

RESOLUTION OMPFA-24

A RESOLUTION OF THE PUBLIC FINANCING AUTHORITY OF THE OTAY MESA ENHANCED INFRASTRUCTURE FINANCING DISTRICT AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF TAX ALLOCATION BONDS FROM TIME TO TIME, SUBJECT TO CERTAIN TERMS AND CONDITIONS, APPROVING THE FORM OF AN INDENTURE OF TRUST AND THE FORM OF A BOND PURCHASE AGREEMENT, AUTHORIZING CERTAIN OTHER OFFICIAL ACTIONS, AND PROVIDING FOR OTHER MATTERS RELATING THERETO

WHEREAS, the Otay Mesa Enhanced Infrastructure Financing District (herein referred to as the “District”) is an enhanced infrastructure financing district and a public body, corporate and politic, duly established and authorized to transact business and exercise powers under and pursuant to the provisions of Chapter 2.99 of Part 1 of Division 2 of Title 5 (commencing with Section 53398.50) of the Government Code of the State of California (the “EIFD Law”), including the power to issue bonds to finance capital improvements and other costs as provided in the EIFD Law; and

WHEREAS, the Otay Mesa Enhanced Infrastructure Financing District Public Financing Authority (the “Public Financing Authority”) was established by Resolution Number R-310938 adopted by the City Council of the City of San Diego (the “City”) on February 13, 2017; and

WHEREAS, the Public Financing Authority serves as governing body of the District pursuant to the EIFD Law; and

WHEREAS, the Public Financing Authority approved an Infrastructure Financing Plan (the “Infrastructure Financing Plan”) for the District by Resolution Number OMPFA-2 adopted on July 24, 2017; and

WHEREAS, the primary goals of the District are to facilitate economic development and improve the quality of life of residents within the boundaries of the District set forth in the Infrastructure Financing Plan (the “EIFD Project Area”), which boundaries are coterminous with the City’s Otay Mesa Community Plan Area, through the accelerated provision of needed infrastructure within the EIFD Project Area; and

WHEREAS, the Infrastructure Financing Plan provides that a portion of the property taxes generated within the EIFD Project Area will be allocated to the District and may be pledged to payment of bonds issued by the District; the portion of such property tax revenues that is available for payment of indebtedness of the District is referred to herein as “Tax Revenues”; and

WHEREAS, the Infrastructure Financing Plan identifies the public improvements and facilities described in the City of San Diego Otay Mesa Public Facilities Financing Plan (PFFP) as the public facilities and development proposed within the EIFD Project Area (the “EIFD Project”) and contemplates that the District may issue bonds and incur other forms of indebtedness secured by and payable from Tax Revenues to finance and refinance the EIFD Project; and

WHEREAS, the Infrastructure Financing Plan, including the allocation of Tax Revenues to the District during the entire term of existence of the District, was approved by the City Council of the City by Resolution Number R-311204 on June 26, 2017; and

WHEREAS, the Public Financing Authority wishes at this time to authorize the issuance and sale by the District of one or more taxable or tax-exempt series of Tax Allocation Bonds (the “Initial Series of Bonds”), pursuant to the provisions of the EIFD Law, the Infrastructure Financing Plan, and the Indenture (defined below) for the purpose of providing funds to finance the EIFD Project; and

WHEREAS, the Initial Series of Bonds, when issued, will be secured by a pledge of, lien on, and security interest in the Tax Revenues from the EIFD Project Area; and

WHEREAS, proceeds of the Initial Series of Bonds will be used (i) to provide funds to pay certain costs lawfully incurred by the District related to and in furtherance of the EIFD Project; (ii) to establish a reserve account or satisfy the reserve requirement with respect to the Initial Series of Bonds; (iii) to fund capitalized interest with respect to the Initial Series of Bonds, if determined to be appropriate by an Authorized Officer (defined below); and (iv) to pay a portion of the costs of issuing the Initial Series of Bonds; and

WHEREAS, the Initial Series of Bonds will be issued under, and will be secured by, an Indenture of Trust, by and between the District and a Trustee (defined below) (such Indenture of Trust, in substantially the form attached hereto as Exhibit A and incorporated herein, with such

changes, insertions, and omissions as are authorized to be made pursuant to this Resolution, is referred to herein as the “Indenture”); and

WHEREAS, the Infrastructure Financing Plan and the Indenture contemplate that the District will issue bonds or incur other debt from time to time to finance or refinance costs of the EIFD Project and, accordingly, the Public Financing Authority desires to authorize the issuance of additional bonds and incurrence of additional indebtedness by the District, from time to time, secured by a pledge of, lien on, and security interest in the Tax Revenues on a parity with the Initial Series of Bonds (collectively, the “Parity Debt”) and on a subordinate basis to the Initial Series of Bonds and Parity Debt (collectively, the “Subordinate Debt”), subject to satisfaction of certain conditions set forth in this Resolution, the Indenture, and the EIFD Law; and

WHEREAS, the Public Financing Authority desires to authorize the issuance and sale of the Initial Series of Bonds, Parity Debt, and Subordinate Debt (referred to collectively in this Resolution as the “Bonds”), from time to time, upon the terms and conditions hereinafter set forth; and

WHEREAS, good faith estimates of certain information relating to the Initial Series of Bonds is set forth in the Staff Report submitted to the Public Financing Authority concurrently with this Resolution, as required by California Government Code Section 5852.1; such estimates were provided by CSG Advisors Incorporated, the District’s Municipal Advisor for the Initial Series of Bonds; NOW, THEREFORE,

BE IT RESOLVED, by the District, acting by and through the Public Financing Authority, as follows:

SECTION 1. Issuance of the Initial Series of Bonds. The Public Financing Authority hereby authorizes the sale and issuance by the District of the Initial Series of Bonds in an aggregate principal amount not to exceed the amount set forth in Section 4 of this Resolution, pursuant to Section 53398.77 of the EIFD Law and in accordance with the terms set forth in the Indenture. The Initial Series of Bonds shall be executed by the manual or facsimile signature of the Chair of the Public Financing Authority, the Vice Chair of the Public Financing Authority, the City’s Department of Finance Director and City Comptroller, or the Treasurer of the Public Financing Authority, or their

respective written designees (each an “Authorized Officer”), and attested by the manual or facsimile signature of the Clerk of the Public Financing Authority, or his or her written designee (the “Clerk”).

SECTION 2. Information required by Section 53398.77 of the EIFD Law.

(a) The net proceeds of the Bonds, including the Initial Series of Bonds, will be applied to finance the EIFD Project. The specific EIFD Project costs to be paid using proceeds of the Bonds, including the Initial Series of Bonds, shall be determined by the Authorized Officers from time to time.

(b) (i) The estimated cost of the EIFD Project eligible to be paid from the net proceeds of the Bonds pursuant to the Infrastructure Financing Plan is \$1,193,000,000, of which \$56,906,000 is estimated to be paid from the net proceeds of the Initial Series of Bonds. (ii) The current estimated cost of preparing and issuing the Initial Series of Bonds, inclusive of preliminary estimates of costs of issuance, an underwriter’s discount, and a bond insurance premium, is \$1,691,000. (iii) The Infrastructure Financing Plan estimates, but does not limit, the aggregate principal amount of Bonds to be approximately \$172,000,000; the initial aggregate principal amount of the Initial Series of Bonds shall not exceed the amount set forth in Section 4 of this Resolution and shall be determined by an Authorized Officer as provided in this Resolution.

(c) The maximum interest rate on the Bonds shall be the maximum rate of interest permitted by law and the maximum original issue discount at which the Bonds may be sold shall be 5% of the par amount of each series of Bonds issued at public sale or such other amount that may be permitted by law at the time a series of Bonds is sold. The maximum interest rate and maximum original issue discount on the Initial Series of Bonds is set forth in Section 4 of this Resolution.

(d) The Public Financing Authority hereby finds and determines that the District is estimated to receive approximately \$1,095,777,026.71 in Tax Revenues following the date of this Resolution and prior to the final maturity of the Bonds, including the Initial Series of Bonds, for the payment of the principal of, and interest on, the Bonds, including the Initial Series of Bonds.

(e) The Public Financing Authority hereby finds and determines that the amount necessary to pay the principal of, and interest on, the Bonds, including the Initial Series of Bonds, will be less than the estimated amount of Tax Revenues to be received by the District following the date of this Resolution and prior to the final maturity of the Bonds, including the Initial Series of Bonds, as set forth in subsection (d) above.

(f) The District is hereby authorized to issue the Bonds, including the Initial Series of Bonds, in one or more taxable or tax-exempt series from time to time, pursuant to the terms and conditions set forth in this Resolution.

