RESOLUTION NO. 2018-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING THE ISSUANCE OF REVENUE BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $70,000,000 TO FINANCE A 201 UNIT SCATTERED SITE MULTIFAMILY PROJECT FOR THE BENEFIT OF CHARLES CYPRESS LP (OR AN AFFILIATE), AND CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, this project came before the City Council on December 1, 2015 and a TEFRA Hearing was held and Resolution No. 2015-136 was approved. However, at that time, the project only included Charles Apartments. For feasibility reasons and due to the condition of the neighboring property, Cypress Gardens, a decision was made by the developer to hold off on the project for a couple of year until they could include the Cypress Gardens property in the financing; and

WHEREAS, Charles Cypress LP, a California limited partnership or another entity created by Eden Housing, Inc. or an affiliate thereof (collectively the "Borrower"), has requested that the California Municipal Finance Authority (the "Authority") issue one or more series of revenue bonds in an aggregate principal amount not to exceed $70,000,000, including but not limited to revenue bonds issued as part of a plan to finance the Project described herein (the "Bonds") for the acquisition, construction, rehabilitation, refinancing or development of a 201-unit scattered site multifamily project (the "Project") to be owned and operated by the Borrower and located at 3109 Seacrest Avenue and 3135 Seacrest Avenue within the City of Marina (the "City"); 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 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:

<u>Section 1</u>. The foregoing recitals are true and correct.

Section 2. the City Council rescinds Resolution No. 2015-136, 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).

Section 3. 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 constitutes 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 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. The Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Authority in care of its counsel:

Ronald E. Lee, Esq.
Jones Hall, APLC
475 Sansome Street, Suite 1700
San Francisco, CA 94111

Section 6. 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 on this 3rd day of April 2018.

AYES, COUNCIL MEMBERS: Amadeo, Morton, O'Connell, Brown, Delgado
NOES, COUNCIL MEMBERS: None
ABSTAIN, COUNCIL MEMBERS: None
ABSENT, COUNCIL MEMBERS: None

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Bruce C. Delgado, Mayor

ATTEST:

By: __________________________
Anita Sharp, Deputy City Clerk

March 28, 2018 Item No: **9a**

Honorable Mayor and Members of the
Marina City Council

City Council Meeting
of April 3, 2018

CITY COUNCIL CONDUCT A TAX EQUITY AND FISCAL RESPONSIBILITY ACT PUBLIC HEARING, TAKE ANY TESTIMONY FROM THE PUBLIC AND CONSIDER ADOPTING RESOLUTION NO. 2018-, APPROVING THE ISSUANCE UP TO $70,000,000 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 AND CYPRESS GARDENS 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 Resolution No. 2018-, approving the issuance of up to $70,000,000 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 for the acquisition, construction, rehabilitation, refinancing or development of a 201-unit scattered site multifamily project to be owned and operated by the Borrower and located at 3109 Seacrest Avenue and 3135 Seacrest Avenue within the City of Marina (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); and

3. Rescind Resolution No. 2015-136, 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 290 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 $70,000,000 for the acquisition, construction, rehabilitation, refinancing or development of a 201-unit scattered site multifamily project (the "Project") to be owned and operated by the Borrower and located at 3109 Seacrest Avenue and 3135 Seacrest Avenue within the City of Marina, California.

This project came before the City Council on 12/1/2015 and a TEFRA Hearing was held and a Resolution approved. However, at that time, the project only included Charles Apartments. For feasibility reasons and due to the condition of the neighboring property, Cypress Gardens, a decision was made by the developer to hold off on the project for a couple of year until they could include the Cypress Gardens property in the financing.

Charles Apartments-Cypress Gardens is a scattered-site 4% Federal tax credit and tax-exempt bond project in Marina. Charles Apartments is a 105-unit family affordable housing development built in 1971 (3109 Seacrest Avenue) and Cypress Gardens is a 96-unit family affordable housing development built in 1973 (3135 Seacrest Avenue), both in a residential neighborhood characterized by single-family housing and low-rise apartment buildings. The scattered-site project is a first-time syndication as an acquisition-rehabilitation of existing, occupied affordable housing. The rehabilitation will preserve this valuable affordable housing resource and allow the property to perform as high-quality housing for families in Marina in the long term.

Charles Apartments: Project Characteristics and Scope of Work

Charles Apartments consists of 36 two-story residential buildings and one one-story community building. The project is comprised of wood-framed buildings with stucco siding and flat roofs. The project does not have elevators. There are currently 107 off-street parking spots.

The project consists of 105 units total: 11 two-bedroom, 60 three-bedroom, 28 four-bedroom, and 6 five-bedroom units. Each unit has a main living space that includes the kitchen, living area, and one or two bathrooms. The apartments are on a 4.24-acre site with shared outdoor space, tot lots, and tuck-under parking and uncovered surface parking.

In order to address the capital needs of the project, Eden has developed a scope of work that will ensure the properties will continue to perform as high-quality affordable housing over the coming decades. The scope of work prioritizes life and safety, code compliance, waterproofing, and energy and water efficiency improvements. These items would be specifically addressed by the following scope of work:

Building Envelope Improvements:

- Replace roofs
- Replace windows
- Select exterior siding upgrades
- Address water intrusion damage where it occurs

Energy Efficiency Upgrades:

- Improve site energy efficiency by 10% over current, per the energy model
- Install solar photovoltaics and solar thermal, as budget and regulatory approvals allow
- Upgrade HVAC, mechanical and electrical systems, as needed

Water Conservation Upgrades:

- Retrofit irrigation system
- Remove lawn where possible and replace with drought resistant landscaping

Mobility Upgrades:

- Make mobility improvements

Unit Interior Improvements:

- Repair and upgrade unit elements as called for in the PNA and energy model

Common Area/On-site Amenity Improvements:

- Community building upgrades
- Repairs to tot lots, landscaping, site hardscape and paving
- Repair parking areas
- Repair site fencing
- Repair or replace site lighting

No Off-Site Improvements

At this time, the project sponsor does not anticipate that any off-site improvements will be necessary for the rehabilitation of this project. There is a small possibility that, in the process of obtaining the building permits for these projects, that the City of Marina may require some minimal offsite improvements.

Cypress Gardens: Project Characteristics and Scope of Work

Charles Apartments consists of 12 two-story residential buildings and one one-story community building. The project is comprised of wood-framed buildings with stucco siding, wood trim and shingled roofs. The project does not have elevators. There are currently 117 off-street parking spots. The project consists of 96 units total: 16 one-bedroom and 80 two-bedroom units. Each unit has a main living space that includes the kitchen, living area, and one bathrooms. The apartments are on a 6-acre site with shared outdoor space, a tot lot, and uncovered surface parking.

In order to address the capital needs of the project, Eden has developed a scope of work that will ensure the properties will continue to perform as high-quality affordable housing over the coming decades. The scope of work prioritizes life and safety, code compliance, waterproofing, and energy and water efficiency improvements. These items would be specifically addressed by the following scope of work:

Building Envelope Improvements:

- Replace roofs
- Replace windows
- Repair or replace trim
- Address water intrusion damage where it occurs

Energy Efficiency Upgrades:

- Improve site energy efficiency by 10% over current, per the energy model
- Install solar photovoltaics and solar thermal, as budget and regulatory approvals allow
- Upgrade HVAC, mechanical and electrical systems, as needed

Water Conservation Upgrades:

- Retrofit irrigation system
- Remove lawn where possible and replace with drought resistant landscaping

Mobility Upgrades:

- Make mobility improvements

Unit Interior Improvements:

- Repair and upgrade unit elements as called for in the PNA and energy model

Common Area/On-site Amenity Improvements:

- Community building upgrades
- Repairs to tot lot, landscaping, site hardscape and paving
- Repair parking areas
- Repair site fencing
- Repair or replace site lighting

No Off-Site Improvements

At this time, the project sponsor does not anticipate that any off-site improvements will be necessary for the rehabilitation of this project. There is a small possibility that, in the process of obtaining the building permits for these projects, that the City of Marina may require some minimal offsite improvements.

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 $17,360 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,

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Layne P. Long
City Manager
City of Marina