

RESOLUTION NO. 2015-136

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING THE ISSUANCE OF UP TO \$35,000,000 OF CONDUIT REVENUE
BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY FOR THE
PURPOSE OF FINANCING THE ACQUISITION, REHABILITATION,
IMPROVEMENT AND EQUIPPING OF THE CHARLES APARTMENTS AND
CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, Charles Apartments LP, a California limited partnership, or another entity to be formed by Eden Housing, Inc. or an affiliate thereof (the "Borrower"), has requested that the California Municipal Finance Authority (the "Authority") issue one or more series of conduit revenue bonds in an aggregate principal amount not to exceed \$35,000,000 (the "Bonds") for the acquisition, rehabilitation, improvement and equipping of a 105-unit multifamily residential rental facility (the "Project") to be owned and operated by the Borrower and located within the City at 3109 Seacrest Avenue in the City of Marina (the "City"), California, and;

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986 (the "Code"), the issuance of the Bonds by the Authority must be approved by the City, after a public hearing, because the Project is located within the territorial limits of the City, and;

WHEREAS, the City Council of the City (the "City Council") is the elected legislative body of the City and is one of the "applicable elected representatives" required to approve the issuance of the Bonds under Section 147(f) of the Code, and;

WHEREAS, the Authority has requested that the City Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and the requirements of Section 4 of the Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the "Agreement"), among certain local agencies, including the City, and;

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Marina as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The City Council hereby approves the issuance of the Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds by the Authority, for the purposes of (a) Section 147(f) of the Code by the applicable elected representative of the governmental unit having jurisdiction over the area in which the Project is located, in accordance with said Section 147(f), and (b) Section 4 of the Agreement.

Section 3. Per Section 3 of the Joint Exercise of Powers Agreement, the payment of the principal, prepayment premium, if any, purchase price of, and interest on the Bonds shall be solely the responsibility of the Borrower. The Bonds do not constitute a debt or obligation of the City.

Section 4. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing transaction approved hereby.

Section 5. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held this 1st day of December, 2015, by the following votes:

AYES, COUNCIL MEMBERS: Amadeo, Brown, Morton, O'Connell, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

“EXHIBIT A”

Samples of Proposed Retrofit for Review by Site and Architectural Design Review Board



4 ELEVATION ALONG SEACREST AVE
10/1/19



3 COURTYARD LOOKING EAST
10/1/19



2 COURTYARD LOOKING WEST
10/1/19



1 ELEVATION ALONG ALLEY
10/1/19



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EDEN HOUSING
CHARLES APT.

3100 SEACREST AVE.
MARIETTA, GA 30067
404.321.0200

DATE: 10/1/19
PROJECT: EDEN HOUSING
SHEET: TYPICAL CLUSTER ELEVATIONS

SCALE: 1/8" = 1'-0"
PROJECT: EDEN HOUSING
SHEET: TYPICAL CLUSTER ELEVATIONS

DATE: 10/1/19
PROJECT: EDEN HOUSING
SHEET: TYPICAL CLUSTER ELEVATIONS

A3

10/1/19 10:00 AM

Honorable Mayor and Members of the
Marina City Council

Meeting of
of December 1, 2015

CITY COUNCIL CONDUCT A TAX EQUITY AND FISCAL RESPONSIBILITY ACT PUBLIC HEARING, TAKE ANY TESTIMONY FROM THE PUBLIC AND CONSIDER ADOPTING RESOLUTION NO. 2015-, APPROVING THE ISSUANCE UP TO \$35,000,000 OF TAX EXEMPT CONDUIT REVENUE BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY FOR THE PURPOSE OF FINANCING THE ACQUISITION, REHABILITATION, IMPROVEMENT AND EQUIPPING OF THE CHARLES APARTMENTS BY CHARLES APARTMENTS L.P. OR ANOTHER ENTITY TO BE FORMED BY EDEN HOUSING, INC. OR AN AFFILIATE THEREOF AND CERTAIN OTHER MATTERS RELATING THERETO.

REQUEST:

It is requested that the City Council consider:

1. Conducting the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act (“TEFRA”) and the Internal Revenue Code of 1986, as amended (the “IRS Code”), and take any testimony from the public; and
2. Adopting the resolution approving the issuance of up to \$35,000,000 of conduit revenue bonds by the California Municipal Finance Authority (“CMFA”) for the benefit of Charles Apartments LP, a California limited partnership, or another entity to be formed by Eden Housing, Inc. a California nonprofit corporation and an organization described in Section 501(c)(3) of the IRS Code, (the “Borrower”), to provide for the financing, acquisition, rehabilitation, improvement, and equipping of the Charles Apartments (the “Project”), such adoption solely for the purposes of satisfying the requirements of TEFRA, the IRS Code and the California Government Code Section 6500 (and following).

BACKGROUND:

The CMFA was created on January 1, 2004 pursuant to a joint exercise of powers agreement to promote economic, cultural, and community development through the financing of economic development and charitable activities throughout California. To date, over 200 municipalities have become members of CMFA. In order for the CMFA to have jurisdiction to issue bonds within a municipality’s jurisdiction, the municipality must be a member of the CMFA. At the regular meeting of February 6, 2007, the City Council adopted Resolution No. 2007-26, authorizing the City of Marina to become a member of the CFMA. The City is still a member. The CMFA assists local governments, non-profit organizations, and businesses with the issuance of taxable and tax-exempt financing aimed at improving the standard of living in California. The CMFA representatives and its Board of Directors have considerable experience in tax-exempt bond financing.

The Borrower has requested that the CMFA issue one or more series of revenue bonds (the “Bonds”) in an aggregate principal amount not to exceed \$35,000,000 for the acquisition, rehabilitation, improvement, and equipping of a 105-unit multifamily residential rental facility to be owned and operated by the Borrower and located within the City at 3109 Seacrest Avenue in the City of Marina, California.

The Charles Apartments consists of 36 apartment buildings with 105- one to five bedroom housing units and one community building totaling 6,046 square feet. Each apartment building unit is two stories in height with podium parking under the living area. Entrances to the units are from an interior courtyard.

The buildings are of the brutalist architectural genre of the 1950s to the mid-1970s. Brutalist buildings are usually formed in raw concrete with repeated modular elements forming masses representing specific functional zones, distinctly articulated and grouped together into a unified whole.

The owner, Eden Housing, Inc. has proposed modifications to the Elevations that will be reviewed by the Site and Architectural Design Review Board on December 2, 2015 (“**EXHIBIT A**”). Improvements include:

- Removing the existing stucco cladding on all buildings and replacing it with fiber cement siding in a combination of horizontal lap and vertical board batten styles.
- Removing the existing vertical shade fins and replacing electively with horizontal shade devices over windows.
- Replacing windows with energy efficient insulated glass windows.
- Adding new roof forms to include gables and shed roofs, add eaves to some of the remaining flat roofs, and extend parapets at flat roof areas that do not have eaves. Cover with asphalt shingle roofing.
- Adding photovoltaics and solar thermal system to supply community building and site electricity.
- Converting selected units to better meet ADA standards, interior fixtures and finishes and other miscellaneous improvements.
- Replacing fencing.
- Enhancing landscaping of the complex.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the City of Marina must conduct a public hearing (the “TEFRA Hearing”) providing the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. Prior to such TEFRA Hearing, reasonable notice must be provided to the members of the community. Following the close of the TEFRA Hearing, an “applicable elected representative” of the governmental unit hosting the Project must provide its approval of the issuance of the Bonds for the financing of the Project.

It should be noted that the City will not be issuing the bonds, nor will the City have any responsibility to repay the debt or otherwise bear any financial responsibility whatsoever. The State of California’s Joint Exercise of Powers Act provides language that was reiterated in Section 3 of the Joint Exercise of Power Agreement for the CMFA executed by the City stating the CMFA is a public entity separate and apart from its members and its debts, liabilities and obligations do no constitute debts, liabilities or obligations of any member.

Outside of holding the TEFRA hearing and adopting the required resolution, no other participation or activity of the City or the City Council with respect to the issuance of the Bonds will be required. The City is being asked to hold a public hearing and approve the issuance for the legal reasons listed below to assist the Borrower.

In order for the interest on the bonds to be excluded from the gross income of the owner of the bonds (i.e. tax exempt) an “applicable elected representative” of the government unit must approve the issuance of the bonds after a TEFRA hearing following reasonable public notice.

The proposed bond issuance by the CMFA is classified as a private activity for purposes of the IRS Code. Because the CMFA Board of Directors is not an elected body, the IRS Code provides that a governmental unit with elected representatives and jurisdiction over the area in which the project is to be financed is located, in this case the City Council, is an “applicable elected representative” with respect to the bond issue.

Fiscal Impact:

There is no expense to the City to approve the issuance of the bonds. Issuance fees are charged to the non-profit housing developer by the CMFA.

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, in this case the Charles Apartments LP or another entity to be formed by Eden Housing, Inc. and the City will have no financial, legal, moral obligation, liability or responsibility for the Project or the repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California, but are to be paid for solely from funds provided by the Borrower.

There are no costs associated with membership in the CMFA and the City will in no way become exposed to any financial liability by reason of its membership in the CMFA. In addition, participation by the City in the CMFA will not impact the City’s appropriations limits and will not constitute any type of indebtedness by the city and will not affect the City’s bond rating.

The Board of Directors of the California Foundation for Stronger Communities, a California non-profit public benefit corporation (the “Foundation”), acts as the Board of Directors for the CMFA. Through its conduit issuance activities, the CMFA shares a portion of the issuance fees it receives with its member communities and donates a portion of these issuance fees to the Foundation for the support of local charities. With respect to the City of Marina, it is expected that that a portion of the issuance fee attributable to this issue will be granted by the CMFA to the general fund of the City. Such grant may be used for any lawful purpose of the City. The Borrower will be the beneficiary of the CMFA’s charitable donation through a 25% reduction in issuance fees.

The CMFA estimates a contribution to the City’s general fund in the amount of approximately \$12,537.00 for the issuance fee attributable to the Project. The actual amount shared with the City is dependent on the final par amount of the bonds issued; thus, this number could move up or down slightly.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Theresa Szymanis, AICP CTP
Acting Director
Community Development Department
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina