



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 09/21/04
AGENDA ITEM 3
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Adoption of Resolution of Intent to Reimburse Expenditures from the Proceeds of Mortgage Revenue Bonds Financing the Purchase and Rehabilitation of the Josephine Lum Lodge

RECOMMENDATION:

It is recommended that the City Council:

- Adopt the attached resolution conditionally authorizing the issuance of \$15 million in mortgage revenue bonds to assist in the acquisition and rehabilitation of the Josephine Lum Lodge.
- Authorize the City Manager to execute agreements for bond counsel services with Jones Hall, A Professional Law Corporation, and for financial advisor services with CSG, Inc.;
- Authorize the City Manager to execute all other implementing documents in connection with the proposed issuance.

DISCUSSION:

Completed in 1973, Josephine Lum Lodge (JLL) was Eden Housing's first multifamily development. JLL is an 150 unit development for low-and extremely low-income seniors located on more than four acres in South Hayward at 2747 Oliver Drive. The development contains 90 studio units, 50 one-bedroom units and 10 two-bedroom units. Most of the residents are in their 70's. All of the units are affordable to seniors at or below 50% of the area median income. Currently, the tenants' annual incomes average approximately \$12,000 (or 21% of the median income for a household of one).

Substantial long-term improvements to the development are needed in order to address various structural and dry rot issues throughout the property. These include replacement of all roofs; redesign and reconstruction of all 2nd floor walkways, catwalks and balconies; replacement of all windows and sliding glass doors throughout the development; replacement of exterior siding and all stairs; replacement of elevators; landscape improvements and re-grading to address drainage issues; and new perimeter fencing.

The development was financed in 1972 using a HUD Section 236 mortgage and project-based Section 8 certificates. Of the 150 units, 108 are project-based Section 8 which limits tenant-paid rents to 30% of annual household income. The remaining units are covered under Section 236 regulatory restrictions. Rents in the 236 units average \$415 per month for a studio, \$528 per month for a one bedroom and \$598 for a two bedroom.

While Eden has been able to do some interior renovations on a unit-by-unit basis, the present Section 8/Section 236 financing structure does not provide enough cash flow to pay for the extensive repairs needed after more than 30 years of occupancy. Therefore, Eden has requested that the City issue mortgage revenue bonds to provide sufficient funds to pay off the Section 236 mortgage (which has eight more years to run) and make the substantial repairs needed at this time. The project-based Section 8 will remain in place.

Although the Section 236 mortgage will be paid off, HUD is requiring that the City –

- assume HUD's role in monitoring the occupancy of and rent increases for the former Section 236 units and
- allow Eden to increase rents no more than 10% for the next 13 years (e.g. the maximum for the averages listed above in the next year would be \$42/month for a studio, \$53/month for a one bedroom and \$60/month for a two bedroom unit).

The City has reviewed HUD's 236 regulatory agreement and requirements. HUD's requirements are less rigorous than the requirements of the mortgage bond program and can be easily subsumed within the City's standard regulatory agreement.

Tax exempt mortgage revenue bonds are often used by nonprofit organizations as a way of financing this type of substantial property rehabilitation. In order to issue the bonds, a change of ownership is required for the 15-year federal tax credit compliance period. The ownership of Josephine Lum Lodge will be transferred from Eden Housing, Inc. to Josephine Lum Lodge, Limited Partnership (with Eden Housing as the managing general partner). Repayment of the bonds will be from the revenues generated by the project.

The inducement resolution (attached) establishes the ceiling on the amount of bonds that can be issued and initiates the time period within which development costs, such as architectural and engineering expenses, are eligible be paid from proceeds of the bond issue. Since not all the costs have been refined prior to adoption of the inducement resolution, the ceiling set in inducement resolutions is often greater than the known project costs. The mortgage bond financing used to pay the remainder of the Section 236 mortgage, any temporary relocation of tenants, the exterior rehabilitation and other related costs is currently estimated to be approximately \$13.2 million. The new mortgage is expected to provide sufficient cost savings over time for Eden to undertake interior repairs and upgrades to apartment units such as updated kitchens, baths, floor coverings, paint, and basic systems updates within the first eight years after the exterior rehabilitation has been completed. However, if the cost of structural steel increases beyond current estimates or Eden needs to undertake some interior repairs at the same time as the exterior repairs, the attached inducement resolution allows the issuance of up to \$15 million of mortgage revenue bonds.

The City will have the primary Regulatory Agreement on this development, restricting occupancy and rents for 55 years. The property will be monitored at least once each year and all tenants will be income certified on an annual basis. The City will receive a fee each year for monitoring the project. Staff recommends adoption of the attached resolution in order to rehabilitate and preserve these 150 units of affordable housing for an additional 55 years. If Council adopts the attached resolution, it is expected that bond issuance and construction will begin between six months and a year and a half from now, depending upon how long it takes HUD to process the Section 236 prepayment.

Prepared by:



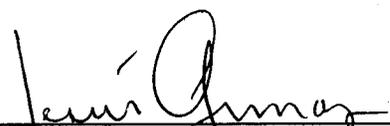
Ann R. Bauman *by Se*
Issuer's Representative

Recommended by:



Sylvia Ehrental, Director of Community
and Economic Development

Approved by:



Jesús Armas, City Manager

Resolution

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HAYWARD CITY COUNCIL

Introduced by Council Member _____

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HAYWARD DECLARING INTENTION TO REIMBURSE
EXPENDITURES FROM THE PROCEEDS OF TAX-EXEMPT
OBLIGATIONS AND DIRECTING CERTAIN ACTIONS**

WHEREAS, the City of Hayward (the "City") intends to issue tax-exempt obligations (the "Obligations") for the purpose, among other things, of making a loan to a California limited partnership to be formed by Eden Housing Inc., a California nonprofit public benefit corporation (the "Developer"), the proceeds of which shall be used by the Developer to finance the acquisition, rehabilitation and development of a multifamily housing facility located at 2747 Oliver Drive in the City of Hayward, California and commonly known as the Josephine Lum Lodge (the "Project"); and

WHEREAS, the City is authorized by Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Law") to issue and sell revenue bonds for the purpose of financing the acquisition, rehabilitation and development of multifamily rental housing facilities to be occupied in part by low and very low income tenants; and

WHEREAS, United States Income Tax Regulations section 1.103-18 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, among which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer must declare an intention to reimburse such expenditure (the "Tax Law Reimbursement Provisions"); and

WHEREAS, the Obligations will be considered to be "qualified exempt facility bonds" under Section 142(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and Section 147(f) of the Code requires that the "applicable elected representative" with respect to the City hold a public hearing on and approve the issuance of the Obligations; and

WHEREAS, this City Council is the elected legislative body of the City; and

WHEREAS, a notice of public hearing in a newspaper of general circulation in the City has been published, to the effect that a public hearing would be held by this City Council regarding the issuance of the Obligations by the City and the nature and location of the Project; and

WHEREAS, this City Council held said public hearing on such date, at which time an opportunity was provided to present arguments both for and against the issuance of such Bonds and the nature and location of the Project; and

WHEREAS, it is in the public interest and for the public benefit that the City declare its official intent to reimburse the expenditures referenced herein;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward DECLARES and ORDERS as follows:

1. The City intends to issue the Obligations for the purpose of paying the costs of financing the acquisition, rehabilitation and development of the Project.
2. The City hereby declares that it reasonably expects that a portion of the proceeds of the Obligations will be used for reimbursement of expenditures for the acquisition, rehabilitation and development of the Project that are paid before the date of initial execution and delivery of the Obligations.
3. The maximum amount of proceeds of the Obligations to be used for reimbursement of expenditures for the acquisition, rehabilitation and development of the Project that are paid before the date of initial execution and delivery of the Obligations is \$15,000,000.
4. The foregoing declaration is consistent with the budgetary and financial circumstances of the City in that there are no funds (other than proceeds of the Obligations) that are reasonably expected to be (i) reserved, (ii) allocated or (iii) otherwise set aside, on a long-term basis, by or on behalf of the City, or any public entity controlled by the City, for the expenditures for the acquisition, rehabilitation and development of the Project that are expected to be reimbursed from the proceeds of the Obligations.
5. The Developer shall be responsible for the payment of all present and future costs in connection with the issuance of the Obligations, including, but not limited to, any fees and expenses incurred by the City in anticipation of the issuance of the Obligations, the City's financing fee with respect to the issuance of the Obligations, the City's annual administration fee with respect to administering the provisions of a regulatory agreement with respect to the Project, the cost of printing any official statement, rating agency costs, bond counsel fees and expenses, underwriting discount and costs, trustee fees and expense, and the costs of printing the Obligations. The payment of the principal, redemption premium, if any, and purchase price of and interest on the Obligations shall be solely the responsibility of the Developer. The Obligations shall not constitute a debt or obligation of the City.
6. This City Council hereby further determines that it is appropriate for the City to issue the Obligations to finance the acquisition, rehabilitation and development of the Project.

7. The law firm of Jones Hall, A Professional Law Corporation, is hereby named as bond counsel to the City in connection with the issuance of the Obligations. The financial advisory firm of CSG Advisors, Inc. is hereby named as financial advisor to the City in connection with the issuance of the Obligations. The fees and expenses of bond counsel and the financial advisor are to be paid solely from the proceeds of the Obligations or directly by the Developer.

8. The City Manager is hereby authorized, for and in the name of and on behalf of the City, to make an application to the California Debt Limit Allocation Committee for an allocation of private activity bonds for the financing of the Project and to execute contracts with bond counsel and the financial advisor in substantially the forms on file with the City Clerk with such changes or deletions as shall be deemed necessary by such officials or staff.

9. The adoption of this Resolution is solely for the purpose of meeting the requirements of the Code and shall not obligate the City, without further formal action to be taken by this City Council, to (i) provide financing to the Developer for the acquisition, rehabilitation and development of the Project or to issue the Obligations for purposes of such financing; or (ii) approve any application or request for, or take any other action in connection with, any environmental, General Plan, zoning or any other permit or other action necessary for the acquisition, rehabilitation, development or operation of the Project.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward