

#54
1/9/2018

(O-2018-50)

ORDINANCE NUMBER O- 20891 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 11 2018

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AND ACKNOWLEDGING THE ISSUANCE OF BONDS BY THE CITY OF SAN DIEGO TOBACCO SETTLEMENT REVENUE FUNDING CORPORATION IN ONE OR MORE SERIES ON A TAX-EXEMPT AND/OR TAXABLE BASIS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$115,000,000; APPROVING AND ACKNOWLEDGING THE FORM OF THE AMENDED AND RESTATED INDENTURE AND THE CONTINUING DISCLOSURE UNDERTAKING; AND AUTHORIZING, ACKNOWLEDGING AND APPROVING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, The City of San Diego, California (City), is entitled to receive certain amounts of annual payments (Tobacco Settlement Revenues) and lump sum payments, if any, coming to the State of California (State) pursuant to the Master Settlement Agreement among a number of jurisdictions and certain tobacco manufacturing companies (Master Settlement Agreement), all pursuant to a Memorandum of Understanding, dated August 5, 1998, and an Agreement Regarding Interpretation of Memorandum of Understanding, dated January 18, 2000 (as amended, ARIMOU); and

WHEREAS, pursuant to a Sale Agreement, dated as of June 1, 2006 (Sale Agreement), by and between the City, as seller, and the City of San Diego Tobacco Settlement Revenue Funding Corporation (Corporation), as purchaser, the City sold to the Corporation the City's future right, title and interest in all Tobacco Settlement Revenues and all Lump Sum Payments, if any (Lump Sum Payments), received from participating manufacturers under the Master Settlement Agreement (collectively, Sold City Tobacco Assets), subject to the provisions of the Sale Agreement and the 2006 Indenture hereinafter described, to obtain money to make a

contribution to the San Diego City Employees' Retirement System (Retirement System) to reduce the unfunded accrued actuarial liability of the Retirement System, all as provided by law; and

WHEREAS, the Corporation funded its purchase of the Sold City Tobacco Assets from the proceeds of bonds (2006 Bonds) issued by the Corporation pursuant to an Indenture, as supplemented by a Series 2006 Supplement, each dated as of June 1, 2006 (2006 Indenture), by and between the Corporation and Wells Fargo Bank, National Association (Indenture Trustee), which 2006 Bonds are payable solely from the payments received by the Corporation in connection with the portion of the Sold City Tobacco Assets pledged therefor, together with certain funds and accounts held under the 2006 Indenture; and

WHEREAS, the Corporation established a City of San Diego Tobacco Settlement Revenue Funding Corporation Residual Trust (Residual Trust) pursuant to a Declaration and Agreement of Trust, dated as of June 1, 2006 (Agreement of Trust), to pay or cause to be paid to the City the unpledged tobacco settlement payments and all amounts to be deposited in the Residual Trust pursuant to the 2006 Indenture (as the same may be amended or supplemented from time to time), free and clear of the lien thereof; and

WHEREAS, the City Council of the City (Council) approves and acknowledges the issuance of bonds by the Corporation (2018 Bonds) in one or more series on a tax-exempt and/or taxable basis in order to refund the currently outstanding 2006 Bonds with the proceeds of a taxable series of 2018 Bonds, to finance capital improvements in the City with the proceeds of a tax-exempt series of 2018 Bonds, to fund the reserve funds established under the Amended and Restated Indenture by and between the Corporation and the Indenture Trustee (Amended and

Restated Indenture) and to pay costs of issuance incurred in connection with the issuance of the 2018 Bonds; and

WHEREAS, the City acknowledges that the Corporation will prepare and deliver a Continuing Disclosure Undertaking relating to the 2018 Bonds (Continuing Disclosure Undertaking); NOW, THEREFORE,

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

Section 1. That the Council hereby specifically finds and declares that the actions authorized hereby constitute and are public affairs of the City and that the statements, findings and determinations of the City set forth in the preambles above and of the documents approved herein are true and correct.

Section 2. That the City hereby approves and acknowledges the issuance of the 2018 Bonds in one or more series on a tax-exempt and/or taxable basis in an aggregate principal amount not to exceed \$115,000,000, with a true interest cost not to exceed 5.50% and the latest stated maturity of which shall not be later than June 1, 2032, in order to refund the currently outstanding 2006 Bonds with the proceeds of a taxable series of 2018 Bonds, to finance capital improvements in the City with the proceeds of a tax-exempt series of 2018 Bonds, to fund the reserve funds established under the Amended and Restated Indenture hereinafter referred to and to pay costs of issuance incurred in connection with the issuance of the 2018 Bonds, all as determined by any one of the Mayor, the Chief Financial Officer, the Chief Operating Officer or their respective designees [each an Authorized Officer), to be in the best interests of the City, provided that the pledge of the Sold City Tobacco Assets to the owners of the 2018 Bonds pursuant to and in accordance with the Amended and Restated Indenture will continue until all amounts due on the 2018 Bonds have been paid in full. The 2018 Bonds shall be structured

substantially as provided in the form of the Amended and Restated Indenture presented at this meeting and on file with the City Clerk as Document No. OO- 20891-1

Section 3. That the forms of the Amended and Restated Indenture and the Continuing Disclosure Undertaking, each in substantially the forms presented to the Council and on file with the City Clerk as Document Nos. OO- 20891-1, and OO- 20891-2, respectively, are hereby acknowledged and approved.

Section 4. That any Authorized Officer and such other City officers and employees, as appropriate, are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which any of them may deem necessary or advisable in order to implement the Amended and Restated Indenture and otherwise to carry out, give effect to and comply with the terms and intent of this Ordinance and the consummation of transactions contemplated hereby including, but not limited to, the execution of any certification which is consistent, upon the advice of the City Attorney or Bond Counsel, with the requirements of the Sale Agreement and the Amended and Restated Indenture. Any actions heretofore taken by such officers in furtherance of any of the transactions authorized herein are hereby ratified, confirmed and approved.

All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Ordinance, whether before or after the issuance of the 2018 Bonds, including without limitation any of the foregoing, that may be necessary or desirable in connection with any default under or amendment of such documents, may be given or taken by any one of the Authorized Officers or the City Attorney without further authorization by the Council, and any of the foregoing officers is hereby authorized and directed to give any


such consent, approval, notice, order or request and to take any such action which such officers may deem necessary or desirable to further the purpose of this Ordinance.

Section 5. The Chief Financial Officer is authorized to establish one or more special interest-bearing account(s) to deposit proceeds from the 2018 Bonds.

Section 6. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 7. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Bret A. Bartolotta
Deputy City Attorney


BAB:jdf
11/28/17
Or.Dept:Debt Management
Doc. No.: 1622564

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 09 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 1/10/18
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

(Note: The date of final passage is January 11, 2018, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

Passed by the Council of The City of San Diego on JAN 09 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 11 2018

AUTHENTICATED BY:

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

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

By [Signature], 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

DEC 13 2017, and on JAN 11 2018

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.

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

By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>20891</u>