

Summary - An ordinance authorizing the issuance by the City of Sparks, Nevada of its Local Improvement District No. 3 (Legends at Sparks Marina) Limited Obligation Refunding Bonds in the maximum principal amount of \$13,870,000 and providing other matters relating thereto.

BILL NO. _____
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SPARKS, NEVADA, AUTHORIZING THE ISSUANCE OF THE CITY OF SPARKS, NEVADA, LOCAL IMPROVEMENT DISTRICT NO. 3 (LEGENDS AT SPARKS MARINA), LIMITED OBLIGATION REFUNDING BONDS, TO REFUND, TOGETHER WITH OTHER AVAILABLE MONIES, ALL OF THE OUTSTANDING CITY OF SPARKS, NEVADA, LOCAL IMPROVEMENT DISTRICT NO. 3 (LEGENDS AT SPARKS MARINA), LIMITED OBLIGATION IMPROVEMENT BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF SPECIFIED AGREEMENTS, DOCUMENTS AND INSTRUMENTS IN CONNECTION THEREWITH, AND APPROVING MATTERS RELATING THERETO; AMENDING ORDINANCE NO. 2397; PROVIDING FOR ADOPTION OF THE ORDINANCE AS IF AN EMERGENCY EXISTS; AND PROVIDING THE EFFECTIVE DATE THEREOF.

WHEREAS, the City of Sparks in the State of Nevada (the “City” and “State,” respectively) is a political subdivision of the State duly organized and operating as a city under the provisions of an act entitled “AN ACT incorporating the City of Sparks, in Washoe County, Nevada under a new charter, defining the boundaries thereof, and providing other matters properly relating thereto,” cited as Chapter 470, Statutes of Nevada 1975, and all laws amendatory thereof (the “Charter”); and

WHEREAS, the City Council of the City (the “City Council”) has heretofore created the City of Sparks, Nevada, Local Improvement District No. 3 (Legends at Sparks Marina) (the “District”) and ordered the acquisition, construction and improvement of certain public improvements (the “Project”);

WHEREAS, to finance the costs of the Project, the City has heretofore issued its “City of Sparks, Nevada, Local Improvement District No. 3 (Legends at Sparks Marina) Limited Obligation Improvement Bonds” in the aggregate original principal amount of \$26,120,000 (the “2008 Bonds”), pursuant to an Indenture, dated as of May 1, 2008 (the “2008 Indenture”), between the City and U.S. Bank National Association, as trustee (the “Trustee”); and

WHEREAS, for the purpose of reducing interest costs and effecting other economies, the City desires to refund all of the outstanding 2008 Bonds (the “Refunded Bonds”); and

WHEREAS, the 2008 Bonds are subject to redemption in whole or in part at the option of the City on any Interest Payment Date (as defined in the 2008 Indenture) on or after September 1, 2018, from funds derived by the City from any source, other than prepaid Assessments (as defined in the 2008 Indenture), excess funds in the Acquisition Fund (as defined in the 2008 Indenture), or the accounts therein, or proceeds derived from the foreclosure of delinquent Assessments, at a redemption price equal to 100% of the principal amount thereof plus accrued interest thereon to the redemption date; and

WHEREAS, the 2008 Bonds are also currently subject to redemption in whole or in part at the option of the City on any Interest Payment Date from funds derived by the City from prepaid Assessments received at least 61 days prior to such Interest Payment Date, at a redemption price equal to 101% of the principal amount thereof plus accrued interest thereon to the redemption date; and

WHEREAS, pursuant to NRS 271.488, the City is authorized to issue bonds in order to refund, pay and discharge certain bonds of the City for the purpose of reducing interest rates and effecting other economies and to evidence such borrowing by the issuance of bonds in accordance with the provisions of NRS 350.500 to 350.720, inclusive, cited in NRS 350.500 thereof by the short title “Local Government Securities Law” (the “Bond Act”); and

WHEREAS, under the conditions described herein, the City Council hereby determines to refund the Refunded Bonds on September 1, 2018 (the “Redemption Date”); and

WHEREAS, the City Council desires to issue its “City of Sparks, Nevada, Local Improvement District No. 3 (Legends at Sparks Marina) Limited Obligation Refunding Bonds” in the maximum aggregate principal amount of \$13,870,000 (the “2016 Bonds”) to provide funds, together with other available monies, to refund the Refunded Bonds, provide a debt service reserve for the 2016 Bonds, and pay the costs of issuing the 2016 Bonds (collectively, the “Refunding Project”); and

WHEREAS, the 2016 Bonds shall be issued under and pursuant to an Indenture, dated as of December 1, 2016 (the “Trust Indenture”), between the City and the Trustee; and

WHEREAS, the Bonds are to be sold by the City to TBP Investments, Inc., a wholly owned subsidiary of Western Alliance Bank, an Arizona corporation (the “Purchaser”), at a purchase price of 100% of the principal amount thereof; and

WHEREAS, the City Council has elected, and hereby elects, to have Chapter 348 of the NRS (the “Supplemental Bond Act”) apply to the 2016 Bonds; and

WHEREAS, the City Council has determined and does hereby declare as follows:

A. It is necessary and for the best interests of the City to effect the Refunding Project;

B. Each of the limitations and other conditions to the issuance of the 2016 Bonds in the 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 of the Bond Act, 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 2016 Bonds; and

D. Such declaration shall be conclusive in the absence of fraud or gross abuse of discretion in accordance with the provisions of NRS 350.579(2); and

E. This Ordinance may accordingly be adopted as if an emergency exists and may become effective at any time when an emergency ordinance of the City may go into effect pursuant to NRS 350.579(2) and NRS 271.710(2)(c).

WHEREAS, the City Council hereby further determines, as required by NRS 271.488(8), as follows:

A. The obligation of the City will not be materially or adversely impaired with respect to any outstanding 2008 Bond secured by Assessments; and

B. The principal balance of any Assessment will not increase to an amount such that the aggregate amount that is assessed against the tract exceeds the minimum benefit to the tract that is estimated to result from the Project that is financed by the Assessment and the refunding of the outstanding 2008 Bonds; and

WHEREAS, there have been filed with the City Clerk (A) the proposed form of the Trust Indenture, and (B) the proposed form of the Escrow Agreement (defined herein) to be used to refund the Refunded Bonds; and

WHEREAS, Ordinance No. 2397 adopted by the City on May 5, 2008 (the "Prior Ordinance"), is amended as set forth herein as necessary to permit the issuance of the 2016 Bonds; and

WHEREAS, Section 6.2(b)(ii) of the Prior Ordinance permits amendments thereto without the consent of any Property Owners (as defined in the Prior Ordinance) to provide for the issuance of refunding bonds to refund the 2008 Bonds.

NOW, THEREFORE, the City Council of the City of Sparks, Nevada, does ordain:

Section 1. Definitions. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in Section 1.1 of the Prior Ordinance, except for those definitions amended by Section 2 hereof or deleted by Section 3 hereof.

Section 2. Amended Definitions. The following terms used within Section 1.1 of the Prior Ordinance are hereby amended and restated to read as follows:

“**Administrative Year**” means the twelve month period beginning on September 2 in each year and extending to the next succeeding September 1, both dates inclusive, except that the first Administrative Year following the execution of the Indenture shall begin on the Closing Date and end on September 1, 2017.

“**Bonds**” means the City of Sparks, Nevada, Local Improvement District No. 3 (Legends at Sparks Marina) Limited Obligation Refunding Bonds issued under the Indenture.

“**Indenture**” means the Indenture, dated as of December 1, 2016, by and between the City and the Trustee, as originally executed or as it may from time to time be amended or supplemented by any Supplemental Indenture.

“**Ordinance**” means Ordinance No. 2397, adopted by the City Council of the City on May 5, 2008, as amended.

Section 3. Deleted Definitions. The defined terms “**Olympia Parcel**” and “**Secured Parcel Letter of Credit**” set forth in Section 1.1 of the Prior Ordinance are hereby deleted.

Section 4. New Definitions. The following defined terms are hereby inserted into Section 1.1 of the Prior Ordinance:

“**Escrow Agreement**” means the Escrow Agreement between the City and the Escrow Bank, which establishes the Escrow Account needed to accomplish the Refunding Project.

“**Escrow Bank**” means U.S. Bank National Association, or such successor escrow bank as may be appointed pursuant to the Escrow Agreement.

“**Original Ordinance**” means Ordinance No. 2397, adopted by the City Council of the City on May 5, 2008.

“**Purchaser**” means TPB Investments, Inc., a wholly owned subsidiary of Western Alliance Bank, an Arizona corporation, as the initial purchaser of the Bonds.

“**Refunded Bonds**” means the City of Sparks, Nevada, Local Improvement District No. 3 (Legends at Sparks Marina) Limited Obligation Improvement Bonds, issued in the aggregate original principal amount of \$26,120,000 on July 2, 2008.

“**Refunding Project**” means the refunding of the Refunded Bonds with the proceeds of the Bonds and other legally available monies of the City.

Section 5. Amended Section 4.4 of Prior Ordinance. The first and second paragraphs of Section 4.4 of the Prior Ordinance are hereby amended and restated to read as follows:

Section 4.4. Principal and Interest; Assessment Installments. The principal of the Assessments imposed pursuant to the Original Ordinance shall remain unchanged as a consequence of the issuance of the Bonds to refund the Refunded Bonds, and the first paragraph of Section 4.4 of the Original Ordinance shall not be deemed to have been amended by this Ordinance to the extent it would, in any way, impair the Assessments originally imposed by Section 4.4 of the Original Ordinance. For the avoidance of doubt, the unbilled principal amount of the Assessments as of November 30, 2016, is \$13,871,335.98. The unbilled principal of the Assessments shall bear interest until paid in full at the rate fixed by, and specified in a written certificate of, the City Treasurer on the Closing Date; provided, however, that such rate shall be no more than 1% above the highest rate of interest on the Bonds at any maturity. The City Treasurer is hereby authorized to fix such rate.

The unpaid Assessments shall be payable in substantially equal semiannual Assessment Installments, due on each Payment Date, commencing June 1, 2017. On the Closing Date, the City Treasurer shall, in a written certificate, specify the aggregate amount of the Assessment Installments payable on each Payment Date, which portion of such Assessment Installments constitutes interest and which portion of such Assessment Installments constitutes principal.

Section 6. Amended Section 4.7 of Prior Ordinance. Section 4.7 of the Prior Ordinance is hereby amended and restated to read as follows:

Section 4.7 Reserved.

Section 7. Amendments to Article V of Prior Ordinance. Sections 5.1, 5.2, and 5.3 of the Prior Ordinance are hereby amended and restated to read as follows:

Section 5.1 Reserved.

Section 5.2 Reserved.

Section 5.3 Reserved.

Section 8. Insertion of Section 5.4. A new Section 5.4 is hereby inserted into Article V of the Prior Ordinance and reads as follows:

Section 5.4 Bonds. The issuance of the Bonds in an aggregate principal amount not to exceed \$13,870,000 on the terms and conditions set forth in, and subject to the limitations specified in, the Indenture, is hereby authorized and approved. The Bonds shall be dated, shall bear interest at the rates (payable on each Bond Payment Date, commencing September 1, 2017), shall mature in the denominations and on the dates, shall be issued in the form, shall have such sinking fund installments, shall be subject to optional and mandatory redemption and shall be as otherwise provided in the Indenture, as the same shall be completed as provided in this Ordinance. The proceeds of the sale of the Bonds shall be used, together with other legally available monies (including any prepaid Assessments), to accomplish the Refunding Project.

Section 9. Insertion of Section 5.5. A new Section 5.5 is hereby inserted into Article V of the Prior Ordinance and reads as follows:

Section 5.5 Indenture. The Indenture, in substantially the form on file with the City Clerk, be and the same is hereby approved. The Mayor, or such officer of the City as the Mayor may designate, is hereby authorized and directed, for and on behalf of the City, to execute and deliver the Indenture in the form on file with the City Clerk, with such changes, insertions and omissions as may be approved by the officer executing the same on behalf of the City, said execution being conclusive evidence of such approval; provided, however, that such changes, insertions and omissions shall not authorize: (i) an aggregate principal amount of Bonds in excess of \$13,870,000; (ii) an effective interest rate on the Bonds that exceeds by more than three percent (3%) the "Index of Twenty Bonds" which was most recently published in The Bond Buyer prior to the time a negotiated offer for the Bonds is accepted; or (iii) a prepayment premium on the Bonds in excess of 3% of the principal amount of the Bonds to be redeemed. The City Clerk is hereby authorized and directed to affix the seal of the City to the Indenture and to attest the same.

Section 10. Insertion of Section 5.6. A new Section 5.6 is hereby inserted into Article V of the Prior Ordinance and reads as follows:

Section 5.6 Escrow Agreement. The Escrow Agreement, in substantially the form on file with the City Clerk, be and the same is hereby approved. The Mayor and the Director of Financial Services is each hereby authorized and directed, for and on behalf of the City, to execute and deliver the Escrow Agreement in the form on file with the City Clerk, with such changes, insertions and omissions as may be approved by the officer executing the same on behalf of the City, said execution being conclusive evidence of such approval. If required, the City Clerk is hereby authorized and directed to affix the seal of the City to the Escrow Agreement and to attest the same.

Section 11. Insertion of Section 5.7. A new Section 5.7 is hereby inserted into Article V of the Prior Ordinance and reads as follows:

Section 5.7 Collateral Documents and Certificates. The officers of the City are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance and the Indenture, including without limiting the generality of the foregoing: (A) the printing of the Bonds, including, without limitation, the printing of such additional blank Bonds as shall be required by the Trustee; (B) the execution of such certificates as may be reasonably required by the Purchaser, relating, inter alia, to the signing and registration of the Bonds, the tenure and identity of the officials of the City Council and the City, the delivery of the Bonds, the receipt of the purchase price for the Bonds, the exemption of interest on the Bonds from federal and state income taxation, and if it is in accordance with fact, the absence of litigation, pending or threatened, affecting the validity thereof; and (D) the execution of any documents ancillary and related to the Bonds or the Refunding Project.

Section 12. Prior Actions. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the City Council and the officers of the City in furtherance of the financing of the acquisition, construction and improvement of the Project, the financing of the Refunding Project, and the issuance of the Bonds be, and the same hereby are, ratified, approved and confirmed.

Section 13. Inconsistencies. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Prior Ordinance in conflict herewith are repealed.

Section 14. Invalid Provisions. If any section, subsection, paragraph, clause or provision of this Ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section or subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 15. Emergency. The Council has expressed in the preambles of this Ordinance that it pertains to the sale, issuance and payment of the 2016 Bonds, that this Ordinance may accordingly be adopted as if an emergency now exists, and may become effective at any time when an emergency ordinance of the City may go into effect. Consequently, pursuant to NRS 350.579 and NRS 271.710, final action shall be taken immediately, and this Ordinance shall be in effect from and after its publication by title as herein provided in Section 16.

Section 16. Publication and Effective Date. After this Ordinance is signed by the Mayor and attested and sealed by the Clerk, this Ordinance shall be published, once by its title in a newspaper published and having a general circulation in the City, and such publication to be in substantially the following form, together with the names of the Council members voting for or against its passage and a statement that typewritten copies of this Ordinance are available

for inspection by all interested parties at the office of the City Clerk, and shall be effective after said publication:

(Form of Publication)

BILL NO. _____
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SPARKS, NEVADA, AUTHORIZING THE ISSUANCE OF THE CITY OF SPARKS, NEVADA, LOCAL IMPROVEMENT DISTRICT NO. 3 (LEGENDS AT SPARKS MARINA), LIMITED OBLIGATION REFUNDING BONDS, TO REFUND, TOGETHER WITH OTHER AVAILABLE MONIES, ALL OF THE OUTSTANDING CITY OF SPARKS, NEVADA, LOCAL IMPROVEMENT DISTRICT NO. 3 (LEGENDS AT SPARKS MARINA), LIMITED OBLIGATION IMPROVEMENT BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF SPECIFIED AGREEMENTS, DOCUMENTS AND INSTRUMENTS IN CONNECTION THEREWITH, AND APPROVING MATTERS RELATING THERETO; AMENDING ORDINANCE NO. 2397; PROVIDING FOR ADOPTION OF THE ORDINANCE AS IF AN EMERGENCY EXISTS; AND PROVIDING THE EFFECTIVE DATE THEREOF.

PUBLIC NOTICE IS HEREBY GIVEN 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 Sparks at her office at 431 Prater Way, Sparks, Nevada, and that such Ordinance was proposed, passed and adopted at the regular meeting of the Sparks City Council on December 12, 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 on December __, 2016.

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

DATED this December 12, 2016.

/s/ Geno Martini
 Mayor

(SEAL)

Attest:

/s/ Teresa Gardner
 City Clerk

(End of Form of Publication)

Section. 17. Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Proposed on December 12, 2016.

Passed on December 12, 2016.

Those Voting Aye: _____

Those Voting Nay: _____

Those Absent: _____

(SEAL)

Mayor

City Clerk

APPROVED AS TO FORM

City Attorney

This Ordinance shall be in full force and effect on December ____, 2016.

STATE OF NEVADA)
) ss.
CITY OF SPARKS)

I am the duly chosen and qualified City Clerk of the City of Sparks (herein “City”), Nevada (the “State”), and in the performance of my duties as Clerk do hereby certify:

1. The foregoing pages constitute a true, correct and compared copy of an ordinance introduced and adopted as if an emergency exists at the meeting of the City Council held on December 12, 2016.

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

3. The members of the City Council present at the meeting voted on the passage of the ordinance as set forth therein.

4. All members of the Council were given due and proper notice of the meeting held on December 12, 2016.

5. Public notice of such meeting was given and such meeting was held and conducted in full compliance with the provisions of NRS 241.020. A copy of the notice of meeting (attached hereto as Exhibit “A”) containing the time, place, location and an excerpt from the agenda for the meeting relating to the ordinance, as posted no later than 9 a.m. at least 3 working days in advance of the meeting at the Council’s office, the City’s website, the State’s website and at:

- (i) Sparks Legislative Building
745 4th Street
Sparks, Nevada
- (ii) Sparks City Hall
431 Prater Way
Sparks, Nevada
- (iii) Sparks Recreation Center
98 Richards Way
Sparks, Nevada
- (iv) Alf Sorensen Center
1400 Baring Blvd.
Sparks, Nevada

- (v) Sparks Branch Library
1125 12th Street
Sparks, Nevada
- (vi) Sparks Justice Court
1675 E. Prater Way #107
Sparks, Nevada
- (vii) Sparks Senior Citizens Center
97 Richards Way
Sparks, Nevada

6. Prior to 9 a.m. at least 3 working days before such meeting, such notices were given to each person, if any, who has requested notice of meetings of the Council in accordance with the provisions of Chapter 241 of NRS.

7. An affidavit of publication of the notice of adoption of ordinance is attached hereto as Exhibit "B."

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City this December 12, 2016.

City Clerk

(SEAL)

EXHIBIT "A"

(Attach Copy of Notice of Meeting)

EXHIBIT "B"

(Attach Affidavit of Publication)