



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Scott P. Johnson

SUBJECT: SEE BELOW

DATE: October 25, 2010

Approved

Date

11/2/10

COUNCIL DISTRICT: Citywide

**SUBJECT: APPROVAL OF CONDUIT FINANCING FOR LINCOLN GLEN MANOR
FOR SENIOR CITIZENS -- TEFRA HEARING**

RECOMMENDATION

- a. Hold a Tax Equity and Fiscal Responsibility Act ("TEFRA") Hearing for the issuance of \$14,000,000 of tax-exempt 501(c)(3) revenue bonds by the California Municipal Finance Authority ("CMFA") for the benefit of Lincoln Glen Manor for Senior Citizens Project located at 2671 Plummer Avenue, San José, CA.
- b. Adoption of a resolution approving the issuance of Tax-Exempt Revenue Bonds, by the CMFA in an aggregate principal amount not to exceed \$14,000,000 to be used to (a) refund, on a current basis, all outstanding ABAG Finance Corporation for Nonprofit Corporations Insured Certificates of Participation (Lincoln Glen Manor for Senior Citizens), Series 2000, executed and delivered to (i) refinance certain existing indebtedness of Lincoln Glen Manor for Senior Citizens ("the Corporation"), (ii) finance the renovation of existing buildings, and (iii) finance the costs of construction of a 31 unit assisted living facility; (b) finance the conversion of 8 independent living units (from a 20 unit building) into 11 memory care beds for patients suffering from Alzheimer's disease and dementia; and (c) finance the expansion, remodeling and updating of the Corporation's Central Manor, all located at the Corporation's multi-level facility for the elderly at 2671 Plummer Avenue in the City to be owned and operated by the Corporation and located within the City.

OUTCOME

Approval of this recommendation will allow the Lincoln Glen Manor for Senior Citizens Project to move forward with their current financing plan.

BACKGROUND

CMFA was established in 2004 under the California Government Code as a statewide Joint Powers Authority to provide local governments and private industry access to tax-exempt low-interest financing to achieve public benefit goals. CMFA is unique in that it shares a portion of its fees directly with its member communities.

Pursuant to the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"), where a project is to be financed by the sale of certain tax exempt bonds, a noticed public hearing must be held by the City Council to receive public comment on the proposed issuance of bonds and the location and nature of the facilities to be financed.

The proposed project, Lincoln Glen Manor for Senior Citizens, a nonprofit public benefit corporation (the "Corporation"), is seeking to issue up to \$14,000,000 of tax-exempt conduit bonds to refund certain existing debt and finance the conversion, expansion, remodeling and updating of certain facilities located at the Corporation's multi-level facility for the elderly at 2671 Plummer Avenue, San José, CA, to be owned and operated by the Corporation.

ANALYSIS

The Board of Directors of the California Foundation for Stronger Communities ("CFSC"), a California non-profit public benefit corporation, acts as the Board of Directors for CMFA. CMFA shares a portion of its issuance fees with its member communities and donates a portion of issuance fees to the Foundation for the support of local charities. The City of San José is expected to receive 25% of the issuance fee, or approximately \$7,300, upon closing of the bonds which is expected to occur in January 2011.

Pursuant to Section 147(f) of the Internal Revenue Code of 1986, the issuance of the Bonds by CMFA requires the City's approval because the projects are located within the territorial limits of the City. 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 bond after a public hearing ("TEFRA hearing"), which is scheduled to be held as part of the action items on the November 16, 2010 Council Agenda, following reasonable public notice. The proposed bond issuance by CMFA is classified as a private activity for purposes of the Internal Revenue Code (the "Code"). Because CMFA's Board of Directors is not an elected body, the Code provides that a governmental unit with elected representatives and jurisdiction over the area in which the project to be financed is

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located, in this case, the City Council of San José, is an “applicable elected representative” with respect to the bond issue. The public hearing notices will be published in the *San Jose Mercury News*, announcing the time and location of the public hearings on or about November 2, 2010.

Federal tax law limits the types of projects that may be funded with tax-exempt bond proceeds since the interest earned on such bonds is exempt from federal taxation. The purpose of a TEFRA public hearing is to identify a project which may subsequently receive funding from the sale of private activity tax-exempt bonds. A hearing will also provide interested individuals or parties the opportunity to provide testimony on any matters related to such potential bond issues, including the nature and location of the project.

Lincoln Glen Manor for Senior Citizens, a nonprofit public benefit corporation (the “Corporation”), is seeking to issue up to \$14,000,000 of tax-exempt conduit bonds to (a) refund, on a current basis, all outstanding ABAG Finance Corporation for Nonprofit Corporations Insured Certificates of Participation (Lincoln Glen Manor for Senior Citizens), Series 2000, executed and delivered to (i) refinance certain existing indebtedness of the Corporation, (ii) finance the renovation of existing buildings, and (iii) finance the costs of construction of a 31 unit assisted living facility; (b) finance the conversion of 8 independent living units (from a 20 unit building) into 11 memory care beds for patients suffering from Alzheimer’s disease and dementia; and (c) finance the expansion, remodeling and updating of the Corporation’s Central Manor, all located at the Corporation’s multi-level facility for the elderly at 2671 Plummer Avenue in the City, to be owned and operated by the Corporation and located within the City.

PUBLIC OUTREACH

The TEFRA hearing to be held as part of the action items on the November 16, 2010 Council Agenda is a method of notifying the community of CMFA’s intent to issue tax-exempt private activity bonds for these projects. The public hearing notice will be published on or about November 2, 2010 in the *San Jose Mercury News*, announcing the time and location of the public hearing.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

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COORDINATION

This memorandum has been prepared by the Finance Department in coordination with the City Attorney's Office.

COST IMPLICATIONS

The TEFRA hearing will have no fiscal impact on the City as there are no City funds in this project. The tax-exempt bonds issued by CMFA will be secured solely by the respective project's revenues.

CEQA

Not a Project, File No.PP10-067 Non-Project Specific Funding Mechanism.

/s/

SCOTT P. JOHNSON

Director, Finance Department

For questions please contact Julia H. Cooper, Assistant Finance Director, at (408) 535-7011.