

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD APPROVING THE REISSUANCE OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS IN ACCORDANCE WITH SECTION 147(f) OF THE INTERNAL REVENUE CODE, APPROVING AN AMENDMENT TO A CONSTRUCTION AND PERMANENT LOAN AGREEMENT (MULTIFAMILY HOUSING BACK TO BACK LOAN PROGRAM) (HAYWARD FOUR APARTMENTS), AND AUTHORIZING AND APPROVING RELATED ACTIONS

WHEREAS, Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as the same may be amended (the "Act"), and City of Hayward Ordinance No. 81-023, adopted on June 16, 1981 and codified at Article 10 of Chapter 8 of the City of Hayward Municipal Code, as the same may be amended (the "Ordinance" and together with the Act, the "Note Law") authorizes the City of Hayward (the "City") to incur indebtedness for the purpose of financing the acquisition, construction, rehabilitation and development of multifamily rental housing facilities to be occupied in whole or in part by persons of low and very low income; and

WHEREAS, the City of Hayward (the "City") has heretofore issued its \$27,048,000 principal amount of 2016 Multifamily Housing Revenue Note (Hayward Four Apartments) (the "Note") in accordance with the Note Law, pursuant to a Funding Loan Agreement (the "Funding Loan Agreement"), between MUFG Union Bank, N.A., as the funding lender (the "Bank") and the City; and

WHEREAS, the proceeds of the Note were loaned (the "Borrower Loan") by the City to CHHP, L.P., a California limited partnership (the "Borrower"), which is affiliated with Eden Housing, Inc. (the "Sponsor"), pursuant to a Construction and Permanent Loan Agreement (Multifamily Housing Back to Back Loan Program) (Hayward Four Apartments), among the City, the Bank and the Borrower (the "Borrower Loan Agreement"), to finance the acquisition and rehabilitation of a 118-unit, scattered site, multifamily rental housing project to be known as the Hayward Four Apartments (the "Project"), consisting of four separate multifamily residential rental housing facilities, all located on separate sites in the City, including (i) the 742 Harris Apartments, a four-unit facility located at 742 Harris Court, (ii) the Harris Court Apartments, a 20-unit facility located at 734, 735, 743, 750 and 751 Harris Court, (iii) the Cypress Glen Apartments, a 54-unit facility located at 25100 Cypress Avenue, and (iv) the Huntwood Commons Apartments, a 40-unit facility located at 27901 Huntwood Avenue; and

WHEREAS, all or a portion of the units in the Project are occupied by persons or families of lower or very low income; and

WHEREAS, the Borrower and the Sponsor have requested that the City and the Bank agree to increase the amount of the Note that will be outstanding during the permanent (post-construction)

phase of the Note, thereby eliminating a portion of the mandatory prepayment, in part, of the Note that otherwise would have occurred after completion of the Project, in order to allow the Sponsor to be reimbursed for unanticipated contributions it made to the Project that were not foreseen at the time the Note was issued and the loan was made to the Borrower; and

WHEREAS, in connection with such increase of the amount of the Note to remain outstanding after completion of the Project and the conversion of the Borrower Loan to the permanent phase, the City, the Borrower and the Bank will need to enter into a First Amendment to Construction and Permanent Loan Agreement (Multifamily Housing Back to Back Loan Program) (Hayward Four Apartments) (the "First Amendment"); and

WHEREAS, such amendment will cause a technical reissuance of the Note for federal income tax purposes, which will require the City Council of the City (the "City Council"), as the elected representative of the City, the host jurisdiction of Project, to approve the First Amendment only after holding a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986; and

WHEREAS, a public hearing was held by the City on the date hereof at the City Council's meeting which commenced at the hour of 7:00 p.m. in the City Council Chambers, 777 B Street, Hayward, California 94541, following duly published notice thereof, and all persons desiring to be heard have been heard; and

WHEREAS, it is in the public interest and for the public benefit that the City Council, as the elected representative of the City, the host jurisdiction of such facilities, approve the issuance and delivery by the City, or by a joint powers authority of which the City is a member, of the Bonds;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward, as follows:

Section 1. The City finds and determines that the foregoing recitals are true and correct.

Section 2. The form of First Amendment on file with the City Clerk is hereby approved. The City Manager or her designee is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the First Amendment in said form, with such additions thereto or changes therein as are recommended or approved by the authorized signatory upon consultation with note counsel to the City, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the First Amendment

The City Council hereby further approves the reissuance of the Note in the amount of up to \$27,048,000 for purposes of Section 147(f) of the Internal Revenue Code of 1986.

Section 3. The Note will continue to be paid solely from the revenues to be received by the City or by a trustee or agent of the City from the Borrower pursuant to the Borrower Loan Agreement, as amended by the First Amendment.

Section 4. The law firm of Jones Hall, A Professional Law Corporation, is hereby designated as Bond Counsel to the City in connection with the reissuance of the Note. The law firm of Goldfarb & Lipman LLP is hereby designated as Special Counsel to the City in connection with the reissuance of the Note. The financial advisory firm of CSG Advisors Incorporated is hereby designated as Financial Advisor to the City in connection with the reissuance of the Note. The fees

and expenses of such firms and any other consultants or firms retained by the City, and the fees and expenses of the City, for matters related to the reissuance of the Note, shall be payable solely by the Borrower or the Sponsor.

Section 5. The City Manager or her designee is hereby authorized to take any and all actions necessary in order to effectuate the transactions approved herein, including, but not limited to, executing a tax certificate in connection with the reissuance of the Note.

Section 6. This Resolution shall take effect from and after its adoption.

IN COUNCIL, HAYWARD, CALIFORNIA, June 27, 2017.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward