TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER
DEPARTMENT: ADMINISTRATIVE SERVICES
DATE: JUNE 2, 2008
CMR: 260:08

SUBJECT: TEFRA HEARING REGARDING CONDUIT FINANCING FOR THE FABIAN WAY SENIOR APARTMENTS PROJECT LOCATED AT 901 SAN ANTONIO ROAD, PALO ALTO, AND ADOPTION OF A RESOLUTION APPROVING THE ISSUANCE OF BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $14,000,000 FOR THE PURPOSE OF FINANCING THE CONSTRUCTION OF FABIAN WAY SENIOR APARTMENTS

RECOMMENDATION

1) Conduct a public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1983 (TEFRA) and the Internal Revenue Code of 1986, as amended (Code); and

2) Adopt a resolution (Attachment A) approving the issuance of the bonds in an aggregate principal amount not to exceed $14,000,000 by the California Municipal Finance Authority (CMFA) for the benefit of Fabian Way Associates, L.P. (Borrower) in financing Fabian Way Senior Apartments.

BACKGROUND

Bridge Housing Corporation (Bridge) a non-profit affordable housing developer, is developing a 56 unit low income senior project in Palo Alto. To finance the project, Bridge requested that the CMFA serve as the issuer of tax exempt revenue bonds for the Fabian Way Senior Apartments project in an aggregate principal amount not to exceed $14,000,000. Proceeds from the issuance of the bonds will be used to finance the acquisition, construction and improvement of a 56 unit multifamily housing facility located at 901 San Antonio Road in the City of Palo Alto, California for the benefit of the Fabian Way Associates, L.P. (FWALP), a limited partnership created by Bridge.

In order for all or a portion of the bonds to qualify as tax-exempt bonds, a qualifying public agency (such as Palo Alto) must conduct a public hearing (TEFRA Hearing), to provide 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 the 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 proposed project must provide its approval of the issuance of the bonds for the financing of the project.

**DISCUSSION**

Since the facilities to be financed with the proceeds of the CMFA’s debt are located within the jurisdiction of the City of Palo Alto, the City has been asked to conduct a TEFRA hearing and adopt a resolution (Attachment A) that approves both the issuance of bonds by the CMFA for the benefit of FWALP.

As cited in the published notice of May 16, 2008, the public hearing is simply an opportunity for all interested persons to speak or to submit written comments concerning the proposal to issue the debt and the nature or location of the facility to be financed; however, there is no formal obligation on the part of the borrower or the Council to respond to any specific comments made during the hearing or submitted in writing.

The financing includes, but is not limited to the acquisition, construction and improvement of a 56 unit multifamily affordable senior housing facility located at 901 San Antonio Road in the City of Palo Alto.

The CMFA is a joint exercise of powers authority that the City became a member of on April 14, 2008. The Joint Exercise of Powers Agreement provides that the CMFA is a public entity, separate and apart from each member executing such agreement. The debts, liabilities and obligations of the CMFA do not constitute debts, liabilities or obligations of the members executing such agreement. The bonds to be issued by the CMFA for the project will be the sole responsibility of the borrower (FWALP), and the City of Palo Alto will have no financial or legal, 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 of Palo Alto or the State of California but are to be paid for solely from funds provided by the borrower.

The City is not exposed to any financial liability by reason of its membership in the CMFA. In addition, participation by the City in the CMFA does not impact the City’s appropriations limits and will not constitute any type of indebtedness by the City. 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.

Based on the benefits of the project to the Palo Alto community and the lack of any financial obligations on the part of the City, staff recommends that Council approve the attached resolution.

**RESOURCE IMPACT**

As stated, the City will incur no financial obligation from approval of the recommendations. Fabian Way Associates, L.P. is requesting authority to issue up to $14 million in bonds through
the CMFA. The City will receive a fee for its services when the bonds are issued. The City would receive approximately $8,750 if the par amount of the bonds issued is $14 million as reimbursement for costs associated with conducting the TEFRA hearing.

POLICY IMPLICATIONS
Actions recommended in this report are consistent with Council’s prior actions in supporting non-profit financings under the TEFRA (e.g., approving tax-exempt financing through the California Municipal Finance Authority for the Gideon Hausner Jewish Day School projects, CMR: 184:08).

ENVIRONMENTAL REVIEW
Action on this item does not constitute a project under Section 21065 of the Public Resources Code.

ATTACHMENTS
Attachment A: Resolution of the Council of the City of Palo Alto Approving the Issuance of Bonds by the California Municipal Finance Authority in an Aggregate Principal amount not to exceed $14,000,000 for the Purpose of Financing the Construction of Fabian Way Senior Apartments.

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