



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: A Public Hearing to consider the issuance of Bonds by the California Municipal Finance Agency in Support of the Bow Street Apartments Project

MEETING DATE: April 12, 2017

PREPARED BY: Sarah Bontrager, Housing and Public Services Manager

DEPARTMENT HEAD: Darren Wilson, PE, Development Services Director

RECOMMENDED ACTION:

Staff recommends the City Council:

1. Conduct a public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended, in connection with the proposed issuance of one or more series of revenue bonds by the California Municipal Finance Authority (CMFA); and
2. Adopt a resolution approving the issuance of the bonds by the CMFA for the benefit of Elk Grove Pacific Associates III, a California Limited Partnership (Borrower) or a partnership created by Pacific West Communities, Inc. (Developer), to provide for the financing of a portion of a 98-unit multifamily affordable rental housing project located at 8627 Bow Street. Such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code, and the California Government Code Section 6500 (and following).

BACKGROUND INFORMATION:

In 2016, the Developer proposed a 98-unit affordable apartment complex to be located at 8627 Bow Street in Elk Grove. On June 22, 2016, the City made a loan commitment of \$5 million in support of the project, which

allowed the Developer to apply for the other sources of funding needed in order to build the project. It was originally anticipated that the project would receive 9% low-income housing tax credit financing.

Subsequent to the City's funding commitment, the Developer secured 9% tax credits for the project. Unfortunately, due to political uncertainty at a national level, the revenues anticipated from the sale of the 9% tax credits are no longer adequate to build the project. The Developer is exploring an alternate financing strategy that would bifurcate the existing project in order to make use of a combination of 9% and 4% tax credit financing. Under the strategy, the project would be developed by two, legally-separate entities which together would provide the same number of units and the same level of affordability as originally approved by the City.

In order to move forward with securing 4% tax credit financing, a public hearing (TEFRA hearing) is required.

ANALYSIS:

The Developer has requested that the CMFA serve as the municipal issuer of one or more series of tax-exempt revenue bonds in an aggregate principal amount not to exceed \$10,000,000. The proceeds of the bonds will be used for a portion (covering 48 units) of the acquisition, construction, improvement, and equipping of a 98-unit multifamily affordable rental housing project located at 8627 Bow Street, Elk Grove, California, generally known as Bow Street Apartments II (Project), and operated by USRG (California) Inc., a California Corporation.

In order for all or a portion of the bonds to qualify as tax-exempt bonds, the City must conduct a TEFRA hearing, providing members of the community with an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. Prior to the 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.

The California Municipal Finance Authority

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 250 municipalities, including the City of Elk Grove, have become members of CMFA.

The CMFA was formed to assist local governments, nonprofit organizations, and businesses with the issuance of taxable and tax-exempt bonds aimed at improving the standard of living in California. The CMFA's representatives and its Board of Directors have considerable experience in bond financing.

ENVIRONMENTAL IMPACT:

The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary "projects." A "project," under CEQA, is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." CEQA Guidelines §15061 (b)(3) describes the General Rule that CEQA only applies to projects which "have the potential for causing a significant effect on the environment; where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

The action being taken by the City Council is to adopt a resolution approving the issuance of revenue bonds by the California Municipal Finance Authority to provide for the financing of a portion of a 98-unit multifamily affordable rental housing project. Such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code, and the California Government Code Section 6500 (and following). The 98-unit multifamily affordable rental housing project was previously approved and environmental impacts associated with that project were analyzed under a separate CEQA document. This City Council action does not involve the approval of any physical development or activity that would have the potential for causing a significant effect on the environment. Therefore activity is not a project and not subject to CEQA.

FISCAL IMPACT:

The bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, and the City will have no financial, legal, or 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.

The Board of Directors of the California Foundation for Stronger Communities, a California nonprofit public benefit corporation (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 Elk Grove, it is expected that a portion of the issuance fee (approximately \$5,000) will be granted by the CMFA to the City's General Fund. Such grant may be used for any lawful purpose of the City.

ATTACHMENT:

1. Resolution

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE APPROVING THE ISSUANCE OF THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY MULTIFAMILY HOUSING REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$10,000,000 FOR THE PURPOSE OF FINANCING OR REFINANCING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF BOW STREET APARTMENTS II PROJECT AND CERTAIN OTHER MATTERS RELATING THERETO (CEQA EXEMPT)