(g) The principal amount of each series of Bonds shall be set forth in the Indenture, one or more Supplemental Indentures, and/or one or more Subordinate Debt Instruments, from time to time. The principal amount of the Initial Series of Bonds shall be set forth in the Indenture and shall be consistent with the amount specified in Section 4 and subdivision (b) of this Section 2.

(h) The Bonds shall be dated as set forth in the Indenture, one or more Supplemental Indentures, and/or one or more Subordinate Debt Instruments, from time to time. The Indenture shall set forth the date the Initial Series of Bonds will bear.

(i) The Indenture, one or more Supplemental Indentures, and/or one or more Subordinate Debt Instruments, shall set forth the dates on which each series of Bonds shall mature. The Indenture shall set forth the dates on which the Initial Series of Bonds shall mature, in compliance with the limitation set forth in Section 4 of this Resolution.

(j) The Indenture, one or more Supplemental Indentures, and/or one or more Subordinate Debt Instruments, shall set forth the denominations of each series of Bonds. The Indenture sets forth the denominations of the Initial Series of Bonds.

(k) The Indenture, one or more Supplemental Indentures, and/or one or more Subordinate Debt Instruments, shall set forth the forms of each series of Bonds. The forms of the Initial Series of Bonds are set forth in Exhibit A and Exhibit B of the Indenture.

(l) The Indenture, one or more Supplemental Indentures, and/or one or more Subordinate Debt Instruments, shall set forth the manner of execution of each series of Bonds. Section 1 of this Resolution and the Indenture set forth the manner of execution of the Initial Series of Bonds.

(m) The Indenture, one or more Supplemental Indentures, and/or one or more Subordinate Debt Instruments, shall set forth the medium of payment in which each series of Bonds is payable. The Indenture sets forth the medium of payment in which the Initial Series of Bonds are payable.

(n) The Indenture, one or more Supplemental Indentures, and/or one or more Subordinate Debt Instruments, shall set forth the place or manner of payment and any requirements for registration of each series of Bonds. The Indenture sets forth the place or manner of payment and the requirements for registration of the Initial Series of Bonds.

(o) The Indenture, one or more Supplemental Indentures, and/or one or more Subordinate Debt Instruments, shall set forth the terms of call or redemption, with or without premium, of each series of Bonds. The Indenture shall set forth the terms of call or redemption, with or without premium, of the Initial Series of Bonds.

SECTION 3. Approval of Indenture. The Indenture, in the form attached to this Resolution as Exhibit A and incorporated herein, is hereby approved. Each of the Authorized Officers are hereby authorized and directed to execute and deliver and the Clerk is hereby authorized and directed to attest the Indenture in said form, with such additions thereto or changes therein as are approved by such Authorized Officer after consultation with, and approval by, Stradling Yocca Carlson & Rauth, as Bond Counsel for the Initial Series of Bonds and the City Attorney of the City, in its capacity as General Counsel to the District (“General Counsel”), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Indenture by any one of the Authorized Officers.

SECTION 4. Authorized Officers to Establish Final Terms of Issuance of Initial Series of Bonds. The Public Financing Authority hereby authorizes each of the Authorized Officers to

establish and determine (i) the final principal amount of the Initial Series of Bonds, not to exceed \$70,000,000; (ii) the final interest rates on various maturities of the Initial Series of Bonds, not to exceed a true interest cost of 7.00% per annum, exclusive of any default rate; (iii) the original issue discount, if any, with respect to each maturity of the Initial Series of Bonds, which shall not exceed 5% of the principal amount of the Initial Series of Bonds; and (iv) the final maturity of the Initial Series of Bonds, which shall not be later than the last date on which the District may exist pursuant to the EIFD Plan. The parameters set forth in this Section 4 may be modified by resolution of the Public Financing Authority.

SECTION 5. Authorization of Parity Debt; Authorized Officers to Establish Final Terms of Parity Debt. The Public Financing Authority hereby authorizes and approves the issuance or incurrence of Parity Debt by the District, from time to time, pursuant to the EIFD Law, the Infrastructure Financing Plan, and the Indenture or a Supplemental Indenture (defined below), (i) to provide funds to pay certain costs lawfully incurred by the District from time to time, related to and in furtherance of the EIFD Project, (ii) to refinance the Initial Series of Bonds, Parity Debt, and Subordinate Debt, in whole or in part, (iii) to establish a reserve account or satisfy the reserve requirement with respect to such Parity Debt; (iv) to fund capitalized interest with respect to such Parity Debt; and (v) to pay costs of issuing such Parity Debt. The Public Financing Authority authorizes any one of the Authorized Officers, to execute and deliver one or more supplemental indentures supplementing or amending the Indenture and/or one or more other indentures, financing agreements, and/or loan agreements to provide for the issuance of Parity Debt (each a “Supplemental Indenture”); provided, however, that each issuance of Parity Debt shall be issued in principal amounts, and at interest rates, and otherwise subject to terms, conditions and limitations set forth in resolutions adopted by the Public Financing Authority in connection with the issuance of such Parity Debt. If required by the EIFD Law, in connection with the issuance of Parity Debt by the District, the Public Financing Authority shall adopt a resolution setting forth the information and terms required by Section 53398.77 of the EIFD Law, as it may be amended, or a successor statute.

