



Office of the City Manager

CONSENT CALENDAR
April 14, 2020

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Lisa Warhuus, Director, Health, Housing & Community Development
Subject: 1601 Oxford Interest Rate Reduction

RECOMMENDATION

Adopt a Resolution:

1. Waiving the Housing Trust Fund Guidelines Section V.B.2 and allowing an interest rate of 1% for Satellite Affordable Housing Associates' (SAHA) 1601 Oxford's development loan; and
2. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

FISCAL IMPACTS OF RECOMMENDATION

City Housing Trust Fund (HTF) program funds are provided in the form of a loan consistent with the HTF Guidelines. The loans are structured to be repaid with any residual receipts, meaning cash flow left over after operating costs and senior debts (like banks and the State) are paid. If no cash flow is available, no payments are made until the end of the term (55 years from project completion). Reducing the City's interest rate from 3% to 1% reduces the interest the City will earn. With a 1% interest rate and no repayments during the term, the loan could accrue \$3.3M in interest. By comparison, a loan of the same size with 3% interest and no repayments would accrue \$9.9M in interest over 55 years. In this case, the project would not be able to proceed without the interest rate reduction, so the comparison is not between 3% interest and 1% interest, but between 1% interest and no interest, since the City cannot earn interest if there is no loan.

CURRENT SITUATION AND ITS EFFECTS

On March 5, 2020, the Housing Advisory Commission made the following recommendation:

Action: M/S/C (Simon-Weisberg/Sharenko) to recommend to Council to reduce the interest rate of Satellite Affordable Housing Associates' 1601 Oxford Housing Trust Fund loan to 1%.

Vote: Ayes: Johnson, Lord, Mendonca, Sargent, Sharenko, and Simon-Weisberg. Noes: None. Abstain: None. Absent: Owens (unapproved) and Wright (approved). Recused: Wolfe.

Council approved \$6M in HTF funding for 1601 Oxford on October 16, 2018. The project's sponsor, SAHA, has secured financing, with one grant application pending, and is preparing to close all financing and start construction by mid-June 2020.

In February 2020, SAHA requested a reduction in 1601 Oxford's development loan interest rate from 3% to 1%. Without the reduction, the project will not be able to attract a low income housing tax credit investor and will be infeasible. The interest rate is set in the HTF Guidelines, and requires a waiver by Council in order to reduce the interest rate.

Affordable housing development often relies on low income housing tax credits, which are effectively purchased by investors who have tax liabilities they want to offset. Under IRS rules, a tax credit investor is only able to claim tax credits and deductions while it maintains a positive balance in its "capital account" for the project. The capital account is reduced over time by the amount of tax losses allocated to the investor (99.99% of the project's losses). Accruing interest on loans contributes to the amount of losses, and reduces the capital account at a faster rate.

In order to keep the capital account positive for the 15-year tax credit period, SAHA requested a reduction in the City's loan interest rate. SAHA requested similar interest rate reductions from Alameda County and California Housing and Community Development (HCD) from 3% to 1% and 0%, respectively. SAHA's tax credit financing consultants strategized and ran scenarios, and determined the project would need all three interest rates reduced in order to be viable.

The City previously approved reductions in interest rates for other tax credit projects for similar reasons, and expects more requests in the future. Recent federal tax reform exacerbated the issue with capital accounts. The reduction of the marginal corporate tax rate reduced the overall equity contributions of tax credit investors. Tax reform also requires projects to depreciate property over 30 years rather than 40 years, which means depreciation losses are accelerated and the investor's capital account reaches zero more quickly. Reducing interest rates is a key solution to this problem.

It is important that City funding work with tax credit projects and program requirements, since that is an essential funding source for affordable housing developments. Staff are considering recommending an amendment to the HTF guidelines that would allow the City Manager to adjust the interest rate as needed so the City could respond more quickly when this issue arises.

Reducing the interest rate for 1601 Oxford's HTF loan is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

BACKGROUND

1601 Oxford is a 35-unit affordable housing development that will serve seniors earning up to 60% of the area median income.

Since Council's October 2018 funding reservation, SAHA has pursued various sources, and successfully secured A1 bond funding (from Alameda County), No Place Like Home funding (from HCD), state 4% tax credits, and a tax-exempt bond. The reservation of tax credits and tax exempt bond started a 180-day window during which SAHA must close its construction financing and start construction.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental sustainability impacts of reducing the interest rate for 1601 Oxford.

RATIONALE FOR RECOMMENDATION

The City has not historically prioritized earning interest from its HTF investments, instead prioritizing the creation and preservation of affordable housing opportunities consistent with local priorities and the purpose of the HTF program. Two reasons for providing funds in the form of a loan are (1) loans work with tax credit financing requirements, which grants do not and (2) the loans help secure long term affordability and City involvement in any future proposed changes. Reducing the interest rate is consistent with the HTF program goals, and will support the creation of new affordable housing units in Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The City could decline to reduce its interest rate, but that would make the project infeasible with tax credits and create a \$9M gap in its financing. This would not be consistent with the City's Strategic Plan goal, and is therefore not recommended.

CONTACT PERSON

Jenny Wyant, Community Development Project Coordinator, HHCS, 510-981-5228

Attachments:

1: Resolution

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

REDUCTION OF DEVELOPMENT LOAN INTEREST RATE FOR 1601 OXFORD

WHEREAS, the City Council established a Housing Trust Fund (HTF) program to assist in the development and expansion of housing affordable to low and moderate income persons who either work or reside within the City of Berkeley, and authorized the City Manager to implement the HTF program; and

WHEREAS, there is a great need for affordable and special needs housing in the City of Berkeley as stated in the General Plan Housing Element and the City of Berkeley's Consolidated Plan; and

WHEREAS, on October 16, 2018, City Council reserved \$6 million to support the development of 1601 Oxford, Satellite Affordable Housing Associates' (SAHA) affordable housing project for seniors; and

WHEREAS, SAHA applied for and was awarded an allocation of tax credits from the California Tax Credit Allocation Committee; and

WHEREAS, recent tax reform made low income housing tax credit financing more difficult; and

WHEREAS, on February 20, 2020, SAHA requested a reduction of the City's HTF loan interest rate for 1601 Oxford from three percent (3%) to one percent (1%) in order to make the tax credit financing viable; and

WHEREAS, on March 5, 2020, the Housing Advisory Commission recommended reducing the interest rate for 1601 Oxford to one percent (1%).

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley waives the requirements of Section V.B.2 of the Housing Trust Fund Guidelines and approves an interest rate of one percent (1%) in order to make the project feasible with low income housing tax credit financing.

BE IT FURTHER RESOLVED that 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 the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements and any amendments will be kept on file in the Office of City Clerk.

