

Summary - an ordinance authorizing the issuance of the City of Las Vegas, Nevada, Sales Tax Increment Revenue Bonds, Series 2016.

BILL NO. 2016-40

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAS VEGAS, NEVADA AUTHORIZING THE ISSUANCE OF ITS "CITY OF LAS VEGAS, NEVADA, SALES TAX INCREMENT REVENUE BONDS, SERIES 2016" FOR THE PURPOSE OF FINANCING PROJECTS IN THE CITY OF LAS VEGAS, NEVADA, TOURISM IMPROVEMENT DISTRICT (SYMPHONY PARK); PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS, AND THE SECURITY THEREFOR, AND OTHER DETAILS IN CONNECTION THEREWITH; PROVIDING OTHER MATTERS RELATING THERETO; AND PROVIDING THE EFFECTIVE DATE HEREOF.

WHEREAS, the City of Las Vegas in the County of Clark and State of Nevada (the "City," the "County" and the "State," respectively) is a political subdivision of the State duly organized and operating as a city under the provisions of Nevada Revised Statutes ("NRS") chapter 268 and an act entitled "AN ACT incorporating the City of Las Vegas in Clark County, Nevada, under a charter; defining the boundaries thereof; and providing other matters properly relating thereto," cited as chapter 517, Statutes of Nevada, 1983, as amended (the "Charter"); and

WHEREAS, under NRS Chapter 271A, Tourism Improvement District Law (the "Tourism Act"), the City of Las Vegas (the "City") has the power to create a tourism improvement district to be known as the "City of Las Vegas, Nevada Tourism Improvement District (Symphony Park)" (the "District") for the development of property within the jurisdiction of the City; and

WHEREAS, the City Council of the City (the "Council") desires to construct a project (the "Project") to be located in the District as further described in the report entitled "An Assessment of the Proposed Symphony Park Tourism Improvement District in Las Vegas, NV" prepared by Civitas and Tourism Economics, dated November 20, 2014 (the "2014 Report"); and

WHEREAS, the Tourism Act requires, among other things, that before the District may be created, the Council must make a written finding at a public hearing, based upon reports from independent consultants, as to whether the Project and the financing thereof will

have a positive fiscal effect on the provision of local governmental services (the "Fiscal Effect Finding"), after considering:

(a) the amount of proceeds of all taxes and other governmental revenue projected to be received as a result of the properties and businesses expected to be located in the District;

(b) the use of any money proposed to be pledged pursuant to the Tourism Act;

(c) any increase in costs for the provision of local governmental services, including, without limitation, services for education, including operational and capital costs, and services for police protection and fire protection, as a result of the Project and the development of land within the District; and

(d) estimates of any increases in the proceeds from sales and use taxes collected by retailers located outside of the District and of any displacement of the proceeds from sales and use taxes collected by those retailers, as a result of the properties and businesses expected to be located in the District; and

WHEREAS, pursuant to the Tourism Act, at least 45 days before making the Fiscal Effect Finding, the Council provided to the Board of County Commissioners of Clark County, written notice of the time and place of the meeting at which the Council will consider making the Fiscal Effect Finding and each analysis prepared by or for or presented to the Council regarding the fiscal effect of the Project and the use of any money proposed to be pledged pursuant to the Tourism Act on the provision of local governmental services, including education; and

WHEREAS, the City commissioned the 2014 Report regarding, among other things, the fiscal effect on the provision of local governmental services and the estimated amount and source of sales and use taxes generated in the District; and

WHEREAS, the City provided at least 15 days' notice of a public hearing held on February 4, 2015 by publication pursuant to NRS 271A.080(5); and

WHEREAS, the Council held a public hearing on February 4, 2015 and pursuant to a resolution adopted on February 4, 2015 at the public hearing, the Council made written findings pursuant to NRS 271A.080(2), (3) and (5), including the Fiscal Effect Finding; and

WHEREAS, the City provided materials to the Nevada Commission on pursuant to NRS 271A.080(5); and

WHEREAS, pursuant to a resolution adopted on March 21, 2015, the Commission on Tourism made the determination pursuant to NRS 271A.080(5) that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to NRS 271A.080(5) will be attributable to transactions with tourists who are not residents of this State and approved the use of monies under NRS 360.855(3); and

WHEREAS, no portion of any of the Property in the District is also included within any boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650; and

WHEREAS, having met all of the prerequisites to creation of the District pursuant to NRS 271A.080, the Council created the District pursuant to Ordinance No. 6412 adopted by the Council on April 15, 2015, and the Tourism Act; and

WHEREAS, the City has entered into a Cooperative Agreement dated June 3, 2015, with the State of Nevada Department of Taxation (the "Cooperative Agreement") specifying the dates and procedure for distribution to the City of the Sales Tax Revenues (as defined in in that certain Indenture of Trust (the "Indenture") dated as of June 1, 2016, between the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee")); and

WHEREAS, the Charter and the Tourism Act provide that the City may borrow money to acquire, improve, equip, operate and maintain a project permitted under the Act, funding of the Reserve Fund and the Supplemental Reserve Fund (as such terms are defined in the Indenture) and the payment of the costs of issuance of the Bonds (the "Project") and for such purpose may issue bonds or other securities, and the Council determines and declares that the Project is a corporate and municipal purpose within the meaning of such provisions; and

WHEREAS, pursuant to the Charter, the Tourism Act and the Local Government Securities Law, being NRS Sections 350.500 through 350.720, and all laws amendatory thereof (the "Bond Act"), the City is authorized to borrow money and to issue special revenue bonds of the City for the purpose of defraying wholly or in part the cost of the Project, in the manner and on the conditions provided in the Tourism Act; and

WHEREAS, the Council hereby authorizes the issuance of the City of Las Vegas, Nevada, Sales Tax Increment Revenue Bonds, Series 2016 (the "Bonds") for the purpose of defraying wholly or in part the cost of the Project payable from and secured by Net Sales Tax

Revenues and the Pledged Parking Revenues (as such terms are defined in the Indenture) pursuant to the Indenture; and

WHEREAS, the City has determined and hereby determines that it is necessary and in the best interests of the City and its citizens to finance the Project with proceeds of the Bonds; and

WHEREAS, the Council has determined, and does hereby declare its intention:

- i) To effect the Project, and
- ii) To issue the Bonds to defray in part the cost of the Project, pursuant to the Tourism Act and Bond Act; and

WHEREAS, the payment of the principal of and interest on the Bonds will be secured by the Net Sales Tax Revenues and the Pledged Parking Revenues; and

WHEREAS, the City has not pledged the Net Sales Tax Revenues and the Pledged Parking Revenues for the payment of any securities payable from the Net Sales Tax Revenues and the Pledged Parking Revenues, or otherwise, with the result that the Net Sales Tax Revenues and the Pledged Parking Revenues may be pledged lawfully and irrevocably to secure the payment of the Bonds; and

WHEREAS, the City Chief Financial Officer is hereby authorized to arrange for the sale of the Bonds in accordance with NRS 350.105 to 350.195, inclusive (the "Bond Sale Act"), including, without limitation, negotiate the terms of the sale of the Bonds with Stifel, Nicolaus & Company, Incorporated (the "Underwriter"); and

WHEREAS, after negotiation for the sale of the Bonds with the Underwriter, the City Chief Financial Officer (the "City Chief Financial Officer"), or in his absence, the City Manager, is hereby authorized to sell the Bonds to the Underwriter, and the City Chief Financial Officer, or in his absence, the City Manager, is hereby authorized to accept a binding bid for the Bonds, the Bonds to bear interest at fixed rates per annum as provided herein, at a price equal to the principal amount thereof, and otherwise as specified by the City Chief Financial Officer, or in his absence, the City Manager, in the Bond Purchase Contract (the "Bond Purchase Contract") between the City and the Underwriter; and

WHEREAS, the Council hereby elects to have the provisions of chapter 348 of NRS (the "Supplemental Bond Act") apply to the Bonds; and

WHEREAS, the Council has determined and does hereby declare that the Bond is issued pursuant to the Bond Act and in accordance with the provisions of Section 350.628 of the Bond Act, such recital shall be conclusive evidence of its validity and regularity of its issuance.

WHEREAS, pursuant to NRS 271A.120, prior to the issuance of any bonds, the City must obtain the results of a feasibility study (the "Bond Feasibility Study"), commissioned by the City which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the Bonds; and

WHEREAS, the City has commissioned the Bond Feasibility Study from Peckham Guyton Albers & Viets, Inc. doing business as PGAV Planners and such Bond Feasibility Study shall be obtained by and addressed to the City prior to the issuance of the Bonds;

WHEREAS, there are on file with the City Clerk, (a) a proposed form of the Indenture, (b) a proposed form of the Bond Purchase Contract, (c) the Preliminary Official Statement (the "Preliminary Official Statement") and (d) the proposed form of a Continuing Disclosure Certificate (the "Disclosure Certificate");

WHEREAS, the City hereby elects to have the provisions of Chapter 348 of NRS (the "Supplemental Bond Act") apply to the Bonds; and

WHEREAS, the Council has found and determined and hereby declares:

(a) It is necessary and for the best interests of the City to effect the Project and to issue the Bonds;

(b) Each of the limitations and other conditions to the issuance of the Bonds in the Project Act, the Bond Act, the Supplemental Bond Act, and in any other relevant act of the State or the Federal Government, has been met; and pursuant to NRS 350.708, this determination of the Council that the limitations in the Bond Act have been met shall be conclusive in the absence of fraud or arbitrary or gross abuse of discretion; and

(c) This ordinance pertains to the sale, issuance and payment of the Bonds; this declaration shall be conclusive in the absence of fraud or gross abuse of discretion.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES ORDAIN:

Section 101. All Actions Ratified, Approved and Confirmed. All actions not inconsistent with the provisions of this Resolution heretofore taken by any of the officials of the City and the efforts of the City directed toward the issuance, sale and delivery of the Bonds are, ratified, approved and confirmed.

Section 102. Authorization of the Indenture. The forms, terms and provisions of the Indenture are authorized and approved, and the City shall enter into the Indenture substantially in the form of the Indenture as on file with the City Clerk, but with such changes therein as shall be consistent with this Ordinance and as the Mayor of the City shall approve, the execution thereof being deemed conclusive of the approval of any such changes. The Mayor of the City is authorized and directed to execute and deliver the Indenture for and on behalf of the City in substantially the form of such document on file with the City Clerk as so changed. The City Clerk is authorized and directed to affix the seal of the City to, and to attest, the Indenture in substantially the form of such documents on file with the City Clerk as so changed. The appointment of The Bank of New York Mellon Trust Company, N.A., as trustee, paying agent and registrar under the Indenture is authorized and approved.

Section 103. Authorization of the Bond Purchase Contract. The form, terms and provisions of the Bond Purchase Contract are authorized and approved, and the City shall enter into the Bond Purchase Contract substantially in the form of such document on file with the City Clerk, but with such changes therein as shall be consistent with this Ordinance and as the Chief Financial Officer of the City shall approve, the execution thereof being deemed conclusive of the approval of such changes. The Chief Financial Officer of the City is authorized and directed to execute and deliver the Bond Purchase Contract for and on behalf of the City in substantially the form of said document on file with the City Clerk as so changed.

Section 104. Authorization of the Preliminary Official Statement. The Preliminary Official Statement, in the form on file with the City Clerk, is authorized and approved. The officials of the City are authorized to prepare a final Official Statement (the "Official Statement") in the substantially the form of the Preliminary Official Statement, but with such changes therein as shall be consistent with this Resolution and as the Finance Officer of the City shall approve, the execution thereof being deemed conclusive of the approval of any such changes. The Chief Financial Officer of the City is authorized and directed to execute and deliver the Official Statement for and on behalf of the City. The distribution by the Underwriter

of the Preliminary Official Statement and the Official Statement to prospective purchasers of the Bonds is approved.

Section 105. Authorization of the Disclosure Certificate. The Disclosure Certificate, in the form on file with the City Clerk, is authorized and approved. The Finance Officer of the City is authorized and directed to execute and deliver the Disclosure Certificate for and on behalf of the City in substantially the form of such document on file with the City Clerk.

Section 106. Issuance of the Bonds. The issuance of the Bonds, in the principal amounts, with the payment dates, and bearing interest at the rates set forth in the Indenture, and the form, terms and provisions of the Bonds, in substantially the form set forth in the Indenture, is approved; and the Mayor and the City Treasurer are authorized and directed to execute the Bonds, and the Clerk of the City is authorized and directed to attest the Bonds, in substantially the form set forth in the Indenture, but with such changes therein as shall be consistent with the Indenture and this Ordinance and which the officers of the City executing the Bonds shall approve, the execution thereof being deemed conclusive of the approval of any such changes. The seal of the City is authorized and directed to be affixed to or imprinted on the Bonds.

Section 107. Delegation to Officers. The officers of the City shall take all action which they deem necessary or reasonably required in conformity with the Act to accomplish the transactions contemplated by the Indenture, the Bond Purchase Contract, the Disclosure Certificate and the Preliminary Official Statement, including the paying of incidental issuance expenses, which are authorized to be paid, and the officers of the City are authorized and directed to execute all requisitions to pay issuance expenses, and for carrying out, giving effect to and consummating the transactions contemplated by this Resolution, the Indenture, the Bond Purchase Contract, the Disclosure Certificate and the Preliminary Official Statement, including, without limitation, the execution and delivery of any necessary or appropriate closing documents to be delivered in connection with the issuance, sale and delivery of the Bonds.

Section 108. Successors. Whenever herein the City is named or is referred to, such provision shall be deemed to include any successors of the City, respectively, whether so expressed or not. All of the covenants, stipulations, obligations and agreements by or on behalf of and other provisions for the benefit of the City contained herein shall bind and inure to the benefit of any officer, board, district, commission, authority, agent or instrumentality to whom or to which there shall be transferred by or in accordance with law any right, power or duty of the

City or of their respective successors, if any, the possession of which is necessary or appropriate in order to comply with any such covenants, stipulations, obligations, agreements or other provisions hereof.

Section 109. Parties Interested Herein. Except as herein otherwise expressly provided, nothing herein expressed or implied confers upon or gives to any Person (other than the Trustee, the owners from time to time of the Bonds, and the owners of any other securities payable from Net Sales Tax Revenues and Pledged Parking Revenues when reference is expressly made thereto, as well as the City) any right, remedy or claim under or by reason hereof or any covenant, condition or stipulation hereof. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Trustee, any owner of any Bonds and any owner of any such other security in the event of such a reference.

Section 110. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the City, the officers of the City, and otherwise by the City directed toward the Project and toward the sale of the Bonds to the Underwriter for that purpose, hereby is ratified, approved and confirmed.

Section 111. Ordinance Irrepealable. After any of the Bonds are issued, this Ordinance shall constitute an irrevocable contract between the City and the owner or owners of the Bonds; and this Ordinance (subject to the provisions of Section 1001 and of Article XII hereof), if any Bonds are in fact issued, shall be and shall remain irrepealable until the Bonds, as to all Bond Requirements, shall be fully paid, canceled and discharged, except as herein otherwise expressly provided.

Section 112. Repealer. All bylaws, orders and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of the inconsistency. This repealer shall not be construed to revive any bylaw, order or other instrument, or part thereof, heretofore repealed.

Section 113. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Section 114. Publication of Proposed Ordinance. When first proposed, this Ordinance must be read to the Council by title, after which an adequate number of copies of this Ordinance must be deposited with the City Clerk for public examination and distribution. Notice of the deposit must be published once in a newspaper published and having general circulation in the City at least 10 days before the adoption of the Ordinance, such publication to be in substantially the following form:

(Form of Publication of Notice of Deposit of an Ordinance)

BILL NO. _____

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAS VEGAS, NEVADA AUTHORIZING THE ISSUANCE OF ITS "CITY OF LAS VEGAS, NEVADA, SALES TAX INCREMENT REVENUE BONDS, SERIES 2016" FOR THE PURPOSE OF FINANCING PROJECTS IN THE CITY OF LAS VEGAS, NEVADA, TOURISM IMPROVEMENT DISTRICT (SYMPHONY PARK); PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS, AND THE SECURITY THEREFOR, AND OTHER DETAILS IN CONNECTION THEREWITH; PROVIDING OTHER MATTERS RELATING THERETO; AND PROVIDING THE EFFECTIVE DATE HEREOF.

PUBLIC NOTICE IS HEREBY GIVEN, and that an adequate number of typewritten copies of the above-numbered and entitled proposed Ordinance are available for public inspection and distribution at the office of the City Clerk of the City of Las Vegas, in City Hall, 495 South Main Street, Las Vegas, Nevada, and that such Ordinance was proposed on the May 18, 2016, and will be considered for adoption at the a regular meeting of the City Council of the City of Las Vegas held on June 1, 2016.

/s/ LuAnn D. Holmes, MMC
City Clerk

(End of Form of Publication of Notice of Deposit of An Ordinance)

Section 115. Publication After Adoption of Ordinance; Effective Date. After this Ordinance is signed by the Mayor and attested and sealed by the Clerk, this Ordinance shall be published by title only, together with the names of the members of the Council who voted for or against its adoption. This Ordinance shall be in effect on and after the publication of adoption of this Ordinance. Such publication of adoption of this Ordinance shall be made at least once in a newspaper published and having general circulation in the City and such publication shall be in substantially the following form:

(Form of Publication of Adoption of Ordinance)

BILL NO. _____

ORDINANCE NO. _____

(of Las Vegas, Nevada)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAS VEGAS, NEVADA AUTHORIZING THE ISSUANCE OF ITS "CITY OF LAS VEGAS, NEVADA, SALES TAX INCREMENT REVENUE BONDS, SERIES 2016" FOR THE PURPOSE OF FINANCING PROJECTS IN THE CITY OF LAS VEGAS, NEVADA, TOURISM IMPROVEMENT DISTRICT (SYMPHONY PARK); PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS, AND THE SECURITY THEREFOR, AND OTHER DETAILS IN CONNECTION THEREWITH; PROVIDING OTHER MATTERS RELATING THERETO; AND PROVIDING THE EFFECTIVE DATE HEREOF.

PUBLIC NOTICE IS HEREBY GIVEN, and that such Ordinance was proposed on May 18, 2016, and was passed at the meeting held on June 1, 2016, by the following vote of the City Council:

Those Voting Aye:

Those Voting Nay: _____

Those Absent: _____

This Ordinance shall be in full force and effect from and after the ____ day of June, 2016, i.e., the day after the publication of such Ordinance by its title only.

IN WITNESS WHEREOF, the City Council of the City of Las Vegas, Nevada, has caused this Ordinance to be published by title only.

DATED this June 1, 2016.

Attest: /s/ Carolyn G. Goodman

Mayor

/s/ LuAnn D. Holmes, MMC
City Clerk

(End of Form of Publication)

Adopted June 1, 2016.

(SEAL)

Carolyn G. Goodman, Mayor

Attest:

LuAnn D. Holmes, MMC, City Clerk

Approved as to form:

 5-4-16

City Attorney or Chief Deputy City Attorney

This Ordinance shall be in full force and effect from and after June __, 2016, i.e., the day after the publication of such Ordinance by its title only.

STATE OF NEVADA)
)
COUNTY OF CLARK) ss.
)
CITY OF LAS VEGAS)

I, LuAnn D. Holmes, MMC, the duly chosen and qualified City Clerk of Las Vegas (the "City"), in the State of Nevada, do hereby certify:

(1) The foregoing pages constitute a true, correct, complete and compared copy of an ordinance which was introduced on May 18, 2016 and finally adopted and approved on June 1, 2016.

(2) The following members of the Council were present at the May 18, 2016 Council meeting:

Mayor:	Carolyn G. Goodman
Council members:	Stavros S. Anthony
	Lois Tarkanian
	Steven D. Ross
	Ricki Y. Barlow
	Bob Coffin
	Bob Beers

Those Absent:

(3) The foregoing Ordinance was first proposed and read by title to the City Council on May 18, 2016, and referred to a committee composed of _____ for recommendation; thereafter the committee reported favorably on the Ordinance on June 1, 2016, which was a regular meeting of said Council; that at said regular meeting, the proposed Ordinance was again read by title to the City Council and adopted. The members of the City Council were present at the June 1, 2016 meeting and voted upon the adoption of the Ordinance as follows:

Those Voting Aye:

Mayor:

Council members:

Carolyn G. Goodman

Stavros S. Anthony

Lois Tarkanian

Steven D. Ross

Ricki Y. Barlow

Bob Coffin

Bob Beers

Those Voting Nay:

Those Absent:

(4) The original of the Ordinance has been approved and authenticated by the signatures of the Mayor of the City and myself as Clerk of the City, and sealed with the seal of the City, and has been recorded in the journal of the Council kept for that purpose in my office, which record has been duly signed by such officers and properly sealed.

(5) All members of the Council were given due and proper notice of the meetings held on May 18, 2016 and June 1, 2016. Pursuant to NRS 241.020, written notice of the meetings was given no later than 9:00 a.m. on the third working day before the meetings including in the notice the time, place, location, and agenda of the meeting:

(a) By posting a copy of the notice by 9:00 a.m. at least three working days before the meetings at the principal office of the Council, or if there is no principal office, at the building in which the meeting is to be held, on the City's website, on the official website of the State of Nevada pursuant to NRS 232.2175, and at least three (3) other separate, prominent places within the jurisdiction of the Council, to wit:

(i) City Hall
495 S. Main Street
Las Vegas, Nevada

(ii) City of Las Vegas
333 N. Rancho Drive
Las Vegas, Nevada

(iii) Clark County Government Center
500 S. Grand Central Parkway
Las Vegas, Nevada

(iv) Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada

(v) The City of Las Vegas website

and

(b) By mailing a copy of the notice to each person, if any, who has requested notices of meetings of the Council in compliance with NRS 241.020(3)(b) by United States Mail, or if feasible and agreed to by the requestor, by electronic mail.

(6) A copy of such notice so given of the meeting of the Council on May 18, 2016 is attached to this certificate as Exhibit A, and a copy of such notice so given of the meeting of the Council on June 1, 2016 is attached to this certificate as Exhibit B.

(7) A copy of the affidavit of publication of the notice of deposit of ordinance is attached to this certificate as Exhibit C. A copy of the affidavit of publication of the adoption of the ordinance is attached to this certificate as Exhibit D.

(8) Upon request, the governing body provides, at no charge, at least one copy of the agenda for its public meetings, any proposed ordinance or regulation which will be discussed at the public meeting, and any other supporting materials provided to the members of the governing body for an item on the agenda, except for certain confidential materials and materials pertaining to the closed meetings, as provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand on this June 1, 2016.

LuAnn D. Holmes, MMC, City Clerk

EXHIBIT A

(Attach Copy of Notice of May 18, 2016 Meeting)

EXHIBIT B

(Attach Copy of Notice of June 1, 2016 Meeting)

EXHIBIT C

(Attach Affidavit of Publication of Deposit of Ordinance)

EXHIBIT D

(Attach Affidavit of Publication of Adoption of Ordinance)