
File ID: 2024-01780

11/12/2024

Discussion Item 2.

(Housing Authority/City Council) Approval to Delegate Authority for Issuance of Tax Exempt Mortgage Revenue Bonds (Bonds) for Affordable Housing Projects and Amend the Sacramento Housing and Redevelopment Agency (SHRA) Multifamily Lending and Mortgage Revenue Bond Policies for the City of Sacramento to Reduce Annual Administration Fees

File ID: 2024-01780

Location: Citywide

Recommendation: Approve the attached resolutions: 1) a **Housing Authority Resolution:** a) declaring the Housing Authority's official intent to issue Obligations to finance Projects and to pay Reimbursement Expenditures with proceeds of such Obligations; b) authorizing each Delegated Person to authorize appropriate officers or staff of the Authority to make an application to California Debt Limit Allocation Committee ("CDLAC") for an allocation of private activity bonds for an affordable housing project, c) authorizing each Delegated Person to take such other actions and to execute and deliver such documents as may be necessary or appropriate to carry out the intent of this Resolution, d) declaring that any declaration made by Delegated Persons pursuant to this delegation of authority is made solely for purposes of carrying out the intent of this Resolution, including establishing compliance with the requirements of Reimbursement Regulations and facilitating any related application to CDLAC, and does not bind the Authority to make any expenditure, incur any indebtedness, or proceed with any Projects in any manner, e) amending the Sacramento Housing and Redevelopment Agency (SHRA) Multifamily Lending and Mortgage Revenue Bond Policies previously adopted by the Housing Authority on December 3, 2019 to update sections 2.15 and 9.1.10 to reduce the annual administrative fees to 5 basis points (0.05%) of the outstanding bond amount, but not less than \$15,000, and f) make related findings, and 2) a **City Council Resolution:** a) amending the Sacramento Housing and Redevelopment Agency (SHRA) Multifamily Lending and Mortgage Revenue Bond Policies previously adopted by the City Council on December 3, 2019 to update sections 2.15 and 9.1.10 to reduce the annual administrative fees to 5 basis point (0.05%) of the outstanding bond amount, but not less than \$15,000, and b) make related findings.

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Presenter: Christine Weichert, Director of Development Finance, (916) 440-1353, cweichert@shra.org, Sacramento Housing and Redevelopment Agency

Attachments:

- 1-Description/Analysis
- 2-Housing Authority Resolution
- 3-Exhibit A- List of Delegated Persons
- 4-City Council Resolution
- 5- Model Inducement Certificate

Description/Analysis

Issue Detail: Federal, state, and local legislation authorizes the issuance of mortgage revenue bonds by local governments to finance the development, acquisition, construction and/or rehabilitation of multifamily rental projects. The interest on the bonds is exempt from federal and state taxation. For this reason, bonds are an important funding source for affordable housing as they provide below-market financing for qualified rental projects.

Bonds for affordable housing in the City of Sacramento are issued by the Housing Authority, which is staffed by the Sacramento Housing and Redevelopment Agency (SHRA). The bond issuance process is governed by SHRA's Multifamily Lending and Mortgage Revenue Bond Policy (Bond Policies), which were approved by the City Council and City Housing Authority in 2019. The goals outlined in the Policy are to increase and preserve the supply of affordable rental housing in the City of Sacramento; encourage economic integration within residential communities; maintain a quality living environment for Sacramento residents; provide tenant services to the residents of assisted projects; and when public funds are committed toward the project, leverage private sector funds to the maximum extent possible.

As the Bond issuer, SHRA ensures the necessary project due diligence, financial feasibility, quality management, and on-site services which are critical to ensure the public investment in affordable housing is necessary and produces sustainable development for the long-term. SHRA confirms adequate management and oversight by performing annual on-site inspections of units, common areas, and amenities. On-site property records and resident files are reviewed, along with reviews of resident services, and monthly bond resident activity reports. These activities play a vital role in confirming that tenants are not overpaying for rent, and that they live in well-maintained and safe housing. Additionally, SHRA provides direct technical assistance to ensure projects succeed in meeting the affordable regulatory requirements mandated by each funding source. If bonds are issued from an entity other than the Housing Authority, SHRA does not have the obligation or authority to monitor the Project, conduct compliance visits, investigate resident concerns, or replace property management if needed.

