

Article 1: Public Improvement and Assessment Proceedings

Division 24: San Diego Multi-Family Residential Mortgage Revenue Bond Law

Part 1:

General Provisions and Definitions

(Editors note: Chapter 6, Article 1, Division 24 added 8-24-1988.)

§61.2400 Citation

This article may be cited as The City of San Diego Multi-Family Residential Mortgage Revenue Bond Law.

(“Citation” added 5-3-1982 by O-15746 N.S.)

§61.2401 Declarations of Necessity

- (a) The Council hereby finds and declares that it is necessary, essential, a public purpose and a municipal affair for the City to be authorized to make loans or otherwise provide funds to finance the development of affordable multi-family rental housing to meet a substantial housing need identified in the community.
- (b) The Council further finds and declares that it is necessary, essential, a public purpose and a municipal affair for the City to make loans or otherwise 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.

(“Declarations of Necessity” added 5-3-1982 by O-15746 N.S.)

§61.2402 Definitions

Unless the context otherwise requires, the terms defined in this article shall have the following meanings:

- (a) “Acquisition” means the acquisition of a residence pursuant to the program.
- (b) “Bonds” means any bonds, notes, certificates, debentures or other obligations issued by the City pursuant to this article and payable exclusively from

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revenues as in this article defined and from any other funds specified in this article upon which such obligations may be made a charge and from which they are payable.

- (c) “City” means The City of San Diego.
- (d) “Construction Loan” means a loan made pursuant to the program to a participating party to finance residential construction, rehabilitation or acquisition, whether such loan is insured or uninsured.
- (e) “Council” means the City Council of The City of San Diego.
- (f) “Loan-to-Lender” means a general obligation loan, which may be made through the making of deposits pursuant to a deposit agreement, to a qualified mortgage lender enabling such mortgage lender to make one or more construction loans or mortgage loans.
- (g) “Local Codes” means applicable local, state and federal standards for residential construction or rehabilitation.
- (h) “Mortgage Loan” means a long-term loan made pursuant to the program to a participating party which is secured by a mortgage or a deed of trust, whether insured or uninsured, and which provides for the permanent financing of residences pursuant to this article.
- (i) “Participating Party” means any person, company, corporation, partnership, firm or other entity or group of entities receiving financing for residential construction, rehabilitation or acquisition pursuant to the program. No elective officer of the City shall be eligible to be a participating party.
- (j) “Participation Purchase” means the purchase of a participation in a cash flow from single family mortgage loans from a qualified mortgage lender enabling such qualified mortgage lender to make one or more construction loans or mortgage loans.
- (k) “Persons or Families of Low or Moderate Income” means persons and families whose income does not exceed the qualifying limits for “persons or families of low or moderate income” within the meaning of Section 103(b)(4)(A) of the Internal Revenue Code of 1954, as amended.

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- (l) “Program” means the City’s program of making construction loans and mortgage loans both directly and through loans-to- lenders and participation purchases pursuant to this article.
- (m) “Qualified Mortgage Lender” means any mortgage lender authorized by the City to aid the City pursuant to this article. A qualified mortgage lender may be a state or national bank, a federal- or state-chartered savings and loan association, a trust company, a mortgage banker, an insurance company or other lender authorized to finance multi-family housing in the State of California, which is capable of providing service to or otherwise aiding the City pursuant to this article.
- (n) “Rehabilitation” means the making of repairs and improvements to a substandard residence so that it meets the requirements of the local codes.
- (o) “Residence” means real property improved with a multiple- family rental residential structure of four or more units and also includes real property improved with a commercial or mixed residential and commercial structure which, in the judgment of the City, is an integral part of a residential neighborhood.
- (p) “Residential Construction” means the construction of new residences meeting the requirements of the local codes.
- (q) “Resolution” means a resolution or ordinance adopted by the Council.
- (r) “Revenues” means amounts received as repayment of principal, interest, and all other charges received by the City with respect to loans under this article, any proceeds received by the City from mortgage guaranty insurance on such loans, all other income and receipts derived by the City from the making or purchasing of loans or participations therein under this article, any amounts received by the City as investment earnings on moneys deposited in a sinking, redemption, or reserve fund or any other fund securing bonds or providing for the payment of the principal of, or interest on, bonds and such other moneys as the Council may, in its discretion, make available therefor.

