby approved, confirmed and ratified. Any Authorized Signatory and any other officers, employees or agents of the Successor Agency as may be duly authorized by the Chief Financial Officer, and each of them acting alone, is hereby severally authorized and directed, for and in the name and on behalf of the Successor Agency: (i) to do any and all things and take any and all

actions, from time to time, consistent with this Ordinance, the Indenture and the other documents authorized by this Ordinance including, without limitation, the payment of necessary and appropriate fees and expenses of Bond Counsel, Disclosure Counsel, Municipal Advisor, Fiscal Consultant and other services retained by the Successor Agency; and (ii) to execute and deliver any and all certificates, agreements, instructions and other documents (including, without limitation, a tax compliance certificate) required pursuant to the terms of the Bond Purchase Agreement or any other financing document, or which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Refunding Bonds and the disbursement of proceeds thereof in accordance with this Ordinance and to consummate the transactions authorized hereby and evidenced by the financing documents. Without limiting the generality of the foregoing, the Chief Financial Officer is hereby authorized to establish one or more special interest bearing account(s) for the proceeds of the Refunding Bonds. In addition, each Authorized Signatory is hereby authorized to approve additions and changes to the financing documents and the other documents authorized by this Ordinance (including, but not limited to, establishing the redemption provisions of the Refunding Bonds), which additions and changes the Authorized Signatory shall believe, with the advice of the Municipal Advisor, to be in the best interest of the Successor Agency in light of the financing costs and credit and market conditions, such determination shall be conclusively evidenced by the execution and delivery of such financing documents and other documents by the Successor Agency; and provided further that no such addition or changes may be inconsistent with limitations in Sections 2 through 5 hereof, inclusive.

Section 14. A full reading of this Ordinance is dispensed with prior to its passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 15. This Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Walter C. Chung
Deputy City Attorney

WCC:sc
09/06/2016
Or.Dept: Civic San Diego
Doc. No.: 1333564

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 18 2016.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10/19/16
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on OCT 18 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sheri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 19 2016

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Linda Bruin, 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

SEP 19 2016

, and on OCT 19 2016

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Linda Bruin, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20735