



Office of the City Manager

ACTION CALENDAR
April 2, 2013

To: Honorable Mayor and Members of the City Council
From:  Christine Daniel, City Manager
Submitted by: Jane Micallef, Director, Health, Housing and Community Services
Subject: Housing Trust Fund Loans to Related Companies of California and the Berkeley Housing Authority for the Berkeley Housing Authority's Public Housing Disposition Project

RECOMMENDATION

Adopt a Resolution:

1. Approving a reservation from the Housing Trust Fund (HTF), in an amount not to exceed \$400,000, to the Related Companies of California (Related) to fund costs associated with the disposition and rehabilitation of 75 units of low income rental housing from the Berkeley Housing Authority (BHA) to the Related affiliate, Berkeley 75 Housing Partners, LP (Berkeley 75), to be structured as a 55-year, no-interest loan; and
2. Converting the existing \$300,000 predevelopment loan to BHA into a grant; and
3. Waiving the HTF Guidelines dealing with types of assistance and project selection.

FISCAL IMPACTS OF RECOMMENDATION

Approval of the resolution will encumber an additional \$400,000 from the HTF to assist the transfer of ownership and the rehabilitation of 75 low income public housing units from the BHA to Berkeley 75. Previously, the City Council approved a \$300,000 reservation of HTF funds to BHA for relocation and predevelopment activities associated with the disposition.

CURRENT SITUATION AND ITS EFFECTS

The Housing Advisory Commission reviewed the staff recommendations at its February 13, 2013 meeting. The HAC agreed with recommendations one and three above, but made a different recommendation on number two. The recommendations and the HAC votes are described in more detail in this section.

Related has prepared a financing plan for approximately \$34 million to acquire the Berkeley Housing Authority's public housing units, rehabilitate them, and operate them

as affordable housing with an affordability period of 99 years. The sources and uses budget is included as Attachment 2. Related has requested a Housing Trust Fund loan of \$400,000 that will be used for construction costs, or approximately 1% of the total project budget. Related has also requested a loan with 0% interest or a grant, in order to stay under certain debt limits related to tax credit financing requirements. Staff recommends making the loan with no interest because it would meet the needs of the project and keep the regular loan regulatory mechanisms in place. The loan would have the standard 55-year term for HTF loans. If the project receives a City funding allocation in March 2013, they will submit a tax credit application in July 2013. The subsequent tax credit allocation round is anticipated for March 2014.

At its February 13, 2013 meeting, the Housing Advisory Commission voted to recommend that the City Council approve this staff recommendation for a \$400,000 loan with no interest. (M/S/C: Murphy/Soto-Vigil. Ayes: Murphy, Skjerpung, Soto-Vigil, Tregub, Wolfe. Noes: Sawicki).

On April 3, 2012 with Resolution No. 65,672-N.S. the City Council approved a \$300,000 predevelopment loan to the Berkeley Housing Authority for predevelopment activities prior to the transfer to Related. The work to be done with the City General Funds provided under this loan includes relocation consulting, relocation benefits, and legal services. The loan has a five year term. The budget for the predevelopment loan is included as Attachment 3.

Normally, predevelopment loans are rolled into low-interest permanent loans to project, and repaid from the residual receipts from the project's operating budget. Related has requested that this loan be converted into a grant instead, in order to stay under certain debt limits related to tax credit financing requirements. Since these are large family scattered site units which are expensive to manage and maintain, staff anticipates there will be minimal residual receipts to repay a loan. Therefore, staff recommends that the previous predevelopment loan of \$300,000 to the BHA is designated as a grant upon the transfer of the units to Berkeley 75.

At its February 13, 2013 meeting, the HAC voted against recommending that the loan be converted into a grant, meaning that it should be kept as a loan. (M/S/C: Tregub/Sawicki. Ayes: Murphy, Sawicki, Skjerpung, Tregub, Wolfe. Abstained: Soto-Vigil.) A key concern raised by HAC members was that the BHA will receive approximately \$5 million from the disposition and could use these funds to repay the \$300,000 to the Housing Trust Fund. HAC members expressed concern about effectively using HTF funds to support BHA operations, when there are other housing needs. BHA has indicated they will use disposition proceeds to ensure its continued operation, and that \$300,000 represents approximately a year of operations.

Portions of the City's Housing Trust Fund guidelines need to be waived for the City to take the recommended actions. Specifically, Section V, pertaining to the form of a loan to a project, and Section VI, describing the process for selecting projects for funding, will

need to be waived to make the recommended loan to Related. Section V needs to be waived to convert the BHA predevelopment loan to a grant as well.

At its February 13, 2013 meeting, the HAC supported waiving these sections of the HTF guidelines. (M/S/C: Tregub/Murphy. Ayes: Murphy, Skjerping, Soto-Vigil, Tregub, Wolfe. Noes: Sawicki).

BACKGROUND

BHA has been struggling to operate and maintain its public housing units for a number of years. In June 2009, BHA entered into a Memorandum of Agreement with the San Francisco HUD Field Office that required BHA to submit a plan to address its capital and deferred maintenance needs, or submit a disposition application, to HUD by December 31, 2009. Based on a strategic plan developed by EJP Consulting LLC, BHA determined that it was infeasible to rehabilitate and operate its rental housing on an ongoing basis. As a result, in December 2009, BHA submitted an application to HUD to transfer its rental portfolio to a private entity. HUD approved the application on December 22, 2010, conditioned upon the units remaining affordable to low income households for 99 years. On June 23, 2009 as part of its budget approval process, the Council approved setting aside \$700,000 in the HTF to assist the BHA with its capital expenses for the public housing units. The approval of the attached resolution, along with the adoption of the companion ordinance to ground lease 14 units on City land to Related for seventy years would move the process forward to the final disposition of the public housing units and ensure the long-term affordability of units for large families in the City of Berkeley.

RATIONALE FOR RECOMMENDATION

Related has extensive experience developing and managing affordable housing in California, and it has worked in partnership with several housing authorities to revitalize HUD-assisted housing. Related has also prepared a credible financing plan for the acquisition and rehabilitation of BHA's rental units. The proposed development expenses are appropriate and the City's funds are necessary to make the project competitive for tax credit and AHP funding.

ALTERNATIVE ACTIONS CONSIDERED

The Council could adopt the HAC's recommendation on the predevelopment loan to BHA, keeping it as a loan rather than converting it into a grant. The predevelopment loan terms require BHA to repay the loan at the end of the five-year term. In order to adopt the HAC's recommendations, two changes to the attached resolution would be needed.

First, remove the language indicated by the strike-through below:

~~"WHEREAS, the City wishes to further assist the BHA and Berkeley 75 in maintaining the long-term affordability of the low income public housing unit for large families and to support BHA's ongoing operations; and"~~

Second, remove the following section entirely:

“BE IT FURTHER RESOLVED that the previous predevelopment loan of \$300,000 made to the BHA will be made a grant to the project upon the transfer of the units to Berkeley 75 in order to support BHA's ongoing operations.”

CONTACT PERSON

Amy Davidson, Senior Management Analyst, HH&CSD, 981-5406

Attachments:

- 1: Resolution
- 2: Development Budget: Permanent Sources and Uses
- 3: Existing BHA Predevelopment Loan

RESOLUTION NO. ##,###-N.S.

HOUSING TRUST FUND LOANS TO RELATED COMPANIES OF CALIFORNIA AND TO THE BERKELEY HOUSING AUTHORITY FOR THE BERKELEY HOUSING AUTHORITY'S PUBLIC HOUSING DISPOSITION PROJECT

WHEREAS, in December 2009, the Berkeley Housing Authority (BHA) submitted an application to the federal Department of Housing and Urban Development (HUD) to transfer its public housing units to another entity to rehabilitate and manage the units more effectively; and

WHEREAS, in December 2010, HUD approved BHA's disposition application, and BHA has recently selected the Related Companies of California (Related) as the entity to serve as the developer, manager, and long-term owner of BHA's 75 rental housing units; and

WHEREAS, Related has formed an affiliate, Berkeley 75 Housing Partners, L.P. (Berkeley 75) to serve as the entity which will own, operate and manage the Berkeley public housing units for ninety-nine years; and

WHEREAS, on June 23, 2009, the Council set aside \$700,000 to assist the BHA in capital funding and on April 3, 2012, approved an HTF reservation of \$300,000 to assist the BHA with predevelopment activities in connection with the disposition project with Resolution No. 65,672-N.S.;

WHEREAS, BHA and Berkeley 75 executed a disposition, development, and loan agreement (DDLA) in March 2012 under which Related agreed to acquire, rehabilitate and maintain all 75 scattered site low income large family units as affordable housing for ninety-nine years; and

WHEREAS, in September 1984, the BHA and the City entered into a Cooperation Agreement which provided for payments in lieu of taxes to the City for certain public services;

WHEREAS, Section V of the HTF Guidelines designates HTF allocations to be in the form of a loans to a project; and Section VI describes the process for selecting projects for funding.

WHEREAS, the City wishes to further assist the BHA and Berkeley 75 in maintaining the long-term affordability of the low income public housing unit for large families and to support BHA's ongoing operations; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a fund reservation from the HTF to Berkeley 75 is approved, in an amount not to exceed \$400,000 as a development loan with no interest for the disposition and rehabilitation of 75 units of rental housing owned by BHA to Berkeley 75.

BE IT FURTHER RESOLVED that the previous predevelopment loan of \$300,000 made to the BHA will be made a grant to the project upon the transfer of the units to Berkeley 75 in order to support BHA's ongoing operations.

BE IT FURTHER RESOLVED that Section V and Section VI of the HTF Guidelines are waived to permit the HTF reservations described in this resolution.

BE IT FURTHER RESOLVED all funding reservations are conditioned upon the completion of the environmental review process, except as authorized by 24 CFR, Part 58, and that should HOME and/or CDBG funds constitute a portion of the funding for any project, a final commitment of HOME and/or CDBG funds shall occur only upon the satisfactory completion of the appropriate level of environmental review and also upon the receipt of approval of the request for release of funds and related certification from the U.S. Department of Housing and Urban Development, when applicable. The funding reservation for any of the HOME and/or CDBG funded projects is conditioned upon the City of Berkeley's determination to proceed with, modify, or cancel the project based on the results of subsequent environmental review under the National Environmental Policy Act.

BE IT FURTHER RESOLVED that the City Manager, or her designee, is authorized to execute all necessary legal documents, amendments, and instruments to accomplish the intent of this resolution.

Attachment 2
BHA Public Housing Disposition to Related
Development Budget: Permanent Sources and Uses

| | |
|--------------------------------|-------------------|
| Sources | |
| Tax Credit Equity | 11,151,950 |
| BHA Loan | 9,979,020 |
| PBS8 Loan | 6,183,961 |
| Permanent Loan | 4,526,000 |
| RHCP Loan | 763,689 |
| Deferred Developer Fee | 640,000 |
| Capitalized Soft Loan Interest | 176,200 |
| <i>Housing Trust Fund Loan</i> | <i>400,000</i> |
| Total | 33,820,819 |
| | |
| Uses | |
| Acquisition | 15,546,142 |
| Construction & Permits | 9,943,104 |
| Reserves | 1,427,683 |
| Temporary Relocation | 516,558 |
| Soft Costs | 6,387,333 |
| Total | 33,820,819 |

Attachment 3
BHA Public Housing Disposition to Related
Existing BHA Predevelopment Loan

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|----------------------------------|----------------|
| Predevelopment Expenses | |
| Relocation Consulting | 97,000 |
| Relocation Benefits to Residents | 100,000 |
| HUD Disposition Consulting | 38,000 |
| Legal Consulting | 60,000 |
| Vacant Unit Security Program | 42,000 |
| Construction Consulting | 10,000 |
| Contingency | 53,000 |
| | 400,000 |

The City's funding will cover up to \$300,000 of the predevelopment expenses above. An additional \$100,000 will come from other sources