(Amended 12-6-1982 by O-15870 N.S.)

**Part 2:
Program Loans**

(Editors note: Chapter 6, Article 1, Division 24 added 8-24-1988.)

§61.2420 Loans For Multi-Family Residential Rehabilitation and Construction

The City may make construction loans and mortgage loans both directly and through loans-to-lenders and participation purchases to finance residential construction, rehabilitation and acquisition, provided that at least 20 percent of the dwelling units of any residence financed pursuant to the program are to be occupied by persons or families of low or moderate income.

(“Loans For Multi-Family Residential Rehabilitation and Construction” added 5-3-1982 by O-15746 N.S.)

§61.2421 Fixing Fees, Charges, and Rates for Program Loans

The City may fix fees, charges, and interest rates for construction loans, mortgage loans, loans-to-lenders and participation purchases and may from time to time revise such fees, charges, and interest rates to reflect changes in interest rates on the City’s bonds, losses due to defaults, changes in loan servicing charges, or changes in other expenses related to such loans, including City administrative expenses. Any change in interest rate shall conform to the provisions of Section 1916.5 of the California Civil Code, and shall reflect changes in interest rates on the City’s bonds, losses due to defaults, changes in loan servicing charges, and changes in such other expenses related to the program.

(“Fixing Fees, Charges, and Rates for Program Loans” added 5-3-1982 by O-15746 N.S.)

§61.2422 Fixing Terms and Conditions of Loans

The City may fix the character, terms and conditions upon which construction loans, mortgage loans, loans-to-lenders and participation purchases may be made. Construction loans and mortgage loans made to participating parties through or by qualified mortgage lenders, and loans-to-lenders made to and participation purchases made from qualified mortgage lenders, shall be of such character and on such terms and conditions as are established by the City. The full amount owed on any such loan may be made due and payable upon sale or other transfer of ownership of the residence financed by such loan and upon such terms and conditions as may be established by the City.

(“Fixing Terms and Conditions of Loans” added 5-3-1982 by O-15746 N.S.)

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§61.2423 Servicing of Loans

The City may fix fees for servicing of loans by qualified mortgage lenders.
(*“Servicing of Loans” added 5-3-1982 by O-15746 N.S.*)

§61.2424 Deeds of Trust or Mortgages as Security

The City may hold deeds of trust or mortgages as security for construction loans, mortgage loans, loans-to-lenders and participation purchases and may pledge or assign the same as security for repayment of bonds. Such deeds of trust or mortgages may be assigned to, and held on behalf of the City by, any bank or trust company or other financial institution appointed to act as trustee by the City in any resolution providing for the issuance of bonds.
(*“Deeds of Trust or Mortgages as Security” added 5-3-1982 by O-15746 N.S.*)

§61.2425 Employment of Experts and Consultants

The City may employ such engineering, architectural, financial, accounting, legal or other professional services as may be necessary in the judgment of the City for the purposes of this article.
(*“Employment of Experts and Consultants” added 5-3-1982 by O-15746 N.S.*)

§61.2426 Acquisition of Land

The City may acquire by deed, purchase, lease, contract, gift, devise or otherwise any real personal property, structures, rights, rights-of-way, franchises, easements, and other interest in lands necessary or convenient for the purpose of this article, upon such terms and conditions as it deems advisable and may lease, sell, or dispose of the same in such manner as may be necessary, desirable or convenient to carry out the purposes of this chapter.
(*“Acquisition of Land” added 5-3-1982 by O-15746 N.S.*)

§61.2427 Additional Powers

In addition to all other powers specifically granted by this article, the City may do all things necessary, desirable or convenient to carry out the purposes of this article.
(*“Additional Powers” added 5-3-1982 by O-15746 N.S.*)

Part 3:

Bonds and Notes

(Editors note: Chapter 6, Article 1, Division 24 added 8-24-1988.)

§61.2430 Issuance of Limited Obligation Bonds

- (a) The City may, from time to time, issue bonds for any of the purposes specified in Section 61.2420. Bonds shall be negotiable instruments for all purposes, subject only to the provisions of such bonds for registration.
- (b) Every issue of bonds shall be a limited obligation of the City payable from all or any specified part of the revenues and the moneys and assets authorized in this article to be pledged or assigned to secure payment of bonds. Such revenues, moneys or assets shall be the sole source of repayment of such issue of bonds. Bonds issued under the provisions of this article shall not be deemed to constitute a debt or liability of the City or a pledge of the faith and credit of the City but shall be payable solely from specified revenues, moneys and assets. The issuance of bonds shall not directly, or indirectly, or contingently obligate the City to levy or pledge any form of taxation or to make any appropriation for their payment.

All bonds shall contain on the face thereof a statement to the following effect:

Neither the faith and credit nor the taxing power of The City of San Diego is pledged to the payment of the principal of or interest on this Bond.

(“Issuance of Limited Obligation Bonds” added 5-3-1982 by O-15746 N.S.)

§61.2431 Amount of Bonds

In determining the amount of bonds to be issued, the City may include all costs of issuance of such bonds, reserve funds, and capitalized interest for such period as the City may determine.

(“Amount of Bonds” added 5-3-1982 by O-15746 N.S.)

§61.2432 Type, Form and Sale of Bonds

Bonds may be issued as serial bonds, term bonds or installment bonds, or any combination thereof. Bonds shall be authorized by resolution of the Council and shall bear such date or dates, mature at such time or times, bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be

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in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, be subject to such terms of redemption and have such other terms and conditions as such resolution or any indenture authorized by such resolution to be entered into by the City may provide. Bonds may be sold at either public or private sale and for such prices as the City shall determine. The City may sell any bonds at a price below the par value thereof. Pending preparation of definitive bonds, the City may issue temporary bonds, which shall be exchanged for definitive bonds when prepared.

(“Type, Form and Sale of Bonds” added 5-3-1982 by O-15746 N.S.)

§61.2433 Terms and Conditions of Bonds

Any resolution authorizing any bonds or any issue of bonds, or any indenture authorized by such resolution to be entered into by the City, may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of such bonds:

- (a) The terms, conditions and form of such bonds and the interest and principal to be paid thereon;
- (b) Limitations on the uses and purposes to which the proceeds of sale of such bonds may be applied, and the pledge or assignment of such proceeds to secure the payment of such bonds;
- (c) Limitations on the issuance of additional parity bonds, the terms upon which additional parity bonds may be issued and secured, and the refunding of outstanding bonds;
- (d) The setting aside of reserves and sinking funds and the regulation and disposition thereof;
- (e) The pledge or assignment of all or any part of the revenues and the use and disposition thereof, subject to such agreements with the holders of bonds as may then be outstanding;
- (f) Limitations on the use of revenues for expenditures for operating, administration, or other expenses of the City;
- (g) Specification of the acts or omissions to act, if any, which shall constitute a default in the duties of the City to holders of such bonds, and providing the

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rights and remedies of such holders in the event of default, including any limitations on the right of action by individual bondholders;

- (h) The appointment of a corporate trustee to act on behalf of the City and the holders of its bonds, the pledge or assignment of loans, deeds of trust, mortgages and any other contracts to such trustee, and the rights of such trustee;
- (i) The mortgaging of any residence and the site thereof for the purpose of securing the bonds;
- (j) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of such bonds the holders of which must consent thereto, and the manner in which such consent may be given; and
- (k) Any other provisions which the Council may deem reasonable and proper for the purposes of this article and the security of the bondholders.
(“Terms and Conditions of Bonds” added 5-3-1982 by O-15746 N.S.)

§61.2434 Pledge of Revenues

Any pledge of revenues or other moneys or assets pursuant to the provisions of this article shall be valid and binding from the time such pledge is made. Revenues, moneys and assets so pledged and thereafter received by the City shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the City, irrespective of whether such parties have notice thereof. Neither the resolution nor any indenture by which a pledge is created need be filed or recorded except in the records of the City.

(“Pledge of Revenues” added 5-3-1982 by O-15746 N.S.)

§61.2435 No Personal Liability

Neither the members of the Council, the officers or employees of the City, nor any person executing any bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(“No Personal Liability” added 5-3-1982 by O-15746 N.S.)

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§61.2436 Purchases of Bonds by City

The City shall have the power out of any funds available therefore, at its sole option, to purchase its bonds. The City may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with the bondholders.

(“Purchases of Bonds by City” added 5-3-1982 by O-15746 N.S.)

§61.2437 Compelling Performance

Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, any trustee appointed pursuant to any resolution authorizing the issuance of bonds, except to the extent the rights thereof may be restricted by such resolution or any indenture authorized thereby to be entered into by the City, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect or enforce any and all rights specified in law or in such resolution or indenture, and may enforce and compel the performance of all duties required by this article or by such resolution or indenture to be performed by the City or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, fees, interest, and charges authorized and required by the provisions of such resolution or indenture to be fixed, established, and collected.

(“Compelling Performance” added 5-3-1982 by O-15746 N.S.)

§61.2438 Refunding Bonds — Use of Proceeds

- (a) The City may issue bonds for the purpose of refunding any bonds then outstanding including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the City, for the additional purposes specified in Sec. 61.2420.
- (b) The proceeds of bonds issued for the purpose of refunding any outstanding bonds may, in the discretion of the City, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow, to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the City.
- (c) Pending use for purchase, retirement at maturity or redemption of outstanding bonds, any proceeds held in escrow pursuant to subdivision (b) may be invested and reinvested as provided in the resolution or indenture. Any

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interest or other increment earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to the City to be used by it for any lawful purpose.

- (d) All bonds issued pursuant to this section shall be subject to the provisions of this article in the same manner and to the same extent as other bonds issued pursuant to this article.

(“Refunding Bonds — Use of Proceeds” added 5-3-1982 by O-15746 N.S.)

§61.2439 Independent Validity of the Bonds

The validity of the authorization and issuance of any bonds is not dependent on and shall not be affected in any way by any proceedings taken by the City for the making of any loan or the entering into of any agreement, or by the failure to make any loan or enter into any agreement, for which bonds are authorized to be issued under this article.

(“Independent Validity of the Bonds” added 5-3-1982 by O-15746 N.S.)

**Part 4:
Supplemental Provisions**

(Editors note: Chapter 6, Article 1, Division 24 added 8-24-1988.)

§61.2440 Liberal Construction

This article, being necessary for the welfare of the City and its inhabitants, shall be liberally construed to effect its purposes.

(“Liberal Construction” added 5-3-1982 by O-15746 N.S.)

§61.2441 Effect of Omission or Defect

If the jurisdiction of the Council to order the proposed act is not affected, any omission of any officer or the City in proceedings under this article or any other defect in the proceedings shall not invalidate the proceedings or bonds issued pursuant to this article.

(“Effect of Omission or Defect” added 5-3-1982 by O-15746 N.S.)

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§61.2442 Authority

This article is full authority for the issuance of bonds by the City for the purposes specified herein.

(“Authority” added 5-3-1982 by O-15746 N.S.)

§61.2443 Provisions of this Article are Complete, Additional and Alternative

This article shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of bonds under the provisions of this article need not comply with the requirements of any other law applicable to the issuance of bonds. The purposes authorized hereby may be effectuated and bonds may be issued for any such purposes under this article notwithstanding that any other law may provide for such purposes or for the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law.

(“Provisions of this Article are Complete, Additional and Alternative” added 5-3-1982 by O-15746 N.S.)

§61.2444 Effect of Partial Validity

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable. The Council hereby declares that it would have adopted and passed this article and each division, section, subsection, sentence, clause, phrase and word hereof, irrespective of the fact that any one or more of other divisions, sections, subsections, sentences, clauses, phrases or words hereof be declared invalid or unconstitutional.

(“Effect of Partial Validity” added 5-3-1982 by O-15746 N.S.)