

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 06/27/06
AGENDA ITEM 7
WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: Director of Community and Economic Development
SUBJECT: Public TEFRA Hearing, Inducement and Authorization to Issue Bonds to Finance the Construction of the Saklan Family Housing Development

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution authorizing the issuance of \$18,000,000 in tax-exempt multifamily housing revenue bonds, and authorize the City Manager to execute all other implementing documents in connection with the proposed issuance.

DISCUSSION:

On March 14, 2006 the City Council approved the development of the Saklan Family Housing project, a 78-unit development by Eden Housing, Inc (EHI). This development is proposed for a 3.5-acre site located at the north-east corner of Saklan Road and North Lane in the Mt. Eden neighborhood. The development will be available to households with 50% or less of area median income, except for one unit which will be reserved for an on-site manager. Of the 77 affordable units, 27 will be made affordable to families at 30% of area median income. Eden Housing will develop the project in partnership with La Vista, LLC, an affiliate of the DeSilva Group. This development is intended to provide 69 affordable housing units required pursuant to the City's Inclusionary Housing Ordinance for three proposed market-rate housing developments: La Vista, Garin Vista, and the KB Homes/Dutra project in Mt. Eden.

EHI will use several sources of funds to pay for the development, including land contributed by the DeSilva Group, the tax-exempt multi-family housing revenue bonds, tax-credit equity, and a low-interest loan from the State of California Multifamily Housing Program (MHP). In order to comply with the City's inclusionary housing ordinance, the DeSilva Group will provide equity funds and off-site improvements to help finance the development. The total project development cost is estimated to be approximately \$26.5 million.

In order for the City to act as the issuer, it needs to take two steps: first, the Council must authorize, or induce, the bond issuance. Second, the Council must hold a public hearing as required by the Federal Tax Equity and Fiscal Responsibility Act (TEFRA). The attached bond resolution authorizes the City Manager to execute the associated bond documents which are on file in the office of the City Clerk. Since minor document changes often occur until the day of closing, it is advisable for the Council to authorize the City Manager to review any proposed

changes, negotiate with the various parties as necessary, and approve any needed changes to facilitate the closing. The resolution also names the law firm of Jones Hall as bond counsel and CSG Advisors as financial advisor to the City in connection with the issuance of the bonds. Finally, the inducement resolution establishes the \$18 million ceiling on the amount of bonds that can be issued. The ownership of the Saklan Family Housing project is expected to be Saklan Avenue Limited Partnership, a California limited partnership.

As Council is aware, payment of the bond principal and interest is solely from the project revenues and is not an obligation of the City of Hayward. Nor is the City providing any additional financing for this project.

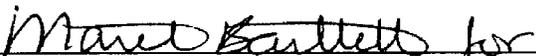
The issuance of tax exempt bonds for the development of the project will help the City meet its mandated housing affordability goals. In addition, EHI will:

- Develop 78 affordable apartments;
- Restrict occupancy of 77 of the units to households who earn 50% of AMGI or less;
- Maintain the occupancy and affordability restrictions for a period of 55 years; and
- Own the development, maintaining quality of property management services throughout the affordability period.

The City will enter into a Regulatory Agreement with EHI for 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 approval of the proposed actions and adoption of the attached resolution in order to finance the acquisition, construction and development of 78 affordable housing units.

Recommended by:



Sylvia Ehrenthal, Director of Community
and Economic Development

Approved by:



Jesús Armas, City Manager

Resolution

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

*me
6/12/06*

**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 Saklan Avenue Limited Partnership, a California limited partnership formed by Eden Housing, Inc. (the "Owner"), the proceeds of which shall be used by the Owner to finance the acquisition, construction and development of a 78-unit multifamily housing facility to be located at 22958 Saklan Road in the City of Hayward, California and to be commonly known as Saklan Family Housing (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, construction 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 1.150-2 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, 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, construction 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, construction 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, construction and development of the Project that are paid before the date of initial execution and delivery of the Obligations is \$18,000,000.
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, construction and development of the Project that are expected to be reimbursed from the proceeds of the Obligations.
5. The Owner 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 Owner. 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, construction 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 CGS 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 Owner.

8. In the event it is determined that the Bonds will be issued to finance the acquisition, construction and development of the Project, 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 Owner for the acquisition, construction 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, construction, development or operation of the Project.

IN COUNCIL, HAYWARD CALIFORNIA, _____, 2006

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

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