

## ARTICLE 10

### MULTIFAMILY HOUSING REVENUE BOND LAW

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## ARTICLE 10

### MULTIFAMILY HOUSING REVENUE BOND LAW

SEC. 8-10.101 TITLE. This article may be cited as the City of Hayward Multifamily Housing Revenue Bond Law.

SEC. 8-10.102 PURPOSE.

- a. The Council hereby finds and declares that it is necessary, essential, a public purpose and a municipal affair for the City to be authorized to finance residential rehabilitation in depressed residential areas within the City in order to encourage the upgrading of property in such areas. Unless the City intervenes to provide some form of assistance to finance residential rehabilitation, many such depressed residential areas will deteriorate at an ever accelerated pace because property owners cannot obtain rehabilitation loans from private sources.
- b. The Council hereby finds and declares that it is necessary, essential, a public purpose and a municipal affair for the City to finance residential construction to encourage the development of adequate multifamily housing for persons and families of low or moderate income, and to develop viable communities by providing decent housing, enhanced living environments, and increased economic opportunities for persons and families of low or moderate income.

SEC. 8-10.103 DEFINITIONS. Unless the context otherwise requires, the terms defined in this section shall have the following meanings when used in this article:

- a. "Area median income" means the median household income within the City, as adjusted for family size, as determined by the City. Nothing in this definition shall prevent the City from adopting federal or state estimates of area median income for the City or for the standard metropolitan statistical area which includes the City, or federal or state formulas for the adjustment of area median income for family size.
- b. "Bonds" means any bonds, notes, certificates, debentures or other obligations issued by the City pursuant to this article and payable exclusively from revenues as in this article defined and from any other funds specified in this article upon which such obligations may be made a charge and from which they are payable.
- c. "City" means the City of Hayward.
- d. "Council" means the City Council of the City of Hayward.
- e. "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state or other entity or group of entities eligible to receive a loan pursuant to the terms of this article. No elective officer of the City shall be eligible to be a participating party.
- f. "Persons and families of low income" means persons and families whose income

does not exceed 80% of area median income.

- g. "Persons and families of low or moderate income" means persons and families whose income does not exceed 120% of area median income, or any higher percentage of area median income upon a determination by the Council that such amount of income is too low to qualify a substantial number of persons and families who can afford the rental or purchase of residences financed pursuant to this article.
- h. "Program loan" means any loan made pursuant to this article for any purpose specified in Sec. 8-10.201.
- i. "Qualified mortgage lender" means any mortgage lender authorized by the City to aid the City pursuant to this article. A qualified mortgage lender may be a state or national bank, federal or state-chartered savings and loan association, trust company, mortgage banker or other financial institution.
- j. "Rehabilitation" means the reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing or otherwise improving of existing residences consistent with standards of strength, effectiveness, fire-resistance, durability and safety so that such structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime because of any one or more of the following factors:
  - (1) defective design and character of physical construction,
  - (2) faulty interior arrangement and exterior spacing,
  - (3) inadequate provision for ventilation, lighting, and sanitation, or
  - (4) obsolescence, deterioration and dilapidation.
- k. "Rehabilitation area" means any area so designated by the City pursuant to Sec. 8-10.209 or any area designated by the City as a residential rehabilitation area pursuant to a comprehensive residential rehabilitation financing program adopted pursuant to the provisions of the Marks-Foran Residential Rehabilitation Act of 1973 (Part 13 of Division 24 of the Health and Safety Code of the State of California.)
- l. "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of residences located in residential rehabilitation areas, including any higher standards adopted by the City.
- m. "Residence" means real property improved with a multifamily rental housing development, which development may contain commercial space to the extent consistent with the purposes of this article.
- n. "Revenues" means amounts received as repayment of principal, interest, and all other charges received by the City with respect to program loans, any proceeds received by the City from mortgage, hazard or other insurance on or with respect to loans, all other income and receipts derived by the City from the making or purchasing of program loans, any amounts received by the City as investment earnings on moneys

deposited in a reserve fund or any similar fund securing bonds, and such other legally available moneys as the Council may, in its discretion, make available therefor.

## PROGRAM LOANS

SEC. 8-10.201 PROGRAM LOANS. The City may make, purchase from qualified mortgage lenders, or otherwise contract with qualified mortgage lenders for the making of, loans, upon such terms and conditions as the City shall deem proper, to any participating parties for any of the following purposes:

- a. To finance the rehabilitation of residences, or the acquisition of newly rehabilitated residences, located within a rehabilitation area, subject to the following limitations:
  - (1) No more than 40 percent of any such loan may be used for rehabilitation which is not required under the rehabilitation standards.
  - (2) Loans may not be made for the purpose of refinancing outstanding indebtedness with respect to a residence which has been or will be subject to rehabilitation, or for the purpose of financing the cost of acquisition of a residence which has been or will be subject to rehabilitation, unless the cost, including in such costs any amounts previously expended for rehabilitation of such residence within a rehabilitation area established at the time of such expenditure, of meeting the rehabilitation standards is at least 20 percent of the principal amount of the loan.
- b. To finance the acquisition, construction or rehabilitation by any participating party of a residence, the occupancy of at least 30 percent of the dwelling units in which will be limited to persons and families of low or moderate income, or the occupancy of at least 15 percent of the dwelling units in which will be limited to persons of low income.

SEC. 8-10.202 FEES. The City may fix fees, charges and interest rates for program loans and may from time to time as appropriate revise such fees, charges and interest rates to reflect changes in interest rates on the City's bonds, losses due to defaults, changes in program loan servicing charges or changes in other expenses related to the program loans, including City administrative expenses.

SEC. 8-10.203 TERMS AND CONDITIONS. The City may fix the character, terms and conditions upon which program loans may be made. Program loans made to participating parties by qualified mortgage lenders shall be of such character and on such terms and conditions as previously established by the City.

SEC. 8-10.204 SERVICING. The City may fix fees for servicing of program loans, or may itself undertake, or may contract to pay any person, partnership, association, corporation or public agency for such servicing.

SEC. 8-10.205 SECURITY FOR LOANS. The City may hold deeds of trust or mortgages as security for program loans and may pledge or assign the same as security for repayment of bonds. Such deeds of trust or mortgages may be assigned to, and held on behalf of the

City by, any bank or trust company appointed to act as trustee by the City in any resolution or indenture providing for issuance of bonds.

SEC. 8-10.206 PROFESSIONAL SERVICES. The City may employ such engineering, architectural, financial, accounting, legal or other services as may be necessary in the judgment of the City for the purposes of this article.

SEC. 8-10.207 ACQUISITION AND DISPOSITION OF REAL PROPERTY. The City may acquire by deed, purchase, lease, contract, gift, devise or otherwise any real or personal property, structures, rights, rights-of-way, franchises, easements and other interest in lands necessary or convenient for the purposes of this article, upon such terms and conditions as it deems advisable, and may lease, sell or dispose of the same in such manner as may be necessary or desirable to carry out the purposes of this article, upon such terms and conditions as may be established by the City.

SEC. 8-10.208 ADDITIONAL POWERS. In addition to all other powers specifically granted by this article, the City may do all things necessary or convenient to carry out the purposes of this article.

SEC. 8-10.209 REHABILITATION AREAS. The Council may by resolution designate an area within the City as a rehabilitation area upon making the following findings:

- (1) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe and sanitary housing,
- (2) Financial assistance from the City for rehabilitation is necessary to arrest the deterioration of the area, and
- (3) Financing of residential rehabilitation in the area is economically feasible.

Concurrently with any such designation, the City shall adopt a plan for such public improvements as are necessary to successful rehabilitation of such rehabilitation area.

The City hereby makes a commitment that, subject to budgeting and fiscal limitations, rehabilitation standards will be enforced in 95 percent of the residences in each such rehabilitation area, and that such plan for public improvements will be carried out.

## BONDS

### SEC. 8-10.301 ISSUANCE OF BONDS.

- a. The City may, from time to time, issue bonds for any of the purposes specified in Sec. 8-10.201. Bonds shall be negotiable instruments for all purposes, subject only to the provisions of such bonds for registration.
- b. Every issue of bonds shall be a limited obligation of the City payable from all or any specified part of the revenues and the moneys and assets authorized in this article to

be pledged or assigned to secure payment of bonds. Such revenues, moneys or assets shall be the sole source of repayment of such issue of bonds. Bonds issued under the provisions of this article shall not be deemed to constitute a debt or liability of the City or a pledge of the faith and credit of the City but shall be payable solely from specified revenues, moneys and assets. The issuance of bonds shall not directly, indirectly, or contingently obligate the City to levy or pledge any form of taxation or to make any appropriation for their payment.

All bonds shall contain on the face thereof a statement to the following effect:

Neither the faith and credit nor the taxing power of the City is pledged to the payment of the principal of, or premium or interest on this bond.

SEC. 8-10.302 COST OF ISSUANCE. In determining the amount of bonds to be issued, the City may include all costs of the issuance of such bonds, reserve funds and capitalized bond interest.

SEC. 8-10.303 AUTHORIZATION, TERMS AND SALE. Bonds may be issued as serial bonds, term bonds, installment bonds or pass-through certificates, or any combination thereof. Bonds shall be authorized by resolution of the Council and shall bear such date or dates, mature at such time or times, bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, be subject to such terms of redemption and have such other terms and conditions as such resolution or any indenture authorized by such resolution to be entered into by the City may provide. Bonds may be sold at either a public or private sale and for such prices as the City shall determine. Pending preparation of definitive bonds, the City may issue temporary bonds, which shall be exchanged for such definitive bonds when prepared.

SEC. 8-10.304 RESOLUTION. Any resolution authorizing any bonds or any issue of bonds, or any indenture authorized by such resolution to be entered into by the City may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of such bonds:

- a. the terms, conditions and form of such bonds and the interest and principal to be paid thereon,
- b. limitations on the uses and purposes to which the proceeds of sale of such bonds may be applied, and the pledge or assignment of such proceeds to secure the payment of such bonds,
- c. limitations on the issuance of additional parity bonds, the terms upon which additional parity bonds may be issued and secured, and the refunding of outstanding bonds,
- d. the setting aside of reserves and sinking funds and the regulation and disposition thereof,
- e. the pledge or assignment of all or any part of the revenues and the use and disposition thereof, subject to such agreements with the holders of bonds as may then be outstanding,

- f. limitation on the use of revenues for expenditures for operating, administration or other expenses of the City,
- g. specification of the acts or omissions to act which shall constitute a default in the duties of the City to holders of such bonds, and providing the rights and remedies of such holders in the event of default, including any limitations on the right of action by individual bondholders.
- h. the appointment of a corporate trustee to act on behalf of the City and the holders of its bonds, the pledge or assignment of program loans, deeds of trust, mortgages and any other contracts to such trustee, and the rights of such trustee,
- i. the mortgaging of any residence and the site thereof for the purpose of securing the bondholders,
- j. the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of such bonds the holders of which must consent thereto, and the manner in which such consent may be given, and
- k. any other provisions which the Council may deem reasonable and proper for the purposes of this article and the security of the bondholders.

SEC. 8-10.305 PLEDGE. Any pledge of revenues or other moneys or assets pursuant to the provisions of this article shall be valid any binding from the time such pledge is made. Revenues, moneys and assets so pledged and thereafter received by the City shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City, irrespective of whether such parties have notice thereof. Neither the resolution nor any indenture by which a pledge is created need be filed or recorded except in the records of the City.

SEC. 8-10.306 NO PERSONAL LIABILITY. Neither the members of the Council, the officers or employees of the City, nor any person executing any bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

SEC. 8-10.307 PURCHASE OF BONDS. The City shall have the power out of any funds available therefor to purchase its bonds. The City may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with the bondholders.

SEC. 8-10.308 ACTION BY BONDHOLDER. Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, and any trustee appointed pursuant to any resolution authorizing the issuance of bonds, except to the extent the rights thereof may be restricted by such resolution or any indenture authorized thereby to be entered into by the City, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect or enforce any and all rights specified in law or in such resolution or indenture, and may enforce and compel the performance of all duties required by this article or by such resolution or indenture to be performed by the City or by any officer, employee or agent thereof, including the fixing, charging and collecting of rates, fees, interest and charges authorized and required by the provisions of such resolution or indenture to be fixed, charged and collected.

SEC. 8-10.309 REFUNDING BONDS. The City may issue bonds for the purpose of refunding any bonds then outstanding including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or any subsequent date or dates of redemption, purchase or maturity of such bonds, and, if deemed advisable by the City, for the additional purposes specified in Sec. 8-10.201.

All bonds issued pursuant to this section shall be subject to the provisions of this article in the same manner and to the same extent as other bonds issued pursuant to this article.

SEC. 8-10.310 VALIDITY OF BONDS. The validity of the authorization and issuance of any bonds is not dependent on and shall not be affected in any way by any proceedings taken by the City for the making of any program loan, or by the failure to make any program loan, for which bonds are authorized to be issued under this article.

### SUPPLEMENTAL PROVISIONS

SEC. 8-10.401 LIBERAL CONSTRUCTION. This article, being necessary for the welfare of the City and its inhabitants, shall be liberally construed to affect its purposes.

SEC. 8-10.402 OMISSIONS NOT TO AFFECT VALIDITY. If the jurisdiction of the Council to order the proposed act is not affected, any omission of any officer or the City in proceedings under this article or any other defect in the proceedings shall not invalidate such proceedings or the bonds issued pursuant to this article.

SEC. 8-10.403 FULL AUTHORITY. This article is full authority for the issuance of bonds by the City for the purposes specified herein.

SEC. 8-10.404 ADDITIONAL AUTHORITY. This article shall be deemed to provide a complete, additional and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of bonds under the provisions of this article need not comply with the requirements of any other law applicable to the issuance of bonds. The purposes authorized hereby may be effectuated and bonds may be issued for any such purposes under this article notwithstanding that any other law may provide for such purposes or for the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations or other provisions contained in any other law.

SEC. 8-10.405 ARTICLE CONTROLLING, SEVERABILITY. To the extent that the provisions of this article are inconsistent with the provisions of any general statute or special act or parts thereof, the provisions of this article shall be deemed controlling.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable. The Council hereby declares that it would have adopted and passed this article and each article, section, subsection, sentence, clause, phrase or word hereof, irrespective of the fact that any one or more of the other articles, sections, subsections, sentences, clauses, phrases or words hereof be declared invalid or unconstitutional.