



# CITY OF HAYWARD AGENDA REPORT

AGENDA DATE March 17, 1998

AGENDA ITEM 6

WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Issuance of Multifamily Revenue Bonds for the Timbers Apartments  
in an Amount Not to Exceed \$9.5 Million

### Recommendation:

It is recommended that the City Council adopt the attached resolution authorizing the issuance, sale and delivery of City of Hayward Variable Rate Demand Multifamily Housing Revenue Bonds (The Timbers Apartments), Series 1998A.

### Background:

On November 25, 1997, the City Council adopted a resolution of intention to issue mortgage revenue bonds to finance the purchase and rehabilitation of The Timbers, a multifamily housing development located at 25200 Santa Clara Street. The Timbers was constructed in 1975 and is comprised of six two-story residential buildings. Amenities include a swimming pool, spa, gated parking and clubhouse. The unit mix includes 17 studios, 49 studios with lofts, 16 one-bedroom units and 50 one-bedroom units with lofts.

The estimate of total cost to the developer for purchase and rehabilitation of the project is approximately \$10.5 million, to be paid through a \$9.5 million bond issuance and an additional \$1 million in developer equity. The project budget includes \$8.5 million for the acquisition of the project, approximately \$1.475 in rehabilitation costs and the remaining \$.5 million will cover costs of issuance, interest, taxes and insurance and architecture and engineering costs. The proposed rehabilitation includes replacement of roofs; exterior painting; refurbishing of the pool and clubhouse; repair of concrete walkways, water and termite damage, and carport lighting. Other site improvements include upgrade of landscaping and irrigation and trimming of overgrown trees. Rehabilitation of unit interiors will include painting, replacement of water heaters and appliances, carpets, vinyl, and curtains.

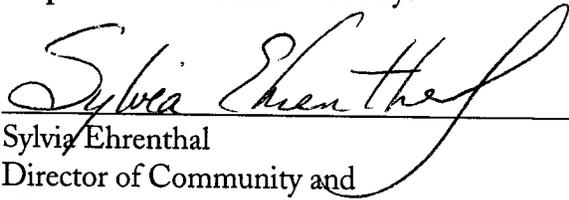
Federal tax law requires that 15% of the bond proceeds used for acquisition and rehabilitation of existing rental properties be set aside for the costs of rehabilitation. Federal law also requires that 20% of the units (27 units) be made available to households with incomes at or below 50% of the area median, currently \$30,050 for a family of four, for at least 15 years. These below market rate units are the subject of a regulatory agreement and will be monitored by the City staff.

Staff has negotiated a regulatory agreement which addresses Council concerns expressed at the November hearing. First, the regulatory agreement and the loan agreement specifically require the borrower to maintain the Project during the term of the agreement (15 years) in substantially the same condition it is in at the time of completion of the rehabilitation with the proceeds of the bonds. Second, the regulatory agreement requires that units which are subject to the City Rent Stabilization Ordinance shall have a rent which is the lesser of the affordable rent set forth under the bond requirements or that allowed under the Rent Stabilization Ordinance.

As with all revenue bonds, these bonds do not constitute a debt, liability, general or moral obligation or pledge of the faith or loan of the credit of the City as issuer. 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 the bonds or any costs incident thereto. All of the documents, in substantially final form, related to the issuance of these bonds are on file in the Office of the City Clerk.

Staff, therefore, recommends adoption of the attached resolution which authorizes issuance and sale of the bonds.

**Prepared and Recommended by:**

  
\_\_\_\_\_  
Sylvia Ehrental  
Director of Community and  
Economic Development

**Approved by:**

  
\_\_\_\_\_  
Jesús Armas  
City Manager

Attachment: Draft Resolution

**DRAFT** JB 3/11/98

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF CITY OF HAYWARD VARIABLE RATE DEMAND MULTIFAMILY HOUSING REVENUE BONDS (THE TIMBERS APARTMENTS), SERIES 1998A, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, A LOAN AGREEMENT, A REGULATORY AGREEMENT, AN OFFICIAL STATEMENT, AND A PURCHASE CONTRACT, AND AUTHORIZING THE EXECUTION AND DELIVERY OF AND APPROVING OTHER RELATED DOCUMENTS AND APPROVING OTHER RELATED ACTIONS IN CONNECTION THEREWITH

WHEREAS, Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Act"), authorizes cities to incur indebtedness for the purpose of financing the acquisition, rehabilitation and development of multifamily rental housing facilities to be occupied in part by persons of low and very low income; and

WHEREAS, the City of Hayward (the "City") hereby finds and declares that it is necessary, essential, and a public purpose for the City to engage in a program (the "Program") of financing the acquisition, rehabilitation, and development of multifamily rental housing facilities, and has determined to borrow money for such purpose by the issuance of revenue bonds as authorized by the Act; and

WHEREAS, the City hereby finds and declares that this resolution is being adopted pursuant to the powers granted by the Act; and

WHEREAS, Santa Clara Associates, a California limited liability company (the "Borrower"), has requested that the City issue and sell the Bonds (hereinafter defined) for the purpose of financing the acquisition, rehabilitation, and development of a multifamily rental housing project commonly known as The Timbers Apartments, located at 25200 Santa Clara Street, Hayward, California, (the "Project"); and

WHEREAS, all conditions, things, and acts required to exist, to have happened and to have been performed precedent to and in the issuance of the Bonds and the implementation of the Program as contemplated by this resolution and the documents referred

to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act.

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

*Section 1.* The City hereby finds and declares that the above recitals are true and correct.

*Section 2.* Pursuant to the Act and the Indenture (hereinafter defined), revenue bonds of the City, designated as "City of Hayward Variable Rate Demand Multifamily Housing Revenue Bonds (The Timbers Apartments), Series 1998A" in an aggregate principal amount not to exceed \$9,500,000 (the "Bonds"), are hereby authorized to be issued. The Bonds shall be executed by the manual or facsimile signature of the Mayor of the City, and attested by the manual or facsimile signature of the City Clerk of the City, in the form set forth in and otherwise in accordance with the Indenture.

*Section 3.* The indenture of trust with respect to the Bonds (the "Indenture") between the City and First Trust of California, National Association, as trustee (the "Trustee"), in the form on file with the office of the City Clerk, is hereby approved. The Mayor and the City Manager (the "Designated Officers") are, and each of them acting alone is, hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Indenture, and the City Clerk is hereby authorized and directed, for and in the name and on behalf of the City, to attest the Designated Officer's signature on the Indenture, in substantially said form, with such additions thereto or changes therein as are recommended or approved by such officers upon consultation with bond counsel to the City, including such additions or changes as are necessary or advisable in accordance with Section 9 hereof (provided that no additions or changes shall authorize an aggregate principal amount of Bonds in excess of \$9,500,000), the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Indenture. The date, maturity dates, interest rate or rates, interest payment dates, denominations, form registration privileges, manner of execution, place of payment, terms of redemption, the right of the owners of the Bonds to tender their Bonds for repurchase, and other terms of the Bonds shall be as provided in the Indenture as finally executed.

*Section 4.* The loan agreement relating to the Bonds (the "Loan Agreement") among the Trustee, the City and the Borrower, in the form on file with the office of the City Clerk, is hereby approved. The Designated Officers of the City are, and each of them acting alone is, hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Loan Agreement in said form, with such additions thereto or changes therein as are recommended or approved by such officers upon consultation with bond counsel to the City including such additions or changes as are necessary or advisable in accordance with Section 9

hereof, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Loan Agreement.

*Section 5.* The regulatory agreement and declaration of restrictive covenants relating to the Bonds (the "Regulatory Agreement") among the City, the Trustee and the Borrower, in the form on file with the office of the City Clerk, is hereby approved. The Designated Officers of the City are, and each of them acting alone is, hereby authorized and directed for and in the name of and on behalf of the City, to execute and deliver the Regulatory Agreement in said form, with such additions thereto or changes therein as are recommended or approved by such officers upon consultation with bond counsel to the City including such additions or changes as are necessary or advisable in accordance with Section 9 hereof, the approval of such changes to be conclusively evidenced by the execution and delivery by the City of such Regulatory Agreement.

*Section 6.* The bond purchase agreement (the "Purchase Contract") relating to the Bonds among the City, the Borrower and Paine Webber Incorporated (the "Underwriter"), in the form on file with the office of the City Clerk, is hereby approved. The Designated Officers of the City are, and each of them acting alone is, hereby authorized and directed, for and in the name and on behalf of the City, to accept the offer of the Underwriter to purchase the Bonds contained in the Purchase Contract (when such offer is made and if such offer is consistent with Section 3 hereof) and to execute and deliver said Purchase Contract in said form, with such additions thereto or changes therein as are recommended or approved by such officers upon consultation with bond counsel to the City, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Purchase Contract.

*Section 7.* The preliminary official statement relating to the Bonds (the "Preliminary Official Statement") in the form on file with the office of the City Clerk, is hereby approved. The Designated Officers are, and each of them acting alone is, hereby authorized and directed, for and in the name and on behalf of the City, to bring to final form the Preliminary Official Statement (the "Official Statement") upon sale of the Bonds and to execute the Official Statement in said form, with such additions thereto or changes therein as are recommended or approved by such officers upon consultation with bond counsel to the City, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Official Statement. The Underwriter is hereby authorized to distribute copies of the Preliminary Official Statement to persons who may be interested in the purchase of the Bonds and is directed to deliver copies of the Official Statement to all actual purchasers of the Bonds.

*Section 8.* The Bonds, when executed, shall be delivered to the Trustee for authentication. The Trustee is hereby requested and directed to authenticate the Bonds by executing the Trustee's certificate of authentication and registration appearing thereon, and to deliver the Bonds, when duly executed and authenticated, to the purchasers thereof in

accordance with written instructions executed on behalf of the City by one of the Designated Officers, which instructions such officers are, and each of them is, hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Trustee. Such instructions shall provide for the delivery of the Bonds to the purchasers thereof in accordance with the Purchase Contract, upon payment of the purchase price therefor.

*Section 9.* All actions heretofore taken by the officers and agents of the City with respect to the establishment of the Program and the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the proper officers of the City, including the Designated Officers, are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this Resolution and resolutions heretofore adopted by the City and in order to carry out the Program, including but not limited to those certificates, agreements, deeds of trust and other documents described in the Indenture, the Loan Agreement, the Regulatory Agreement, the Purchase Contract and the other documents herein approved and any certificates, agreements or documents as may be necessary to further the purpose hereof, evidence credit support or additional security for the Bonds, or evidence the obligation to purchase Bonds upon tender by the Bondholders (including a tender agent agreement or an intercreditor agreement), but which shall not create any obligation or liability of the City other than with respect to the revenues and assets derived from the proceeds of the Bonds.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 1997

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

**ABSTAIN:**

**ABSENT:**

**ATTEST:** \_\_\_\_\_  
City Clerk of the City of Hayward

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney of the City of Hayward