

Article 7: City of San Diego Economic Development Revenue Bond Law

Division 3: Bonds

(“*Regulations*” added 7-28-1959 by O-8152 N.S.)

(Repealed 10-24-1963 by O-8912 N.S.)

(“*Bonds*” added 9-14-1981 by O-15586 N.S.)

§97.0301 Issuance of Bonds

- (a) The City is hereby authorized to have outstanding Bonds in an aggregate principal amount of not to exceed \$100,000,000 and to issue such Bonds, from time to time, in such series and amount as are determined by the Council to be necessary or appropriate to provide for Costs of Facilities approved by the Council and to provide for the refunding or replacing of outstanding Bonds. Bonds shall be negotiable instruments for all purposes, subject only to the provisions of such Bonds for registration.
- (b) In addition to the Bonds authorized in the preceding paragraph, the City is hereby authorized to have outstanding additional bonds in an aggregate principal amount not to exceed \$1,150,600,000 for Facilities or activities related to energy development, production, collection, conversion (from one form of energy to another), storage, conservation, transmission, distribution, transportation, or conveyance, including but not limited to the furnishing of electric energy or gas, and to issue such Bonds from time to time, in such series and amounts, as are determined by the Council to be necessary or appropriate to provide for the Cost of Facilities approved by the Council and to provide for the refunding or replacing of outstanding Bonds. Bonds shall be negotiable instruments for all purposes, subject only to the provisions of such Bonds for registration.

For the purpose of any Bonds issued for facilities or activities related to energy development as more broadly defined above, the term “Facilities” shall have the same meaning as defined in Section 97.0103(e), except that the facilities, places or buildings are not necessarily required to be located within the City so long as the City Council finds that the Facilities to be financed would directly benefit the citizens of The City of San Diego.

- (c) For the purpose of any bonds issued for Facilities which are to be located outside of the City, the City Council shall request, and the City Manager shall submit to the City Council, a report showing that one or more of the criteria established pursuant to Section 97.0203 have been appropriately met.

(Amended 11-10-1986 by O-16760 N.S.)

§97.0302

Bonds Not Debt of City

All of the Bonds hereby authorized to be issued shall be limited obligations 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 as authorized by 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 limited obligations payable solely from specified revenues, moneys and assets. The issuance of Bonds shall not directly, 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 premium, if any, or interest on this bond.

(“*Bonds Not Debt of City*” added and amended 9-14-1981 by O-15586 N.S.)

§97.0303

Bond Terms

Bonds shall be issued as serial bonds, term bonds, installment bonds or pass-through certificates or any combination thereof. The City Manager shall determine the terms and timing of the issuance of particular Bonds in accord with the resolution of the Council approving the particular Facilities to be financed thereby. Bonds shall bear such date or dates, mature at such time or times not to exceed forty (40) years, bear interest at such fixed or variable rate or rates approved by the Participating Party whose Facilities are being financed but not to exceed the maximum rate permitted by law, be payable at such time or times, be in such denominations, be 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 to be entered into by the City pursuant to such resolution, shall provide. Bonds shall be sold at either public or private sale and for such prices as the City shall determine.

(“*Bond Terms*” added and amended 9-14-1981 by O-15586 N.S.)

§97.0304 Bond Provisions

Any resolution relating to the issuance of any Bonds, or any indenture to be entered into by the City pursuant to such resolution, 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, sinking funds and other funds and the regulation and disposition thereof,
- (e) the pledge or assignment of all or any part of the Revenues and of any other moneys or assets legally available therefor (including loans, deeds of trust, mortgages, leases, subleases, sales agreements and other contracts and security interests) and the use and disposition of such Revenues, moneys and assets, subject to such agreements with the holders of Bonds as may then be outstanding,
- (f) limitation on the use of Revenues for operating, administration or other expenses of the City,
- (g) specification of the acts or omissions to act which shall constitute a default in the duties of the City to holders of such Bonds, and providing the 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, leases, subleases, sale contracts and any other contracts to such trustee, and the rights of such trustee,

- (i) the procedure, if any, by which the terms of the 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,
 - (j) any indenture entered into by the City relating to the issuance of any Bonds may contain an appropriate provision restricting the sale by a Participating Party of any facility financed under this Article, subject to prior approval by the City,
 - (k) any other provisions which the Council may deem reasonable and proper for the purposes of this article and the security of the bondholders.
- (“Bond Provisions” added and amended 9–14–1981 by O–15586 N.S.)*

§97.0305

Pledge of Revenues, Money or Property

Any pledge of Revenues or other moneys or assets as authorized by 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, Money or Property” added and amended 9–14–1981 by O–15586 N.S.)

§97.0306

No Personal Liability

Neither the members of the Council, the officers or employees of the City, nor any person executing such 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 and amended 9–14–1981 by O–15586 N.S.)

§97.0307

Purchase of Bonds by City

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

(“Purchase of Bonds by City” added and amended 9–14–1981 by O–15586 N.S.)

§97.0308 Actions by Bondholders

Any holder of Bonds issued under the provisions of this article or any of the coupons appertaining thereto, and any trustee appointed pursuant to any resolution relating to 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, charged, and collected.

(“Actions by Bondholders” added and amended 9–14–1981 by O–15586 N.S.)

§97.0309 Refunding Bonds

The City is hereby authorized to issue Bonds for the purpose of replacing or refunding any Bonds then outstanding.

(“Refunding Bonds” added and amended 9–14–1981 by O–15586 N.S.)

§97.0310 Bond Anticipation Notes

In anticipation of the sale of Bonds authorized by this article, the City is hereby authorized to issue bond anticipation notes, and to renew the same from time to time, in such series and amounts as are determined by the Council to be necessary or appropriate for the Costs of Facilities approved by the Council. Such notes shall be payable from Revenues or other moneys or assets authorized by this article to be pledged to secure payment of Bonds, and which are not otherwise pledged, or from the proceeds of sale of the particular Bonds in anticipation of which they are issued. Such notes shall be issued in the same manner as Bonds. The Mayor or City Manager shall determine the terms and timing of the issuance of particular bond anticipation notes in accord with the provisions of Section 97.0303 and the resolution of the Council approving the particular Facilities to be financed thereby. Such notes, any resolution relating to the issuance of such notes and any indenture to be entered into by the City pursuant to such resolution may contain any provisions, conditions or limitations permitted under Section 97.0304.

(“Bond Anticipation Notes” added 9–14–1981 by O–15586 N.S.)

§97.0311 Validity of 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 approval of any financing or the entering into of any agreement, or by the failure to provide financing or enter into any agreement, for which Bonds are authorized to be issued under this article.

(“*Validity of Bonds*” added 9-14-1981 by O-15586 N.S.)