WHEREAS, Elk Grove Pacific Associates III, a California Limited Partnership (the “Borrower”) or a partnership created by Pacific West Communities, Inc. (the “Developer”), consisting at least of the Developer or a related person to the Developer and one or more limited partners, has requested that the California Municipal Finance Authority (the “Authority”) adopt a plan of financing providing for the issuance of one or more series of revenue bonds issued from time to time, including bonds issued to refund such revenue bonds in one or more series from time to time, in an aggregate principal amount not to exceed \$10,000,000 (the “Bonds”) for a portion of the acquisition, construction, improvement and equipping of a 98-unit multifamily rental housing project located at 8627 Bow Street, Elk Grove, California, generally known as Bow Street Apartments II (the “Project”) and operated by USRG (California) Inc., a California Corporation; 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 of Elk Grove (the “City”) because the Project is to be located within the jurisdiction 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, the City determined that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3), which exempts projects which, with certainty, will not have a significant effect on the environment from CEQA; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has held a duly-noticed 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 Elk Grove as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Findings

California Environmental Quality Act (CEQA)

Finding: The activity does not constitute the approval of a project under the California Environmental Quality Act (“CEQA”), and it is exempt from CEQA. (CEQA §15061(b)(3)).

Evidence: The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” CEQA Guidelines §15061 (b)(3) describes the General Rule that CEQA only applies to projects which “have the potential for causing a significant effect on the environment; where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

The action being taken by the City Council is to adopt a resolution approving the issuance of revenue bonds by the California Municipal Finance Authority to provide for the financing of a portion of a 98-unit multifamily affordable rental housing project. Such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Code, and the California Government Code Section 6500 (and following). The 98-unit multifamily affordable rental housing project was previously approved and environmental impacts associated with that project were analyzed under a separate CEQA document. This City Council action does not involve the approval of any physical development or activity that would have the potential for causing a significant effect on the environment. Therefore activity is not a project and not subject to CEQA.

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 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 to be located, in accordance with said Section 147(f) and (b) Section 4 of the Agreement.

Section 4. The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds.

Section 5. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, rehabilitation, installation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 6. 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 7. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 12th day of April 2017.

STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

**CITY OF ELK GROVE – CITY COUNCIL
NOTICE OF PUBLIC HEARING**

Dated: March 29, 2017

NOTICE is hereby given that on **April 12, 2017, at 6:00 p.m.**, or as soon thereafter as the matter may be heard, the City Council of the City of Elk Grove will hold a Public Hearing at the **Elk Grove City Hall, located at 8400 Laguna Palms Way, Elk Grove**, to consider the following actions:

CALIFORNIA MUNICIPAL FINANCE AUTHORITY BOND ISSUANCE

The purpose of this public hearing required by Section 147(f) of the Internal Revenue Code of 1986 is to consider a proposed plan of financing providing for the issuance by the California Municipal Finance Authority (the “Authority”) of its revenue bonds in one or more series issued from time to time, including bonds issued to refund such revenue bonds in one or more series from time to time, in an amount not to exceed \$10,000,000 (the “Bonds”). The proceeds of the Bonds will be used to: (1) finance or refinance a portion of the acquisition, construction, improvement and equipping of Bow Street Apartments II, a 98-unit multifamily rental housing project located at 8627 Bow Street, Elk Grove, California; and (2) pay certain expenses incurred in connection with the issuance of the Bonds. The facilities are to be owned by Elk Grove Pacific Associates III, a California Limited Partnership (the “Borrower”) or another partnership created by Pacific West Communities, Inc. (the “Developer”), consisting at least of the Developer or a related person or entity to the Developer and one or more limited partners and operated by USRG (California) Inc., a California Corporation.

The Bonds and the obligation to pay principal of and interest thereon and any redemption premium with respect thereto do not constitute indebtedness or an obligation of the Authority, the State of California, or any political subdivision thereof, within the meaning of any constitutional or statutory debt limitation, or a charge against the general credit or taxing powers of any of them. The Bonds shall be a limited obligation of the Authority, payable solely from certain revenues duly pledged therefor and generally representing amounts paid by the Borrower.

The City of Elk Grove encourages interested parties to attend public meetings and comment on the issues being discussed. Interested persons wishing to express their views on the issuance of the Bonds or on the nature and location of the facilities proposed to be financed or refinanced may attend the public hearing or, prior to the time of the hearing, submit written comments. If you wish to provide testimony and are unable to attend the meeting, written comments that are delivered to the City Clerk’s office prior to the time of the hearing will be made a part of the public record.

Additional information concerning the above matter may be obtained from Sarah Bontrager, Housing and Public Services Manager, at 916-627-3209 or sbontrager@elkgrovecity.org. Written comments may be filed with the City Clerk, City of Elk Grove, 8401 Laguna Palms Way, Elk Grove, CA 95758.

NOTICE REGARDING CHALLENGES TO DECISIONS

Pursuant to all applicable laws and regulations, if you wish to challenge in court any of the above decisions (including planning, zoning and/or environmental decisions), you may be limited to raising only those issues you or someone else raised at the public hearing(s) described in this notice/agenda, or in written correspondence delivered to the city at, or prior to, this public hearing.

ADA COMPLIANCE STATEMENT

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (916) 478-3635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.