

DEC 16 1997 CS/VS

97- B-12

R E S O L U T I O N

A RESOLUTION APPROVING THE ISSUANCE BY THE ORANGE COUNTY HOUSING FINANCE AUTHORITY (THE "AUTHORITY") OF ITS \$9,272,000 MULTIFAMILY HOUSING REVENUE BONDS, 1998 SERIES \_\_\_\_ (FALCON TRACE APARTMENTS PROJECT) FOR THE PURPOSE OF FINANCING A MULTIFAMILY HOUSING PROJECT LOCATED IN ORANGE COUNTY.

**WHEREAS**, the Orange County Housing Finance Authority (the "Authority") has heretofore authorized the issuance by the Authority of its \$9,272,000 Multifamily Housing Revenue Bonds, 1998 Series \_\_\_\_ (Falcon Trace Apartments Project) (the "Bonds"). The proceeds of the Bonds would be used to finance a 252 unit residential rental project known as Falcon Trace Apartments, located at the intersection of S.R. 441 and Falcon Trace Boulevard in Orange County, Florida (the "Project") and owned by Orange Co. Falcon Trace Partners, Ltd., a Florida limited partnership; and

**WHEREAS**, the Authority has requested that the Board of County Commissioners of Orange County approve, for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, the issuance by the Authority of the Bonds; and

**WHEREAS**, a public hearing with respect to the issuance of the Bonds was held on November \_\_, 1997, at the place and at the time described in the Notice of Public Hearing attached hereto as Exhibit A, which Notice was published at least 14 days in advance of the hearing date in a newspaper of general circulation in Orange County;

**NOW THEREFORE**, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

**SECTION 1. Authority.** This Resolution is adopted pursuant to the Constitution of the State of Florida, Chapters 125 and 166, Florida Statutes, and other applicable provisions of law.

**SECTION 2. Findings.** The Board hereby finds, determines and declares as follows:

A. The Project and the issuance of the Bonds to finance the Project will have a substantial public benefit.

B. The Board is the elected legislative body of Orange County and has jurisdiction over the Project.

**SECTION 3. Approval.** For the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the Board hereby approves the issuance of the Bonds to finance the Project. The approval given herein shall be solely for the purpose of satisfying the requirements of Section 147(f) of the Code and shall not be construed as an approval of any zoning application or any regulatory permit required in connection with the issuance of the Bonds, or creating any vested rights with respect to any land use regulations, and the Board shall not be construed by virtue of its adoption of this Resolution to have waived, or be estopped from asserting, any rights or responsibilities it may have in that regard.

**SECTION 4. Effective Date.** This Resolution shall become effective immediately upon its passage.



ADOPTED this 16th day of December, 1997.

BOARD OF COUNTY COMMISSIONERS  
OF ORANGE COUNTY, FLORIDA

AT  
By: *M. O. Haynie*  
County Comptroller and Clerk

By: *Jean C. Bennett*  
Chairman  
*for*

NOTICE OF PUBLIC HEARING  
ORANGE COUNTY HOUSING FINANCE AUTHORITY  
RESIDENTIAL RENTAL PROJECT

Notice is hereby given that the Orange County Housing Finance Authority (the "Authority") will conduct a public hearing on Friday, December 5, 1997, concerning the proposed issuance by the Authority of its \$9,272,000 Multifamily Housing Revenue Bonds, 1998 Series \_\_\_\_\_ (Falcon Trace Apartments Project) (the "Bonds"). The proceeds of the Bonds would be used to finance the following residential rental project:

PROJECT/LOCATION	DESCRIPTION	OWNER
Falcon Trace Apartments; intersection of S.R. 441 and Falcon Trace Boulevard in Orange County, Florida	252 unit residential rental project	Orange Co. Falcon Trace Partners, Ltd., a Florida limited partnership

The public hearing will be held at the following time and location:

TIME	LOCATION
8:30 a.m. - 9:00 a.m. December <u>5</u> , 1997	Orange County Administration Center 201 S. Rosalind Avenue Orlando, Florida 32801 <u>3rd</u> FLOOR CONFERENCE ROOM

Interested persons are invited to submit written comments or present oral comments at the hearing regarding the proposed issuance of the Bonds. Written comments should be received by the Authority on or before December 5, 1997. Oral comments will be limited to no more than 10 minutes per person. Written comment or notice of intent to present oral comments should be directed to:

Orange County Housing Finance Authority  
2211 E. Hillcrest Street  
Orlando, Florida 32803  
Attention: Executive Director

SECTION 286.0105, FLORIDA STATUTES STATES THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY A BOARD, AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

## RESOLUTION

A RESOLUTION DECLARING THE OFFICIAL INTENT OF ORANGE COUNTY HOUSING FINANCE AUTHORITY TO REIMBURSE ITSELF AND/OR ORANGE CO. FALCON TRACE PARTNERS, LTD. FROM THE PROCEEDS OF DEBT FOR CERTAIN EXPENSES TO BE INCURRED WITH RESPECT TO A CERTAIN MULTI-FAMILY HOUSING PROJECT; AND AUTHORIZING CERTAIN INCIDENTAL ACTIONS.

WHEREAS, in connection with the acquisition, construction and improvement of a certain multi-family housing residential rental facility described herein by Orange County Housing Finance Authority (the "Issuer") through a loan to Orange Co. Falcon Trace Partners, Ltd., a Florida limited partnership (the "Developer"), the Issuer and the Developer expect to incur expenses for which the Issuer and/or the Developer will advance internal funds; and

WHEREAS, the Issuer intends to reimburse itself and the Developer for all or a portion of such expenses from the proceeds of debt to be issued by the Issuer and loaned to the Developer.

NOW, THEREFORE, BE IT RESOLVED BY THE ORANGE COUNTY HOUSING FINANCE AUTHORITY:

1. Findings. It is hereby found, ascertained, determined and resolved that:

(a) There is a shortage of housing available as rentals in Orange County, Florida;

(b) This shortage of housing cannot be relieved except through the encouragement of investment by private enterprise;

(c) The financing, acquisition and construction of rental housing for lower, middle, and moderate income persons and families in Orange County, Florida, constitutes a public purpose;

(d) An apartment complex to be developed by the Developer on a site located at the intersection of S.R. 441 and Falcon Trace Boulevard in Orange County, Florida, to be known as "Falcon Trace Apartments" (the "Development"), is a multi-family housing project which will assist in alleviating the shortage of rental housing for lower, middle and moderate income residents of Orange County;

(e) The Developer has requested the Issuer to issue revenue bonds (the "Bonds") in an amount which, together with

other available funds, will be sufficient to finance the cost of the acquisition and construction of the Development and to pay other costs and fees incidental to the issuance of the Bonds. The Bonds are to be secured by certain assets, revenues and moneys described in the trust indenture securing such bonds. By virtue of the provisions of Section 142 of the Internal Revenue Code of 1986, as amended (the "Code") and the Treasury regulations in effect thereunder or under the 1954 Code, the interest on the Bonds will be excludable from gross income for federal income tax purposes if certain criteria fixed by said provisions (the "Tax Requirements") are met;

(f) The Tax Requirements provide, among other things, that if, as in the case of the Development, the original use of a development commences (or the acquisition of a development occurs) on or after the date that obligations are issued to provide such development, an official intent with respect to such obligations must be adopted by the issuer of such obligations within 60 days after the commencement of the construction or acquisition of such development;

(g) The Developer has agreed or will agree (i) to make all units available for rental by members of the general public and (ii) not to rent any unit to the owner of the Development or to any person related (as defined in said Treasury regulations) to such owner.

2. Declaration of Official Intent. The Issuer hereby declares its official intent to reimburse itself and the Developer from the proceeds of tax-exempt debt to be incurred by the Issuer for expenses incurred with respect to the Development within 60 days prior to the date of this Resolution and subsequent to the date of this Resolution. This Resolution is intended as a declaration of official intent under Treasury Regulation § 1.150-2. The tax-exempt debt to be issued to finance the Development is expected not to exceed an aggregate principal amount of \$9,272,000.

3. Further Authorization. The Issuer hereby authorizes Staff and General Counsel to negotiate and prepare a plan of financing and to commence the structuring of a debt instrument or instruments to provide up to \$9,272,000 in tax-exempt financing for the aforescribed 252 unit apartment complex to be developed in Orange County, Florida in order to provide one, two, three and four bedroom apartment units to lower, middle, or moderate income persons and families in a qualifying housing development, including reimbursement for qualified costs incurred pursuant to Treasury Regulation § 1.150-2. The financing of the qualifying

(e) The Developer has requested the Issuer to issue revenue bonds (the "Bonds") in an amount which, together with other available funds, will be sufficient to finance the cost of the acquisition and construction of the Development and to pay other costs and fees incidental to the issuance of the Bonds. The Bonds are to be secured by certain assets, revenues and moneys described in the trust indenture securing such bonds. By virtue of the provisions of Section 142 of the Internal Revenue Code of 1986, as amended (the "Code") and the Treasury regulations in effect thereunder or under the 1954 Code, the interest on the Bonds will be excludable from gross income for federal income tax purposes if certain criteria fixed by said provisions (the "Tax Requirements") are met;

(f) The Tax Requirements provide, among other things, that if, as in the case of the Development, the original use of a development commences (or the acquisition of a development occurs) on or after the date that obligations are issued to provide such development, an official intent with respect to such obligations must be adopted by the issuer of such obligations within 60 days after the commencement of the construction or acquisition of such development;

(g) The Developer has agreed or will agree (i) to make all units available for rental by members of the general public and (ii) not to rent any unit to the owner of the Development or to any person related (as defined in said Treasury regulations) to such owner.

2. Declaration of Official Intent. The Issuer hereby declares its official intent to reimburse itself and the Developer from the proceeds of tax-exempt debt to be incurred by the Issuer for expenses incurred with respect to the Development within 60 days prior to the date of this Resolution and subsequent to the date of this Resolution. This Resolution is intended as a declaration of official intent under Treasury Regulation § 1.150-2. The tax-exempt debt to be issued to finance the Development is expected not to exceed an aggregate principal amount of \$6,708,000.

3. Further Authorization. The Issuer hereby authorizes Staff and General Counsel to negotiate and prepare a plan of financing and to commence the structuring of a debt instrument or instruments to provide up to \$6,708,000 in tax-exempt financing for the aforescribed 172 unit apartment complex to be developed in Seminole County, Florida in order to provide one, two, three and four bedroom apartment units to lower, middle, or moderate income persons and families in a qualifying housing development, including reimbursement for qualified costs incurred pursuant to

Treasury Regulation § 1.150-2. The financing of the qualifying housing development shall, however, be conditioned upon the following:

(a) The plan of financing for the development shall include a rent schedule to be approved by the Issuer.

(b) The plan of financing shall include tenant income restriction provisions in compliance with section 142(d) of the Code, which restrictions shall apply to each type rental unit in the Development (for example, 20% or 40% of two bedroom units, 20% or 40% of three bedroom units or 20% or 40% of four bedroom units).

(c) The Developer shall not discriminate in the use, occupancy or rental of the units against persons or families with children.

(d) Any non-revenue units for Developer use, such as models and manager apartments, must be financed at Developer's expense from other than Bond proceeds.

4. Conditions. In the event that the Issuer and the Developer are unable to reach an agreement with respect to the terms and details of the Bonds or the contracts therefor, or if other circumstances prevent the issuance of the Bonds, there shall be no resultant liability on either the Issuer or the Developer nor shall any third party have any rights against either the Issuer or the Developer by virtue of this resolution. The obligation of the Issuer to issue the Bonds pursuant to this Resolution is further conditioned upon the following:

(a) The information contained in the application of the Developer and now on file with the Issuer shall not change in any material respect. Any such material change shall be brought to the attention of the Issuer immediately in writing for further consideration by the Issuer and its General Counsel and by Bond Counsel to the Issuer.

(b) A public hearing shall have been conducted as required by Section 147(f) of the Code.

(c) Upon issuance and delivery of the Bonds there shall be delivered to the Issuer an opinion of Bond Counsel to the effect that the Bonds are valid and binding obligations of the Issuer and that interest on the Bonds is excludable from gross income for federal income tax purposes.

(d) The Bonds shall be issued and delivered within 12 months from the date of adoption of this Resolution, unless such date is extended by resolution of the Issuer.

5. Conditions. The Developer has agreed to comply with all land use restrictions relating to tax-exempt financing including but not limited to those promulgated pursuant to Section 142(d) of the Code.

6. Incidental Action. Any member of the Issuer and the General Counsel to the Issuer are hereby authorized to take such actions as may be necessary to carry out the purpose of this Resolution.

7. Effective Date. This Resolution shall take effect immediately upon its adoption.

Passed this 5<sup>th</sup> day of ~~December~~ November, 1997.

ORANGE COUNTY HOUSING FINANCE  
AUTHORITY

By: Julis C. Lemon  
Chairman

[SEAL]

ATTEST

[Signature]  
Secretary