

## RESOLUTION NO. 17-\_\_

**Resolution Of The City Council Of The City Of Emeryville Approving And Authorizing The Execution Of A Joint Exercise Of Powers Agreement Relating To The California Municipal Finance Authority And Approving The Issuance Of Revenue Bonds By The Authority To Finance An 87-Unit Affordable Multifamily Rental Housing Facility For The Benefit Of 3706 San Pablo Emeryville, L.P., Or Another Limited Partnership To Be Formed By EAH Inc. (Or An Affiliate) And Certain Other Matters Relating Thereto**

**WHEREAS**, pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies (the "Members") have entered into a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the "Agreement") in order to form the California Municipal Finance Authority (the "Authority"), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes or other evidences of indebtedness; and

**WHEREAS**, the City of Emeryville (the "City"), has determined that it is in the public interest and for the public benefit that the City become a Member of the Authority in order to facilitate the promotion of economic, cultural and community development activities in the City, including the financing of projects therefor by the Authority; and

**WHEREAS**, there is now before this City Council (the "City Council") the form of the Agreement, attached hereto as Exhibit A; and

**WHEREAS**, the Agreement has been filed with the City, and the members of the City Council, with the assistance of its staff, have reviewed said document; and

**WHEREAS**, the Authority is authorized to issue and sell revenue bonds for the purpose, among others, of financing or refinancing the construction of capital projects; and

**WHEREAS**, on behalf of 3706 San Pablo Emeryville, L.P., a California limited partnership, or another limited partnership to be formed by EAH Inc. (or an affiliate) (the "Borrower"), EAH Inc. has requested that the Authority issue and sell revenue bonds in the maximum principal amount of \$50,000,000 (the "Bonds") for the purpose of making a loan to the Borrower, to enable the Borrower to finance or refinance the costs of the acquisition, construction, improvement and equipping of an 87-unit affordable multifamily rental housing facility, to be located at 3706 San Pablo Avenue within the City (the "Project"); and

**WHEREAS**, in order for the interest on the Bonds to be tax-exempt, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that an "applicable elected representative" of the governmental unit, the geographic jurisdiction of which contains the site of facilities to be financed with the proceeds of the Bonds, hold a public

hearing on the issuance of the Bonds and approve the issuance of the Bonds following such hearing; and

**WHEREAS**, the Authority has determined that the City Council is an “applicable elected representative” for purposes of holding such hearing; and

**WHEREAS**, the Authority has requested that the City 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 Agreement; and

**WHEREAS**, notice of such public hearing has been duly given as required by the Code, and this City Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the financing or refinancing of the Project and the Authority’s issuance of the Bonds; and

**WHEREAS**, it is in the public interest and for the public benefit that the City Council approve the issuance of the Bonds by the Authority for the aforesaid purposes; now, therefore, be it

**RESOLVED, AS FOLLOWS:**

Section 1. The foregoing recitals are true and correct.

Section 2. The Agreement is hereby approved and the Mayor or the designee thereof is hereby authorized and directed to execute said document, and the City Clerk or such Clerk’s designee is hereby authorized and directed to attest thereto.

Section 3. The City Council hereby approves the issuance of the Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitutes approval of the issuance of the Bonds (a) 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 Section 147(f) of the Code and (b) by the City Council in accordance with Section 4 of the Agreement.

Section 4. The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds.

Section 5. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, rehabilitation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 6. The Mayor, the City Clerk and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

Section 7. 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 8. This resolution shall take effect immediately upon its passage.

**ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, February 7, 2017 by the following vote:

AYES:	<input type="checkbox"/>	<input type="checkbox"/>
NOES:	<input type="checkbox"/>	<input type="checkbox"/>
ABSTAIN:	<input type="checkbox"/>	<input type="checkbox"/>
ABSENT:	<input type="checkbox"/>	<input type="checkbox"/>

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM:



\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
CITY ATTORNEY