

**RESOLUTION NO. 2003-87**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE APPROVING THE ASSOCIATE MEMBERSHIP OF THE CITY IN THE ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATION AND THE ISSUANCE OF MULTIFAMILY REVENUE BONDS BY THE ABAG FINANCE AUTHORITY OF NONPROFIT CORPORATIONS ON BEHALF OF ST. ANTON CAPITAL, LLC**

**WHEREAS**, at its April 2, 2003 the City Council of Elk Grove approved a financial commitment to Geneva Pointe Apartment (the "Project"), a 156-unit multifamily residential rental project to be generally known as Geneva Pointe and to be located at the southwest corner of Old Calvine Road and Auberry Drive, Elk Grove, California; and

**WHEREAS**, the ABAG Finance Authority for Nonprofit Corporations (the "Authority"), proposes to issue multifamily housing revenue bonds (the "Bonds") in an amount not to exceed \$15,000,000 and to lend the proceeds thereof to St. Anton Capital, LLC, a California limited liability company, or any partnership or limited liability company formed by St. Anton Capital, LLC (the "Borrower"), to be used for the acquisition and construction of the Project, all to be owned and operated by the Borrower or an entity related thereto or a partner thereof; and

**WHEREAS**, the Borrower has requested that the Authority issue multifamily housing revenue bonds in an aggregate principal amount not to exceed \$15,000,000 (the "Bonds") for the purpose of providing financing for the acquisition, construction and development of the Project; and

**WHEREAS**, the Bonds or a portion thereof will be "private activity bonds" for purposes of the Internal Revenue Code of 1986 (the "Code"); and

**WHEREAS**, pursuant to Section 147(f) of the Code, prior to their issuance, private activity bonds are required to be approved by the "applicable elected representative" of the governmental units on whose behalf such bonds are expected to be issued and by a governmental unit having jurisdiction over the entire area in which any facility financed by such bonds is to be located, after a public hearing held following reasonable public notice; and

**WHEREAS**, the members of this City Council are the applicable elected representatives of the City; and

**WHEREAS**, a public hearing was held by the Council on this 30th day of April, 2003, following duly published notice thereof, and all persons desiring to be heard have been heard; and

**WHEREAS**, it is intended that this resolution shall constitute the approval of the issuance of the Bonds required by Section 147(f) of the Code and Section 9 of the Agreement; and

**WHEREAS**, it is in the public interest and for the public benefit that the City Council of the City of Elk Grove, as the elected representative of the City of Elk Grove, the host jurisdiction of the subject multifamily housing residential facility, approve the issuance and delivery by the Authority of the Bonds; and

**WHEREAS**, the draft of the Associate Membership Agreement by and between the ABAG Finance Authority for Nonprofit Corporations and the City of Elk Grove has been filed with the City of Elk Grove and has been reviewed; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Elk Grove hereby:

1. The City Council hereby approves membership by the City in ABAG FANC and authorizes and directs the City Manager, or any designee of such officer, (the "Designated Officer") to execute and deliver and Associate Membership Agreement and authorizes and directs the City Clerk to attest to such signature, in substantially the form on file with the City Clerk, together with any changes therein deemed advisable by the City Attorney or Designated Officer signing such Associate Membership Agreement.

2. The City Council of the City of Elk Grove hereby finds, determines and declares that issuance by the Authority of the Bonds in the maximum principal amount not to exceed \$15,000,000 for the purposes described above is hereby approved. It is the purpose and intent of the City Council that this resolution constitute approval of the Bonds for the purposes of (a) Section 147(f) of the Code and (b) Section 9 of the Agreement.

3. The issuance and delivery of the Bonds shall be subject to the approval of and execution by the Authority of all financing documents relating thereto to which the Authority is a party and subject to the sale of the Bonds by the Authority.

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 that 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 approved hereby.

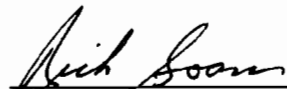
5. The adoption of this Resolution shall not obligate (i) the City to provide financing to the Borrower for the acquisition, construction, rehabilitation and development of the Project or to issue the Bonds for purposes of such financing; or (ii) the City, or any department of the City to approve any 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, rehabilitation, development or operation of the Project.

6. The City Clerk of the City shall forward a certified copy of this Resolution and a copy of the affidavit of publication of the public hearing notice to:

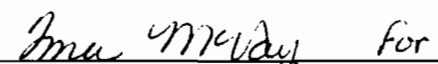
Thomas A. Downey  
Jones Hall, A Professional Law Corporation  
650 California Street, 18<sup>th</sup> Floor  
San Francisco, California 94108

7 This resolution shall take effect upon its adoption.


**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 30<sup>th</sup> day of April 2003.

  
\_\_\_\_\_  
RICK SOARES, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

 For  
\_\_\_\_\_  
PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ANTHONY B. MANZANETTI,  
CITY ATTORNEY

**AYES:** Soares, Scherman, Briggs, Cooper, Leary  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

## ASSOCIATE MEMBERSHIP AGREEMENT

by and between the

ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS  
and the  
CITY OF ELK GROVE

THIS ASSOCIATE MEMBERSHIP AGREEMENT dated as of May 1, 2003, by and between the ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS, a joint powers authority duly organized and existing under the laws of the State of California (“the Authority”) and the CITY OF ELK GROVE, a municipal corporation and general law city duly organized and existing under the laws of the State of California (the “City”);

WITNESSETH:

WHEREAS, certain public agencies of the State of California (collectively, the “member”), have entered into a Joint Powers Agreement, dated as of April 1, 1990, revised as of September 18, 1990 and further revised as of June 9, 1992 (the “Agreement”), establishing the Authority and prescribing its purposes and powers; and

WHEREAS, the Authority has been formed for the purpose, among others, to assist nonprofit corporations and other entities to obtain financing for projects and purposes serving the public interest; and

WHEREAS, the Board of Directors of the Authority has determined that the City should become an associate member of the Authority;

NOW, THEREFORE, in consideration of the above premises and of the mutual promises herein contained, the Authority and the City do hereby agree as follows:

*Section 1. Purpose.* The purpose of this Associate Membership Agreement is to assist nonprofit corporations and other entities to obtain financing for projects and purposes servicing the public interest within or impacting upon the City.

*Section 2. Associate Members Status.* The City is hereby made an associate member of the Authority for all purposes of the Agreement, the provisions of which are hereby incorporated herein by reference. From and after the date of execution and delivery of this Associate Membership Agreement by the City and the Authority, the City shall be and remain an associate member of the Authority.

*Section 3. Restrictions on Rights of City.* The City shall not have the right, as associate member of the Authority, to vote on any action to be taken by the Authority or participate in debate. In addition, no officer, employee or representative of the City shall have any right to become an officer or director of the Authority.

*Section 4. Effect of Prior Authority Actions.* The City hereby agrees to be subject to and bound by all actions previously taken by the Board of the Authority to the same extent as the other members of the Authority are subject to and bound by such actions.

*Section 5. No Obligations of City.* The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the City

*Section 6. Execution of the Agreement.* Execution of this Associate Membership Agreement to be executed and attested by their proper officers thereunto duly authorized, on the day and year first set forth above.

ABAG FINANCE AUTHORITY FOR  
NONPROFIT CORPORATIONS

By: \_\_\_\_\_

Title: Chief Financial Officer

Attest:

\_\_\_\_\_  
Secretary

CITY OF ELK GROVE


By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

  
\_\_\_\_\_