SECTION 6. Authorization of Subordinate Debt; Authorized Officers to Establish Final Terms of Subordinate Debt. The Public Financing Authority hereby authorizes and approves the issuance or incurrence of Subordinate Debt by the District, from time to time, pursuant to the EIFD Law, the Infrastructure Financing Plan, and one or more indentures, financing agreements, and/or loan agreements and/or one or more amendments or supplements to the foregoing, which provide for the issuance of Subordinate Debt (each a “Subordinate Debt Instrument”), (i) to provide funds to pay certain costs lawfully incurred by the District from time to time, related to and in furtherance of the EIFD Project, (ii) to refinance any Bonds in whole or in part, (iii) to establish a reserve account or satisfy the reserve requirement with respect to such Subordinate Debt; (iv) to fund capitalized interest with respect to such Subordinate Debt; and (v) to pay costs of issuing such Subordinate Debt. The Public Financing Authority authorizes any one of the Authorized Officers to execute and deliver one or more Subordinate Debt Instruments; provided, however, that each issuance of Subordinate Debt shall be issued in principal amounts, and at interest rates, and otherwise subject to terms, conditions and limitations set forth in resolutions adopted by the Public Financing Authority in connection with the issuance of such Subordinate Debt. If required by the EIFD Law, in connection with the issuance of Subordinate Debt by the District, the Public Financing Authority shall adopt a resolution setting forth the information and terms required by Section 53398.77 of the EIFD Law, as it may be amended, or a successor statute.

SECTION 7. Authorization to Determine Method of Sale. The Authorized Officers, and each of them acting alone, are hereby authorized to determine the method of sale of each series of Bonds. The Authorized Officers shall make such determination following consultation with the District’s Municipal Advisor for the applicable series of Bonds (herein, “Municipal Advisor”), and taking into consideration the relative estimated interest rates, principal amortization and maturity, terms and covenants, closing schedule, costs, and other considerations the Authorized Officers determine to be appropriate.

(a) If an Authorized Officer determines to sell the Bonds by public offering through a negotiated sale to one or more underwriters, the District is hereby authorized to enter into a

Bond Purchase Agreement, in substantially the form attached hereto as Exhibit B and incorporated herein (the “Purchase Agreement”), with one or more underwriters selected by the Public Financing Authority or the Authorized Officers (the “Underwriter”) prior to the sale of the Bonds. Subject to the conditions set forth in this Resolution, each of the Authorized Officers are hereby authorized and directed to evidence the District’s acceptance of the offers to purchase the Bonds made by the Underwriter in the Purchase Agreement by executing and delivering the Purchase Agreement in said form, with such changes, insertions, and omissions as may be made consistent with the authorization in this Resolution, to reflect the final terms of the sale of the applicable series of Bonds, such approval to be conclusively evidenced by the execution and delivery thereof by any one of the Authorized Officers.

(b) If an Authorized Officer determines to sell the Bonds by public offering through a competitive sale to one or more underwriters, the District is hereby authorized and directed to solicit and receive bids for the purchase of the Bonds, and each Authorized Officer is hereby authorized and directed to award the Bonds to the bidder whose bid represents the lowest true interest cost to the District, all in accordance with the procedures described in an Official Notice of Sale to be prepared by Bond Counsel for the applicable series of Bonds (herein, “Bond Counsel”), in consultation with the Municipal Advisor, General Counsel, and any Authorized Officer. The Authorized Officers are each hereby authorized to approve the publication of a Notice of Intention to Sell relating to the Bonds to be prepared by Bond Counsel, in consultation with the Municipal Advisor, General Counsel, and any Authorized Officer.

