



Office of the City Manager

PUBLIC HEARING
December 14, 2021

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services
Subject: California Municipal Finance Authority Bond Financing for 2001 Ashby Avenue

RECOMMENDATION

Conduct a public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended, and upon conclusion, adopt a Resolution approving the issuance of the bonds by the California Municipal Finance Authority (CMFA) for the benefit of the 2001 Ashby Avenue rental housing development.

FISCAL IMPACTS OF RECOMMENDATION

Resources for Community Development (RCD), 2001 Ashby Avenue's sponsor, has requested the CMFA adopt a financing plan to provide for the issuance of a tax-exempt loan in one or more bond series not to exceed \$50,000,000 in aggregate principal amount (collectively, the "Bonds"). The Bonds to be issued by the CMFA will be the sole responsibility of RCD. The City will have no financial, legal, moral obligation, liability or responsibility for the repayment of the Bonds. All financing documents with respect to the issuance of the loan will contain clear disclaimers that the loan is not an obligation of the City or the State of California but is to be paid for solely from funds provided by RCD.

The Board of Directors of the California Foundation for Stronger Communities, a California non-profit public benefit corporation (the "Foundation"), acts as the Board of Directors for the CMFA. Through its conduit issuance activities, the CMFA shares a portion of the issuance fees it receives with its member communities and donates a portion of these issuance fees to the Foundation for the support of local charities. With respect to the City it is expected that that a portion of the issuance fee attributable to the City will be granted by the CMFA to the general fund of the City. CMFA staff estimate this payment will be approximately \$16,200. Such grant may be used for any lawful purpose of the City. Staff recommend this funding be applied to the Housing Trust Fund (HTF) program.

CURRENT SITUATION AND ITS EFFECTS

RCD is the sponsor of an 87-unit rental housing facility for low-income and very low-income tenants, including those experiencing homelessness (the "Project"), located at 2001 Ashby Avenue. The City Council approved a \$17,000,000 loan from the Housing Trust Fund (HTF) program to support this project's financing.

RCD has requested the CMFA issue the Bonds to finance the acquisition, construction, improvement, and equipping of the Project. These bonds, combined with the City's HTF loan and State sources, will facilitate the necessary financing for the Project's completion.

In order for the bonds to qualify as tax-exempt bonds, the City must conduct a public hearing (the "TEFRA Hearing") to provide members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the Project's financing. Prior to the TEFRA Hearing, reasonable notice must be provided to the members of the community. Following the close of the TEFRA Hearing, an "applicable elected representative" of the government hosting the Project must provide its approval of the issuance of the bonds for its financing. This adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code, and the California Government Code Section 6500.

BACKGROUND

The CMFA was created on January 1, 2004 pursuant to a joint exercise of powers agreement to promote economic, cultural, and community development through the financing of economic development and charitable activities throughout California. To date, over 330 municipalities, including the City of Berkeley, have become members of CMFA.

The CMFA was formed to assist local governments, non-profit organizations and businesses with the issuance of taxable and tax-exempt financing aimed at improving the standard of living in California. The CMFA's representatives and its Board of Directors have considerable experience in bond financings.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Developing infill, affordable housing is generally accepted as a best practice to reduce greenhouse gas emissions from vehicle miles traveled.

RATIONALE FOR RECOMMENDATION

The proposed project is eligible for tax-exempt bonds. The Council's approval of the CMFA's issuance will help the Project access tax-exempt financing to support the City's supply of low- and very-low income units in accordance with the City's Regional Housing Needs Allocation and Strategic Plan goals.

The City has previously invested HTF funds to support this project's financing, which will be leveraged in conjunction with these tax-exempt bonds to support the Project's financial feasibility.

ALTERNATIVE ACTIONS CONSIDERED

The City may decline to hold a TEFRA hearing at all, or to hold the hearing but not approve the bonds. While it is preferable for the City to hold the TEFRA hearing and approve the use of bonds, CMFA could approach Alameda County to fill this role if the City declined. Alternatively, the project would need to identify a new funding plan that does not include bonds if the City Council does not approve the issuance. The resulting delays and/or additional expenses would negatively impact the Project's feasibility.

CONTACT PERSON

Jenny Wyant, Senior Community Development Project Coordinator, HHCS, (510) 981-5228
Mike Uberti, Senior Community Development Project Coordinator, HHCS, (510) 981-5114

Attachments:

- 1: Resolution
- 2: Public Hearing Notice

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

CALIFORNIA MUNICIPAL FINANCE AUTHORITY MULTIFAMILY HOUSING
REVENUE BONDS FOR 2001 ASHBY AVENUE

WHEREAS, Resources for Community Development (the "Sponsor"), on behalf of Maudelle Shirek, L.P., a California limited partnership, or another entity to be created by the Sponsor, RCD GP III LLC, or another affiliate of the Sponsor (such limited partnership or other entity, the "Borrower"), has requested that the California Municipal Finance Authority (the "Authority") issue one or more series of revenue bonds in an aggregate principal amount not to exceed \$50,000,000 (the "Bonds"), including but not limited to revenue bonds issued as part of a plan to finance the acquisition, construction, improvement and equipping of an 87-unit rental housing facility for low-income and very low-income tenants, including those experiencing homelessness (the "Project"), to be located at 2001 Ashby Avenue in the City of Berkeley, California (the "City"); and

WHEREAS, an "applicable elected representative" of the jurisdiction in which the Project is to be located is required to approve the issuance of the Bonds under Section 147(f) of the Code; and

WHEREAS, the City Council of the City (the "City Council") is the elected legislative body of the City and is an "applicable elected representative" for purposes of Section 147(f) of the Code; 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 Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the "Agreement"), among certain local agencies, including the City; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority; and

WHEREAS, the City Council understands that its actions in holding this public hearing and in approving this Resolution do not obligate the City in any manner for payment of the principal, interest, fees or any other costs associated with the issuance of the Bonds, and said City Council expressly conditions its approval of this Resolution on that understanding.

WHEREAS, any revenue received by the City from participation in this hearing will be applied to the Housing Trust Fund program to support the City's affordable housing initiatives.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that:

Section 1. The foregoing recitals are true and correct.

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Section 2. The City Council hereby approves the issuance of the Bonds by the Authority, including but not limited to Bonds issued as part of a plan to finance the facilities described herein. It is the purpose and intent of the City Council that this resolution constitutes approval of the issuance of the Bonds by the Authority for the Project, for the purposes of (a) Section 147(f) of the Code by the applicable elected representative of a governmental unit having jurisdiction over the area in which the Project is to be located, in accordance with said Section 147(f) and (b) Section 4 of the Agreement.

Section 3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing transaction approved hereby.

Section 4. The Clerk shall forward a certified copy of this Resolution 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 5. This Resolution shall take effect from and after its passage and approval.

NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

CALIFORNIA PUBLIC FINANCE AUTHORITY MULTIFAMILY HOUSING REVENUE BONDS FOR 2001 ASHBY AVENUE

NOTICE IS HEREBY GIVEN that on December 14, 2021, a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986 will be held with respect to the proposed issuance by the California Municipal Finance Authority (the "Authority") of its revenue bonds in one or more series in an amount not to exceed \$50,000,000 (the "Bonds"), including but not limited to revenue bonds issued as part of a plan to finance the acquisition, construction, improvement and equipping of an 87-unit rental housing facility for low-income and very low-income tenants, including those experiencing homelessness (the "Project"), to be located at 2001 Ashby Avenue in the City of Berkeley, California (the "City"). The facilities are to be owned and operated by Maudelle Shirek, L.P., a California limited partnership, or another entity to be created by the Sponsor, RCD GP III LLC, or another affiliate of Resources for Community Development.

The Bonds and the obligation to pay principal thereof and interest thereon and any redemption premium with respect thereto do not constitute indebtedness or an obligation of the City of Berkeley, the Authority, the State of California or any political subdivision thereof, within the meaning of any constitutional or statutory debt limitation, or a charge against the general credit or taxing powers of any of them. The Bonds shall be a limited obligation of the Authority, payable solely from certain revenues duly pledged therefor and generally representing amounts paid by the Borrower.

The hearing will be held on December 14, 2021 at 4:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

Interested persons wishing to express their views on the issuance of the Bonds or on the nature and location of the facilities proposed to be financed may attend the public hearing by calling (833) 548 0282 (Toll Free) or, prior to the time of the hearing, submit written comments.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **December 9, 2021. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Jenny Wyant at (510) 981-5228.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on December 9, 2021.



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Mark Numainville, City Clerk