




# TOWN OF FAIRFAX

## STAFF REPORT

### April 3, 2019

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager 

**SUBJECT:** Adopt a resolution approving the issuance of bonds by the California Municipal Finance Authority (CMFA) for the benefit of Mercy Housing California 84, L.P., to provide for the financing of the Bennet House Apartments Affordable Housing Project, with *no financial obligation to the Town*; such adoption is solely for the purposes of satisfying the requirements of TEFRA, IRS Code and the California Government Code Section 6500; exempt from CEQA per 14 CFR 15301

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#### **RECOMMENDATION**

- 1) Conduct the public hearing under the requirements of Tax Equity and Fiscal Responsibility Act (TEFRA) and the Internal Revenue Code (IRS) of 1986, as amended; and
- 2) Adopt a resolution approving the issuance of the bonds by the CMFA for the benefit of Mercy Housing California 84, L.P., to provide for the financing of the Bennet House, such adoption is solely for the purposes of satisfying the requirements of TEFRA, IRS Code and the California Government Code Section 6500, with no financial obligation to the Town.

#### **DISCUSSION**

Mercy Housing California (the "Sponsor"), on behalf of Mercy Housing California 84, L.P., a California limited partnership (the "Borrower"), has requested that the California Municipal Finance Authority (CMFA) issue one or more series of revenue bonds in an aggregate principal amount not to exceed \$30,000,000 including but not limited to revenue bonds issued as part of a plan to finance the Project described herein for the acquisition, rehabilitation, improvement and equipping of a 70-unit rental apartment facility (Bennett House) occupied by low-income seniors and persons with disabilities, to be owned and operated by the Borrower or another entity affiliated with the Sponsor, and located at 53 Taylor Drive within the Town of Fairfax.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the Town of Fairfax must conduct a public hearing (the "TEFRA Hearing") providing for 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. Following the close of the TEFRA Hearing, an "applicable elected representative" of the governmental unit (i.e., Town Council) hosting the Project must provide its approval of the issuance of the Bonds for the financing of the Project.

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, and the Town will have no financial, legal, 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 Town 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 non-profit public benefit corporation (the "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 Town of Fairfax, it is expected that that a portion of the issuance fee attributable to the Town will be granted by the CMFA to the general fund of the Town. Such grant may be used for any lawful purpose of the Town.

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 300 municipalities, including the Town of Fairfax, have become members of CMFA. CMFA was formed to assist local governments, non-profit 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 financings.

**CEQA**

This action is exempt from CEQA per 14 CFR 15301, as it can be shown with certainty that the action will have no adverse significant effect on the environment.

**FISCAL IMPACT**

None

**ATTACHMENT**

Resolution

RESOLUTION 19-\_\_\_

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
APPROVING THE ISSUANCE OF REVENUE BONDS BY THE CALIFORNIA  
MUNICIPAL FINANCE AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT  
TO EXCEED \$30,000,000 TO FINANCE A 70-UNIT RENTAL APARTMENT FACILITY  
(BENNET HOUSE) FOR THE BENEFIT OF MERCY HOUSING CALIFORNIA 84, L.P.,  
AND CERTAIN OTHER MATTERS RELATING THERETO**

**WHEREAS**, Mercy Housing California (the "Sponsor"), on behalf of Mercy Housing California 84, L.P., a California limited partnership (the "Borrower"), has requested that the California Municipal Finance Authority (the "Authority") issue one or more series of revenue bonds in an aggregate principal amount not to exceed \$30,000,000 including but not limited to revenue bonds issued as part of a plan to finance the Project described herein (the "Bonds") for the acquisition, rehabilitation, improvement and equipping of a 70-unit rental apartment facility occupied by low-income seniors and persons with disabilities (the "Project"), to be owned and operated by the Borrower or another entity affiliated with the Sponsor, and located at 53 Taylor Drive within the Town of Fairfax (the "Town"); 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 Town because the Project is to be located within the territorial limits of the Town; and

**WHEREAS**, the Town Council (the "Town Council") is the elected legislative body of the Town 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 Town 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 Town; and

**WHEREAS**, pursuant to Section 147(f) of the Code, the Town Council has, following notice duly given, held a 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 HEREBY RESOLVED** by the Town Council of the Town of Fairfax as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The Town Council hereby approves the issuance of the Bonds by the Authority. It is the purpose and intent of the Town 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 3. The officers of the Town 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 4. The Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Authority in care of its counsel:

Ronald E. Lee, Esq.  
Jones Hall, APLC  
475 Sansome Street, Suite 1700  
San Francisco, CA 94111

Section 5. This resolution shall take effect immediately upon its adoption.

The foregoing resolution was adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 3<sup>rd</sup> day of April 2019 by the following vote, to wit:

AYES:  
NOES:  
ABSENT:

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BARBARA COLER, Mayor

Attest: \_\_\_\_\_  
Michele Gardner, Town Clerk