(c) If an Authorized Officer determines to sell the Bonds directly to a bank or other lender or investor on a private placement basis, the Authorized Officers are each hereby authorized to negotiate the terms of a term sheet, including a rate lock provision requiring a breakage fee, if determined to be appropriate by the Authorized Officer after consultation with the Municipal Advisor. Each Authorized Officer is further authorized to retain a private placement agent (the “Private Placement Agent”) on behalf of the District and to negotiate the terms of, execute, and deliver a placement agent agreement with the Private Placement Agent. The compensation to be paid

to the Private Placement Agent in connection with a private placement of the Bonds shall be determined by the Authorized Officer, in consultation with the Municipal Advisor, such determination to be memorialized in the placement agent agreement.

SECTION 8. Bond Insurance and Reserve Account Insurance. The Public Financing Authority hereby authorizes the Authorized Officers (or any of them acting alone) to negotiate and execute an insurance policy and/or a debt service reserve fund insurance policy for the Bonds (and such other agreements that may be required by the insurer in connection therewith) if it is determined that the policies will result in interest rate or cost savings for the District, and to pay the insurance premium of such policies from the proceeds of the issuance and sale of the Bonds.

SECTION 9. Appointment of Trustee. The Authorized Officers, and each of them acting alone, are hereby authorized to select a bank or trust company to serve as trustee under the Indenture, each Supplemental Indenture, and each Subordinate Debt Instrument (each, a “Trustee”), from time to time, and to take such actions and execute and deliver such agreements on behalf of the District as may be necessary or appropriate to engage such entity to serve in the role of Trustee in connection with a series of Bonds, including the Initial Series of Bonds.

SECTION 10. Judicial Validation. In order to determine the validity of the Initial Series of Bonds, the Parity Debt, the Subordinate Debt, the Indenture, the Supplemental Indentures, and the Subordinate Debt Instruments, and the actions authorized hereby to be taken in connection therewith, the Public Financing Authority hereby authorizes General Counsel, in consultation with Bond Counsel, to prepare and cause to be filed and prosecuted to completion all proceedings required for the judicial validation of the Initial Series of Bonds, the Parity Debt, the Subordinate Debt, the Indenture, the Supplemental Indentures and the Subordinate Debt Instruments in the Superior Court of San Diego County, under and pursuant to the provisions of Sections 860 et seq. of the California Code of Civil Procedure. The Public Financing Authority further authorizes the Authorized Officers and all other officers, employees and agents of the District to take any and all actions, including the execution and delivery of appropriate documentation, as may be required to conclude such judicial validation proceedings.

SECTION 11. Approval of Debt Policy. The Public Financing Authority hereby adopts the City of San Diego Debt Policy (the “Debt Policy”) as the District’s debt management policy, to the extent applicable to the District, the Bonds, and other debt to be incurred by the District from time to time pursuant to the Infrastructure Financing Plan and the EIFD Law. The sale and issuance of the Initial Series of Bonds is determined to be consistent with the Debt Policy and to the extent the sale and issuance of the Initial Series of Bonds is not in compliance with the Debt Policy, such noncompliance is waived in accordance with the terms of the Debt Policy.

SECTION 12. Official Actions. Each of the Authorized Officers, the Clerk, the General Counsel and any and all other officers of the District are hereby authorized and directed, for and in the name and on behalf of the District, to do any and all things and take any and all actions, including execution and delivery of any and all certificates, agreements, and other documents, and the payment of all costs of issuance of the Initial Series of Bonds, including, but not limited to, the fees and expenses of Bond Counsel and Disclosure Counsel, the Municipal Advisor, the Fiscal Consultant, the Trustee (as provided in the Indenture), the Underwriter (as provided in the Purchase Agreement or Placement Agent Agreement), any rating agency rating the Initial Series of Bonds, the printer engaged to prepare and disseminate the preliminary and final official statement for the Initial Series of Bonds, and any other fees or expenses necessary or appropriate to facilitate the issuance and sale of the Initial Series of Bonds in accordance with this Resolution. All actions heretofore taken by the Authorized Officers, the Clerk, and General Counsel in furtherance of the transactions described in this Resolution are hereby ratified.

SECTION 13. Effective Date. This resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED by the Otay Mesa Enhanced Infrastructure Financing District
Public Financing Authority at a duly noticed meeting held on August 8, 2022.

Vivian Moreno
Chair

EXHIBIT A
FORM OF INDENTURE

[Attached on following pages.]

EXHIBIT B
FORM OF PURCHASE AGREEMENT

[Attached on following pages.]