Inducement Resolution. All affordable housing projects that intend to utilize bond financing are required to have an inducement resolution approved by the governing board. The inducement resolution is a conditional expression of intent by the Housing Authority to issue bonds for a project. Approval of the inducement resolution establishes, through the public record, the date from which

project costs incurred are eligible for bond financing. Applicants interested in bond financing are encouraged to induce their projects as soon as practical.

To request an inducement resolution, the project developer submits a pre-application to SHRA. Once this information is reviewed and approved, SHRA staff submits the inducement resolution to the Housing Authority Board for approval. Adoption of the inducement resolution signifies the intent to issue bonds but is not a final commitment by the Housing Authority, SHRA, or the applicant to proceed with the financing.

Currently, approval of inducement resolutions requires that staff have items prepared and submitted within the City's required agenda preparation deadlines. The report process, including internal SHRA and City review, requires that the documents be ready approximately six weeks prior to the Housing Authority Board hearing.

Since Bond applications, which must include an adopted inducement resolution, are only accepted by the California Debt Limit Allocation Committee two times a year, affordable housing developers are anxious to submit their applications as soon as they have secured award of all their funding sources. In two recent City of Sacramento projects, developers received funding awards from the State of California Department of Housing and Community Development (HCD) less than 4 weeks prior to the bond application deadline. Because of this, the Housing Authority was unable to serve as the bond issuer due to staff not having adequate time to analyze and compile the information from the developer to meet the City's Housing Authority report deadline.

SHRA staff reached out to its bond counsel, Orrick, to determine if a solution could be found. Orrick suggested staff level approval of inducement resolutions which could help facilitate additional affordable housing opportunities in the City. Staff level authorization of the inducement resolution does not represent commitment by the Housing Authority, SHRA, or the applicant to proceed with the financing. The City still retains discretion over the issuance of bonds through holding the required Tax Equity and Fiscal Responsibility (TEFRA) hearing and adoption of a resolution authorizing such issuance. Even with the inducement resolution process delegated to SHRA's Executive Director, no projects would be able to proceed, nor receive any funding, without the required City Council TEFRA hearing. The staff level approval of the inducement resolution would serve to expedite the process and allow more developers to participate in bond issuances sponsored by the City's Housing Authority. A sample inducement certificate used if the delegation to staff is approved is included in Attachment 5.

TEFRA Hearing and Approval. In order for interest on the bonds to be tax-exempt and in accordance with the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982, Section 147(f) of the Internal Revenue Code of 1986, the issuance of bonds must be approved by representatives of the governmental unit with jurisdiction over the area in which the project is located after a public hearing for which a reasonable public notice was given. Therefore, federal regulations require that the City

Council give final approval regarding the issuance of bonds as the elected legislative body of the City. The purpose of the public hearing is to provide an opportunity for interested people to express their views on the proposed bond issuance and on the nature and location of the project. As indicated above, if the Housing Authority Board delegates approval to SHRA staff for the inducement, the City Council would still retain final approval of the bond issuance through the TEFRA hearing process.

Bond issuance fees. As SHRA receives no general fund revenue or other financial support from the City, fees are required to cover staff and administrative costs. For a bond issuance, 25 basis points (0.25%) of the bond issuance amount is payable at the bond closing. In addition, SHRA receives an Annual Administration Fee equal to 12.5 basis points (0.125%) of the original bond issuance amount as compensation for compliance monitoring of regulatory restrictions and the administration of outstanding bonds. The current annual administration fee is capped at \$25,000 annually.

In reviewing Bond fees, staff found SHRA's to be consistent with local issuers such as other Housing Authorities, however, they differ from statewide issuers as California Housing Finance Agency (CalHFA), California Municipal Finance Agency (CMFA) and California Public Finance Authority (CalPFA).

Two of the primary differences between SHRA's fees and these statewide issuers' fees are:

- 1) Statewide issuers charge fees based on the outstanding bond amount, versus the original bond amount.
- 2) Statewide issuers charge 5 basis points (0.05%) of the bond amount verses SHRA's 12.5 (0.125%) basis points.

Staff is proposing that the Annual Administration Fee be reduced to equal 5 basis points (0.05%) of the outstanding bond amount to be more in line with statewide issuers, but not less than \$15,000 annually. This will make the Annual Bond Fee consistent with SHRA's annual loan fee, which is not to exceed \$15,000 annually, but will still provide the revenue needed to monitor and enforce the requirements of issuers by the California Debt Limit Allocation Committee (CDLAC), and allow staff to respond to concerns brought to our attention by residents and other community members. On average this will result in a saving of \$10,000 annually for most developments. Note that if a project receives both bonds and loans only one fee will be charged.

Policy Considerations: Staff recommends amending sections 2.15 and 9.1.10 of the previously approved City of Sacramento Multifamily Lending and Mortgage Revenue Bond Policies to reduce the annual administrative fees to 5 basis point (0.05%) of the outstanding bond amount, but not less than \$15,000. Staff is also recommending new language to clarify procedures for bond issuers other than the Housing Authority. In addition, Staff recommends authorizing the SHRA Executive Director to approve inducement resolutions which will expedite the process and allow more developers to

participate in bond issuances sponsored by the City's Housing Authority. The City Council will still have final approval of all bond issues through the TEFRA hearing process.

Economic Impacts: None.

Environmental Considerations: California Environmental Quality Act (CEQA): The proposed actions are not considered a project pursuant to CEQA Guidelines Section 15378(b)(4). National Environmental Policy Act (NEPA): The proposed actions are considered an administrative activity and therefore an exempt activity under NEPA pursuant to 24 CFR 58.34(a)(2) and (3).

Sustainability: Not applicable.

Commission/Committee Action: *Sacramento Housing and Redevelopment Commission:* At its October 16, 2024, meeting, the Sacramento Housing and Redevelopment Commission reviewed the staff recommendation for this item. The votes were as follows:

AYES: Amanfor, Janzen, Jefferson, Nordstrom, Nunley, Ramos, Ross, Woo

NOES: None

ABSENT: Duncan, Starks

Rationale for Recommendation: Approval of the recommendations outlined in this report enable SHRA to continue to fulfill its mission of construction and development of affordable housing units in the City of Sacramento.

Financial Considerations: Staff recommends a reduction of the annual bond administrative fees to 5 basis points (0.05%) of the outstanding bond amount, but not less than \$15,000 annually.

Local Business Enterprise (LBE): Local Business Enterprise requirements do not apply to this report. Minority and Women's Business Enterprise requirements and Section 3 considerations will be applied to all activities to the extent required by the federal funding.

RESOLUTION NO. 2024-_____

Adopted by the Housing Authority of the City of Sacramento

November 12, 2024

A Resolution of the Housing Authority of the City of Sacramento Delegating Official Intent to Reimburse Certain Expenditures from Proceeds of Tax Exempt Obligations and Approval to Amend Multifamily Lending and Mortgage Revenue Bond Policies of the Sacramento Housing and Redevelopment Agency

BACKGROUND

- A. The Housing Authority of the City of Sacramento (the “Authority”) issues tax-exempt obligations (the “Obligations”), from time to time, for the purpose, among other things, of making a loans to certain limited partnerships or limited liability companies related to or formed by certain developers (collectively, the “Developers”), the proceeds of which shall be used by such Developers to finance the acquisition, construction/rehabilitation and development of multifamily housing residential facilities to be located in the City of Sacramento, California (the “Projects”).
- B. A portion of the proceeds of such Obligations may pay certain expenditures (the “Reimbursement Expenditures”) in connection with any of the Projects prior to the issuance of such Obligations for such Projects.
- C. United States Income Tax Regulations section 1.150-2 (the “Reimbursement Regulations”) provides generally that proceeds of such Obligations are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such Obligations unless certain procedures are followed, among which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer must declare an intention to reimburse such expenditure.
- D. The Reimbursement Regulations further authorize an issuer to delegate its authority to declare official intent on behalf of the issuer to appropriate representatives of such issuer.
- E. The Authority intends to delegate its authority to declare official intent on behalf of the Authority to certain delegated persons named in this Resolution as appropriate representatives of the Authority. Final approval of any bond issuance shall be held at a Tax Equity and Fiscal Responsibility (TEFRA) hearing to be held by the City Council of the City of Sacramento.
- F. It is in the public interest and for the public benefit that the Authority makes such a delegation to allow for additional affordable housing units to be produced in the City of Sacramento.

- G. On December 3, 2019, the Sacramento City Council and City Housing Authority adopted the Multifamily Lending and Mortgage Revenue Bond Policies which guide the Sacramento Housing and Redevelopment Agency (Agency) in implementing the City's Affordable Housing Financing program.
- H. It is recommended that the Agency Multifamily Lending and Mortgage Revenue bond policies be updated in order to update sections 2.15 and 9.110 of the guidelines related to fees charged for affordable housing unit monitoring.
- I. The proposed actions are not considered a project pursuant to the California Environmental Quality Act Guidelines Section 15378(b)(4). Additionally, the proposed actions are considered an administrative activity and therefore an exempt activity under the National Environmental Policy Act pursuant to 24 CFR 58.34(a)(2) and (3).

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:

SECTION 1.

All evidence presented having been duly considered, the findings, including environmental findings regarding this action, as stated above, are found to be true and accurate and are hereby approved. The foregoing recitals are true and correct.

SECTION 2.

The Authority hereby delegates its authority to declare official intent on behalf of the Authority to each officer or employee of the Authority identified by their title and listed in Exhibit A attached hereto (the "Delegated Persons"), including (i) declaring the Authority's official intent to issue Obligations to finance Projects and to pay Reimbursement Expenditures with proceeds of such Obligations, all for purposes of the Reimbursement Regulations; (ii) authorizing each Delegated Person to authorize appropriate officers or staff of the Authority, for and in the name of and on behalf of the Authority, to make an application to California Debt Limit Allocation Committee ("CDLAC") for an allocation of private activity bonds for the financing of any such Project; and (iii) authorizing each Delegated Person to take such other actions and to execute and deliver such documents as may be necessary or appropriate to carry out the intent of this Resolution. For avoidance of doubt, the Authority also retains its authority to declare official intent.

SECTION 3.

Any declaration made by Delegated Persons pursuant to this delegation of authority is made solely for purposes of carrying out the intent of this Resolution, including establishing compliance with the requirements of Reimbursement Regulations and facilitating any related application to CDLAC, and does not bind the Authority to make any expenditure, incur any indebtedness, or

proceed with any Projects in any manner.

SECTION 4.

This delegation shall take effect from and after its adoption.

SECTION 5.

The Sacramento Housing and Redevelopment Agency (SHRA) Multifamily Lending and Mortgage Revenue Bond Policies previously adopted by the Housing Authority on December 3, 2019, are revised as follows:

- a. Section 2.15 and 9.1.10 are revised to reduce the annual administrative fees to 5 basis points (0.05%) of the outstanding bond amount, but not less than \$15,000.

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Exhibit A – List of Delegated Persons

EXHIBIT A
LIST OF DELEGATED PERSONS

- La Shelle Dozier, Executive Director

RESOLUTION NO. 2024-

Adopted by the Sacramento City Council

November 12, 2024

Approval of Amendment to the Multifamily Lending and Mortgage Revenue Bond Policies of the Sacramento Housing and Redevelopment Agency (Agency)

BACKGROUND

- A. On December 3, 2019, the Sacramento City Council and Housing Authority adopted the Multifamily Lending and Mortgage Revenue Bond Policies which guide the Sacramento Housing and Redevelopment Agency (Agency) in implementing the City's Affordable Housing Financing program.
- B. It is recommended that the Agency Multifamily Lending and Mortgage Revenue bond policies be updated in order to update sections 2.15 and 9.110 of the guidelines related to fees charged for affordable housing unit monitoring.
- C. The proposed actions are not considered a project pursuant to the California Environmental Quality Act Guidelines Section 15378(b)(4).
- D. The proposed actions are considered an administrative activity and therefore an exempt activity under the National Environmental Policy Act pursuant to 24 CFR 58.34(a)(2) and (3).

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

SECTION 1.

All evidence presented having been duly considered, the findings, including environmental findings regarding this action are approved and adopted.

SECTION 2.

The Sacramento Housing and Redevelopment Agency (SHRA) Multifamily Lending and Mortgage Revenue Bond Policies previously adopted by the Housing Authority on December 3, 2019 are revised as follows:

- a. Section 2.15 and 9.1.10 are revised to reduce the annual administrative fees to 5 basis points (0.05%) of the outstanding bond amount, but not less than \$15,000.

[PROJECT NAME]: CERTIFICATE OF DELEGATED PERSON DECLARING INTENTION TO REIMBURSE EXPENDITURES FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS OF HOUSING AUTHORITY OF THE CITY OF SACRAMENTO AND DIRECTING CERTAIN ACTIONS

[Insert Date]

BACKGROUND

A. The Housing Authority of the City of Sacramento (the “Authority”) intends to issue tax-exempt obligations (the “Obligations”) for the purpose, among other things, of making a loan to [Borrower], or a limited partnership or a limited liability company related to or formed by [Developer] (the “Developer”), the proceeds of which shall be used by the Developer to finance the acquisition, [construction/rehabilitation] and development of a [Units]-unit multifamily housing residential facility to be located at [Project Address], Sacramento, California (the “Project”).

B. A portion of the proceeds of the Obligations may reimburse certain expenditures (the “Reimbursement Expenditures”) made in connection with the Project prior to the issuance of the Obligations.

C. United States Income Tax Regulations section 1.150-2 (the “Reimbursement Regulations”) provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, among which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer must declare an intention to reimburse such expenditure.

D. Pursuant to Resolution No. 20[_]-[_] of the Authority adopted on [Delegation Resolution Date] (the “Delegation Resolution”), a Delegated Person as defined in the Delegation Resolution (the “Delegated Person”) is authorized to declare official intent on behalf of the Authority, including (i) declaring the Authority’s official intent to issue Obligations to finance projects and to pay Reimbursement Expenditures with proceeds of the Obligations, all for purposes of the Reimbursement Regulations; (ii) authorizing a Delegated Person to authorize appropriate officers or staff of the Authority, for and in the name of and on behalf of the Authority, to make an application to California Debt Limit Allocation Committee (“CDLAC”) for an allocation of private activity bonds for the financing of a project; and (iii) authorizing a Delegated Person to take such other actions and to execute and deliver such documents as may be necessary or appropriate to carry out the intent of the Delegation Resolution.

E. It is in the public interest and for the public benefit that the Delegated Person executing this certificate (the “Reimbursement Certificate”) declare official intent on behalf of the Authority to reimburse the expenditures referenced herein.

NOW, THEREFORE, the undersigned hereby states, certifies, finds, determines and declares as follows:

1. The undersigned is a Delegated Person as defined in the Delegation Resolution.
2. The above Background recitals are true and correct.
3. The Authority intends to issue the Obligations for the purpose of paying the costs of financing the acquisition, [construction/rehabilitation] and development of the Project.
4. The Authority reasonably expects that a portion of the proceeds of the Obligations will be used for reimbursement of expenditures for the acquisition, [construction/rehabilitation] and development of the Project that are paid before the date of initial execution and delivery of the Obligations.
5. The maximum amount of proceeds of the Obligations to be used for reimbursement of expenditures for the acquisition, [construction/rehabilitation] and development of the Project that are paid before the date of initial execution and delivery of the Obligations is not to exceed \$[NTE Amount].
6. The appropriate officers or the staff of the Authority are authorized, for and in the name of and on behalf of the Authority, to make an application to CDLAC for an allocation of private activity bonds for the financing of the Project.
7. The execution of this Reimbursement Certificate shall not obligate (i) the Authority to provide financing to the Developer for the acquisition, [construction/rehabilitation] and development of the Project or to issue the Obligations for purposes of such financing; or (ii) the Authority, of or any department of the Authority or the City of Sacramento to approve any application or request for, or take any other action in connection with, any environmental, general plan, zoning or any other permit or other action necessary for the acquisition, [construction/rehabilitation], development or operation of the Project.
8. This Reimbursement Certificate shall take effect immediately as of the date first written above.

[Remainder of Page Intentionally Left Blank]

This Reimbursement Certificate is executed by a Delegated Person as of the date first written above.

**HOUSING AUTHORITY OF THE CITY OF
SACRAMENTO**

By: _____
Name:
Title: