

ARTICLE 9

HEALTH FACILITIES FINANCING LAW

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ARTICLE 9

HEALTH FACILITIES FINANCING LAW

SEC. 8-9.00 GENERAL PROVISIONS AND DEFINITIONS.

SEC. 8-9.101 TITLE. This article may be cited as the City of Hayward Health Facilities Financing Law.

SEC. 8-9.102 PURPOSE. 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 provide financing to health institutions within the City that provide essential services to residents of the City in order to aid such health institutions in containing costs and thereby to enable such health institutions to establish lower rates and charges than would otherwise prevail and to provide better service at such rates and charges. Unless the City intervenes to provide such financing, such rates and charges may increase because such health institutions cannot obtain financing at equivalent cost from private sources.

SEC. 8-9.103 DEFINITIONS. Unless the context otherwise requires, the terms defined in this article shall have the following meanings.

- a. "Bonds" means any bonds, notes, certificates, debentures or other obligations issued or entered into by the City pursuant to this article.
- b. "City" means the City of Hayward.
- c. "Cost" means the total of all costs incurred by or on behalf of a participating health institution necessary or incident to the acquisition, construction, rehabilitation or improvement of a health facility or the refunding or refinancing of obligations incurred to finance such acquisition, construction, rehabilitation or improvement. "Cost" shall include all such costs which under generally accepted accounting principles are chargeable to a capital account (whether or not actually so charged), including, without limitation, the cost of all lands, structures, real or personal property, machinery, equipment, fixtures, furnishings, franchises, rights and interests acquired or used in connection with a health facility, the cost of demolishing or removing any structures (including the cost of acquiring any lands to which such structures may be moved) the cost of engineering, architectural, financial and legal services, plans, specifications, studies, surveys, estimates, administration expenses or other expenses necessary or incident to determining the feasibility of or to acquiring, constructing, rehabilitating, improving or financing a health facility, including all costs of issuance of bonds for such purposes, reserves for debt service and for repairs, replacements, additions and improvements, and capitalized bond interest for such period as the City may determine.
- d. "Council" means the City Council of the City of Hayward.
- e. "Health facility" means any facility, place or building within the City which is:

- (1) maintained and operated for the diagnosis, care, prevention and treatment of human illness, including care during and after pregnancy or for any one or more of these services; and
- (2) has a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services, and
- (3) which provides and will continue providing to residents of the City essential health care services as specified in an agreement between the City and the participating health institution providing or operating such facility, place or building.

Health facility includes a portion of the above type of facility and includes the following facilities if operated in conjunction with the above type of facility: a laboratory, a laundry, a research, maintenance, storage, utility or parking facility and all real and personal property, land, buildings, structures, facilities, machinery, equipment, fixtures and furnishings related to any of the foregoing or required or useful for the operation of a health facility.

Health facility shall not include any facility, place or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

- f. "Participating health institution" means a private nonprofit corporation or association authorized by the laws of the State to provide or operate a health facility as defined in this article and which, pursuant to the provisions of this article, undertakes the financing of the acquisition, construction, rehabilitation or improvement of a health facility or undertakes the refunding or refinancing of obligations incurred to finance such acquisition, construction, rehabilitation or improvement.
- g. "Revenues" means amounts received by the City as repayment of principal, interest, and all other charges with respect to a loan under this article, any proceeds received by the City from mortgage, hazard or other insurance on or with respect to such a loan, all other rents, charges, fees, income and receipts derived by the City from the financing of a health facility under this article (whether by loan, lease, installment sale or any other method authorized by this article), any amounts received by the City as investment earnings on moneys deposited in any fund or account securing bonds, and such other legally available moneys as the Council may, in its discretion, lawfully designate as revenues.

SEC. 8-9.200 FINANCING HEALTH FACILITIES.

SEC. 8-9.201 LOANS FOR HEALTH FACILITIES. The City may make, purchase, or otherwise contract for the making of, a mortgage or other secured or unsecured loan, upon such terms and conditions as the City shall deem proper, to any participating health institution for the cost of acquiring, constructing, rehabilitating or improving a health facility.

SEC. 8-9.202 LEASING AND SELLING OF HEALTH FACILITIES. The City

may sell or lease, upon such terms and conditions as the City shall deem proper, to a participating health institution any health facility owned by the City under this article, including a health facility conveyed to the City in connection with a financing under this article but not being financed or refinanced hereunder.

SEC. 8-9.203 FEES. The City may charge participating health institutions application, commitment, financing and other fees, in order to recover all administrative and other costs and expenses incurred in the exercise of the powers and duties conferred by this article.

SEC. 8-9.204 INSURANCE. The City may obtain, or aid in obtaining, from any department or agency of the United States or of the State of California or of any private company, any insurance or guarantee as to, or of, or for the payment or repayment of, interest, principal, rents, fees or other charges or any part thereof, on any loan, lease or sale agreement or any instrument evidencing or securing the same, made or entered into pursuant to the provisions of this article; and may accept payment in such manner and form as provided therein in the event of default by a participating health institution, and may assign any such insurance or guarantee as security for bonds.

SEC. 8-9.205 RENTS AND CHARGES. The City may fix rents, payments, fees, charges and interest rates for financing under this article and may agree to revise from time to time such rents, payments, fees, charges and interest rates to reflect changes in interest rates on bonds, losses due to defaults or changes in other expenses related to this article, including City administrative expenses.

SEC. 8-9.206 SECURITY FOR LOANS. The City may hold deeds of trust, mortgages or security interests in personal property as security for loans and other obligations of participating health institutions under this article and may pledge or assign the same as security for repayment of bonds. Such deeds of trust, mortgages and security interests may be assigned to, and held on behalf of the City by, any bank or trust company appointed to act as trustee by the City in any resolution or indenture providing for issuance of bonds.

SEC. 8-9.207 PROFESSIONAL SERVICES. The City may employ such engineering, architectural, financial, accounting, legal or other services as may be necessary in the judgment of the City for the purposes of this article.

SEC. 8-9.208 ADDITIONAL POWERS. In addition to all other powers specifically granted by this article, the City may do all things necessary or convenient to carry out the purposes of this article.

SEC. 8-9.209 REFINANCING LOANS FOR HEALTH FACILITIES. The City may make, purchase, or otherwise contract for the making of a mortgage or other secured or unsecured loan, upon such terms and conditions as the City shall deem proper, to any participating health institution to refund or refinance outstanding obligations of such participating health institution incurred to finance the cost of acquiring or constructing a health facility, whether such obligations were incurred prior to or after the enactment of this article, if the City finds that such refunding or refinancing is in the public interest and either alleviates a financial or operating hardship of such participating health institution, or is in connection with other financing by the City for such participating health institution, or may be expected to result in lower costs of health care than would otherwise prevail and a saving to third parties, including government, and to others who must pay for care, or any combination thereof.

SEC. 8-9.300 BONDS.

SEC. 8-9.301 ISSUANCE OF BONDS; BONDS NOT DEBT OF CITY.

- a. The City may, from time to time, issue bonds for any of the purposes specified in Section 8-9.201, 8-9.202 and 8-9.209. 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, 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 is pledged to the payment of the principal of or premium, if any, or interest on this bond.

SEC. 8-9.302 COST OF ISSUANCE. In determining the amount of bonds to be issued, the City may include all costs of the issuance of such bonds, reserve funds, and capitalized bond interest.

SEC. 8-9.303 RESOLUTION; BOND PROVISIONS. 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 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 a public or private sale and for such prices as the City shall determine. Pending preparation of definitive bonds, the City may issue temporary bonds which shall be exchanged for such definitive bonds when prepared.

SEC. 8-9.304. BOND PROVISIONS. 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 bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds,
- d. the setting aside of reserves and sinking funds and such other funds as are necessary or appropriate 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 expenditures 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 and any other contracts or security interests to such trustee, and the rights of such trustee,
- i. 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
- j. any other provisions which the Council may deem reasonable and proper for the purposes of this article and the security of the bondholders.

SEC. 8-9.305 PLEDGE OF REVENUES, MONEY OR PROPERTY; LIEN. 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. 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.

SEC. 8-9.306 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.

SEC. 8-9.307 PURCHASE OF BONDS. 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.

SEC. 8-9.308 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 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, charged, and collected.

SEC. 8-9.309 REFUNDING BONDS.

- a. The City may issue bonds for the purpose of refunding any bonds issued pursuant to this article that are then outstanding, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or any subsequent date or dates of redemption, purchase or maturity of such bonds.
- b. The proceeds of bonds issued for the purpose of refunding any outstanding bonds issued pursuant to this article 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 dates 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 or dates 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 interest or other increment earned or realized on any such investment may be applied to the payment of the outstanding bonds to be refunded or to the payment of interest on the refunding bonds.
- 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.

SEC. 8-9.310. BOND ANTICIPATION NOTES. In anticipation of the sale of bonds, the City may issue bond anticipation notes and may renew the same from time to time. Such notes shall be payable from any revenues or other moneys authorized by this article to be pledged to secure payment of bonds which are not otherwise pledged, or from the proceeds of sale of the bonds in anticipation of which they were issued. Such notes shall be issued in the same manner as bonds. Such notes and the resolution or indenture providing for their issuance may contain any provisions, conditions or limitations which a bond, or a resolution or indenture providing for the issuance thereof, may contain.

SEC. 8-9.311 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 approval of any financing or 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.

SEC. 8-9.400 SUPPLEMENTAL PROVISIONS.

SEC. 8-9.401 LIBERAL CONSTRUCTION. This article, being necessary for the welfare of the City and its inhabitants, shall be liberally construed to effect its purposes.

SEC. 8-9.402 OMISSIONS NOT TO AFFECT VALIDITY OF BONDS. 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 such proceedings or the bonds issued pursuant to this article.

SEC. 8-9.403 FULL AUTHORITY. This article is full authority for the issuance of bonds by the City for the purposes specified herein.

SEC. 8-9.404 ADDITIONAL AUTHORITY. 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.

SEC. 8-9.405 ARTICLE CONTROLLING. To the extent that the provisions of this article are inconsistent with the provisions of any general statute or special act or parts thereof the provisions of this article shall be deemed controlling.

SEC. 8-9.406 SEVERABILITY. 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 section, subsection, sentence, clause, phrase or word hereof, irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses, phrases or words hereof be declared invalid or unconstitutional.