

RESOLUTION NO. 2010-1338

A RESOLUTION OF INDUCEMENT OF THE CITY OF FARMINGTON, NEW MEXICO INDICATING ITS INTENT TO PROVIDE FOR THE ISSUANCE OF PROJECT REVENUE BONDS TO PROVIDE FINANCING IN CONNECTION WITH THE ACQUISITION AND CONSTRUCTION OF BLUFF VIEW APARTMENTS MULTIFAMILY HOUSING PROJECT AND DESIGNATING CERTAIN PARTICIPANTS TO THE FINANCING

WHEREAS, the City of Farmington, New Mexico (the "City") is authorized, pursuant to Section 3-45-1 through 25 NMSA 1978 (Municipal Housing Law) or Section 3-31-1 through 12 or 3-32-1 through 16 NMSA 1978 (Industrial Revenue Bond Act) of the New Mexico Statutes (the "Act"), to provide financial assistance for revenue producing projects including multifamily residential developments within its area of operation; and

WHEREAS, Bluff View Apartments Associates LLC, a New Mexico limited liability company, or its assigns (the "Applicant"), on behalf of itself and any partnership, limited liability company, corporation or other entity to be formed, or caused to be formed, by the Applicant, has requested financial assistance in connection with the acquisition and construction of a 62-unit multifamily rental housing project to be known as Bluff View Apartments and located in the City of Farmington, New Mexico (the "Project"); and

WHEREAS, the City, as an inducement to the Applicant, is willing to authorize the issuance of Project Revenue Bonds in an amount sufficient to provide financing for the Project subject to the restrictions of the Act and all applicable state and federal laws as they presently exist, provided that the Project receive all necessary governmental approvals; and

WHEREAS, the City desires to designate certain professionals to participate in the proposed financing; and

WHEREAS, the Borrower has evidenced its desire to have a portion of the costs of its acquisition, rehabilitation and equipping of the Project financed with the proceeds of revenue bonds issued by the City in one or more series, issued pursuant to the authority of the Act, in an aggregate principal amount currently estimated at \$5,000,000, the proceeds of which are expected to be loaned to the Borrower for the purpose described herein, and to fund certain required reserves.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Farmington, New Mexico, as follows:

OFFICIAL INTENT. The City Council intends that this Resolution shall constitute its declaration of "official intent" with respect to the issuance of Bonds, in one or more series, to finance the applicable portion of the costs of the Project and certain required reserves, within the meaning of Treasury Regulation Section 1.150-2. It is anticipated that the Bonds shall be issued in one or more series, and that the principal amount of the Bonds designated as tax-exempt shall be in an amount estimated to be \$5,000,000.

SECTION 1. FINDINGS. The City hereby determines that the undertaking of the financing of the proposed Project by the City will be a substantial factor in the accrual of public benefits to be received from the Project, should the Project be acquired and constructed, and that the proposed financing in the form of Project Revenue Bonds is in accord with the purposes and requirements of the Act.

SECTION 2. APPROVAL OF PROPOSED FINANCING. Subject to the completion of the proceedings and other matters relating thereto to the full satisfaction of the City Council, and subject to the proposed financing receiving all necessary governmental approvals, the City hereby agrees to provide financial assistance to the Applicant or such other partnership, limited liability company, corporation or other entity to be formed, or caused to be formed, by the Applicant, through the issuance of obligations in an amount of approximately \$5,000,000 (the "Bonds") or such lower amount as is necessary to finance the Project.

SECTION 3. BONDS TO BE LIMITED OBLIGATIONS. The Project Revenue Bonds to be issued shall be limited special obligations of the City payable

solely from revenues to be received by the City pursuant to a loan or other financing agreement in a form acceptable to the City and the Applicant and shall not be a general obligation of the City or any political subdivision of the State of New Mexico.

SECTION 4. APPOINTMENT OF CERTAIN PARTICIPANTS. The law firm of Peck, Shaffer & Williams LLP, 1801 Broadway, 17th Floor, Denver, CO 80202 is hereby appointed to act as Bond Counsel and is authorized and directed to take any legal action and to prepare and submit to the appropriate parties all proceedings, agreements and other documents as shall be necessary and customary in connection with the issuance of the Bonds.

SECTION 5. COSTS AND EXPENSES. All costs and expenses involved in the authorization, issuance, sale, and delivery of the Bonds and in providing financing for the Project, Bond Counsel and counsel to the City, shall be paid from the Bond proceeds or, if they are insufficient, by the Applicant and the proceedings and agreements relating thereto, as hereafter adopted and undertaken, shall so provide.

SECTION 6. AUTHORIZATION TO INITIATE PROCEEDINGS. The City Manager is hereby authorized and directed to initiate the proceedings described in this Resolution and to enter into negotiations with the underwriter of the bonds for the sale of the Bonds by the City subject to the approval of the City Council.

SECTION 7. LIMITATIONS OF RESOLUTION. The adoption of this Resolution shall not bind the City to issue Project Revenue Bonds until and unless all other necessary actions and approvals are taken or received in accordance with all applicable laws. The adoption of this Resolution does not and shall not limit in any manner whatsoever the City's full discretion to deny any further permit or approval that may be necessary for ultimate issuance of the Bonds.

SECTION 8. OPEN MEETINGS. The City hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the City Council, and that all deliberations of the City and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements, including Section 10-15-1 through 10-15-4 NMSA 1978 of the New Mexico Statutes.

SECTION 9. This Resolution shall take effect immediately upon adoption.

PASSED, ADOPTED and APPROVED this 12th day of January, 2010.

William E. Standley, Mayor

SEAL

ATTEST:

Dianne Fuhrman, City Clerk