

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE ISSUANCE BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY OF TAX-EXEMPT REVENUE BONDS FOR THE ELENA GARDENS APARTMENTS

WHEREAS, EAH Housing, Inc., California nonprofit public benefit corporation has requested that the California Municipal Finance Authority, a joint powers authority (“CMFA”) (the “Issuer”) issue its tax exempt bonds (the “Bonds”) in an aggregate principal amount not to exceed \$23,000,000 for the purpose of providing funds to allow a limited partnership or a limited liability company established by EAH Housing, Inc. to finance the acquisition, rehabilitation and improvement of property, including real and personal property, at the 168-Unit Elena Gardens Apartments affordable housing project located at 1900 Lakewood Drive, San José, CA (the “Project”), and to pay costs related to the issuance of the bonds; 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, the issuance of the Bonds must be approved by the applicable elected representative of the governmental unit having jurisdiction over the territorial limits in which the Project is located after a public hearing held following reasonable public notice pursuant to the public approval requirement of Section 147(f) of the Code, as amended; and

WHEREAS, pursuant to Section 147(f) of the Code, the issuance of the Bonds by the Issuer must be approved by the Council of the City of San José (“City Council”)

because the Project is located within the territorial limits of the City and the City Council is the applicable elected representative of the City; and

WHEREAS, the Issuer has requested that the City Council approve the issuance of the Bonds and approve the Project 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 dated as of January 1, 2004 (the "Agreement"), among certain local agencies, including the City; and

WHEREAS, the City Council held a public hearing on March 29, 2011, providing a reasonable opportunity for persons to comment on the issuance of the Bonds and the Project; and

WHEREAS, there has been published, at least 14 days prior to March 29, 2011, in a newspaper of general circulation within the City, a notice that a public hearing regarding the Bonds and the Project would be held on the date specified in such notice; and

WHEREAS, it is intended that this Resolution shall constitute the approval of the Project and approval of the issuance of the Bonds required by Section 147(f) of the Code and the requirements of Section 4 of the Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The above recitals are true and correct.
2. The issuance of the Bonds by the Issuer and the Project are hereby approved. It is the purpose and intent of the City Council that this Resolution constitute

approval of the issuance of the Bonds by the Issuer for the purposes of Section 147(f) of the Internal Revenue Code of 1986 and Section 4 of the Joint Exercise of Powers Agreement dated January 1, 2004.

3. This Resolution shall take effect immediately upon its adoption.
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.

ADOPTED this _____ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk