To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, Interim City Manager

Submitted by: Kelly Wallace, Acting Director, Health, Housing & Community Services Department

Subject: Grayson Street Apartments: Housing Trust Fund Reservation and Affordable Housing and Sustainable Communities Application

RECOMMENDATION

Adopt a Resolution:

1) Approving a funding reservation of $1.4 million from the Housing Trust Fund for Grayson Street Apartments, contingent upon Satellite Affordable Housing Associates (SAHA) securing its remaining financing commitments by December 31, 2016.

2) Authorizing a joint application with SAHA for Affordable Housing and Sustainable Communities (AHSC) funds for Grayson Street Apartments and related infrastructure improvements.

3) Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

SUMMARY

In 2013, the City loaned $1,095,000 in Housing Trust Funds for the site acquisition and various predevelopment costs for Grayson Street Apartments, 23-units of proposed new construction housing at San Pablo and Grayson Street. SAHA applied for additional funding in the City’s 2015 RFP round. Although the proposal was rated highly in the areas of developer capacity and local needs and priorities, its rating in feasibility and readiness was reduced by the proposed inclusion of project-based Section 8, which had not been secured from the Berkeley Housing Authority (BHA). No funding award was recommended in June. Subsequently, BHA announced that project-based vouchers would not be available in the foreseeable future, and SAHA identified a new funding strategy. Furthermore, the Housing Trust Fund recently received more than $1.8 million in fees. The actions recommended in this report would allow Grayson to compete for state funding in 2016.

At its January 7 meeting, after a recommendation from the Housing Advisory Commission (HAC) Housing Trust Fund subcommittee, the HAC voted to support the

**FISCAL IMPACTS OF RECOMMENDATION**

There is currently $3,067,578 in the Housing Trust Fund (HTF), almost entirely comprised of Housing Mitigation Fees, Condo Conversion Fees, and Inclusionary In-Lieu Fees. Staff are currently working with Northern California Land Trust (NCLT), to develop a refined scope of work and budget of up to $500,000 for their scattered site rehabilitation project, as outlined in the June 23, 2015 Housing Trust Fund Council report, leaving approximately $2.5 million in the Housing Trust Fund. Committing $1.4 million to Grayson would leave approximately $1.1 million for future projects.

There is no direct fiscal impact for becoming a joint applicant with Satellite Affordable Housing Associates for the Affordable Housing and Sustainable Communities (AHSC) program. However, as a joint applicant, the City may share responsibility for completing the affordable housing development, as is required in the draft 2016 regulations. The 2015 regulations required applicants to be jointly and severally liable for completion of the project, and allowed applicants to enter into a side agreement to limit their liability. Commenters on the draft regulations have suggested removing the requirement for joint responsibility.

As of this writing in early December, neither the final 2016 AHSC regulations nor the application are available. The regulations are expected to be released in December and the application in January, with applications due in February. Once the regulations and application have been released, staff will work to determine and mitigate the risks to the City with being a co-applicant, which may involve developing a side agreement with the development or sponsor to reduce risk to the City.

**CURRENT SITUATION AND ITS EFFECTS**

Grayson is a 23-unit mixed-use development that will serve lower income and special needs residents. SAHA applied for a $1 million HTF loan earlier this year in response to the City’s Request for Proposals. The proposal was rated highly for the developer capacity and local needs and priorities, but its rating was reduced under the areas of feasibility and readiness since the proposed financing included project-based Section 8. At that time, it was uncertain whether the Berkeley Housing Authority would be able to project-based vouchers, particularly in time for the City’s HOME commitment deadline in August 2015. In addition, not enough funding was available in the Housing Trust Fund for all the applications received.

When funding recommendations were made at the June 23, 2015 Council meeting, the recommendations referenced staff reporting back on the status of Grayson Street Apartments. Subsequently, BHA issued an RFP on November 2 for up to 25 vouchers, but rescinded it on November 9 because new information from HUD has impacted
BHA’s ability to issue new vouchers. SAHA has since revised its funding strategy for Grayson, and is no longer proposing project based vouchers. Instead, SAHA revised its HTF request to $1.4 million, which will be leveraged in its application for an estimated $2.7 million in AHSC funds in February. At this level, the City’s funding would constitute 17% of the total budget.

The City’s commitment of an additional $1.4 million to Grayson would be contingent upon SAHA securing all other project funding by December 31, 2016. If the AHSC application for Grayson is successful, SAHA will pursue 4% (non-competitive) tax credits to round out its financing package for the project. Parallel to the AHSC application process, SAHA will also pursue 9% tax credits to fill the funding gap if AHSC funds are not awarded.

The Strategic Growth Council (SGC), a newly developed state agency, administers the AHSC program, and is planning to issue a Notice of Funding Availability early in 2016. Although the final guidelines have not been released as of this report, the NOFA is anticipated in January, with concept proposals likely due in February. AHSC has a two-phased application process. SGC will review the concept proposals for eligibility, and will invite qualifying applicants to submit a full application later in the spring.

SAHA requested that the City act as a joint applicant for the AHSC funds, which will increase the project’s score and help make it more competitive for funding. The draft regulations award 9 out of 100 points for a “joint application between a housing developer and a public agency that has authority over public transit or transportation infrastructure” and provides funding for infrastructure improvements in the project’s area. As a joint applicant, the City may be required to assume joint and several liability for the project, depending on the final regulations which had not been released as of this writing. However, in the program’s first year (2015), AHSC permitted side agreements between developers and jurisdictions, in which the jurisdiction can indemnify itself and mitigate some of the risk.

The City’s role as joint applicant does not necessitate a new Public Works project. SAHA’s proposal will include one or more transportation infrastructure projects intended to encourage residents to walk, bike, or take transit rather than drive. SAHA and HHCS have met with and had preliminary communications with AC Transit and the City’s Public Works Department to identify the appropriate infrastructure improvement project. In preliminary discussion with AC Transit, it appears that some improvements, such as signal changes, could be made by a contractor working for SAHA under permits issued by the City. HHCS staff and SAHA will continue to work with AC Transit and Public Works once the regulations and application are released to identify the appropriate infrastructure project that can be completed within the required timeframe, any risks to the City, and ways to mitigate that risk.
BACKGROUND
SAHA first applied for funding for Grayson in response to the City’s 2010 Notice of Funding Availability. In 2012, the City reserved $1,095,000 for Grayson for acquisition and development costs. SAHA acquired the site in 2013, and since then has been working on the project’s design and securing additional funding. SAHA requested an additional $1 million for Grayson in response to the City’s 2015 RFP. Staff evaluated SAHA’s application, but opted not to fund Grayson because the developer was not able to commit all project funding prior to HUD’s HOME commitment deadline in August. At the time, SAHA was awaiting funding results for MHP through the State, and was expecting to secure project based Section 8 vouchers from Berkeley Housing Authority (BHA), and 9% tax credits. SAHA received the MHP funds as anticipated, but was not able to obtain Section 8 vouchers, which made their tax credit application less competitive.

Funding for AHSC comes from cap and trade proceeds and the Greenhouse Gas Reduction Fund. The program focuses on development that reduces greenhouse gas emissions. SGC indicated that there is approximately $320 million available for the 2016 application cycle, and estimate that a similar amount will be available in subsequent years. Projects are scored based on their estimated greenhouse gas reduction, and their efforts at incentivizing alternative (non-car-based) forms of travel.

ENVIRONMENTAL SUSTAINABILITY
SAHA designed Grayson to achieve a minimum rating of LEED Gold, and are aiming for LEED Platinum. The AHSC program supports projects that reduce greenhouse gas production by encouraging infill, urban development and travel via public transit, walking, and bicycling rather than driving, and providing funding for infrastructure improvements. Grayson is located along an active bus line providing connections to BART and downtown Oakland. As an example of the type of infrastructure funded and encouraged by AHSC, SAHA could complete signal priority technology improvements that have been identified by AC Transit, once the City approves the permits.

RATIONALE FOR RECOMMENDATION
The City already has $1,095,000 invested in the project, and its current development loan agreement for the Grayson requires project completion by May 2017. Providing additional Housing Trust Fund funds and acting as a co-applicant for AHSC will allow Grayson to compete for state funding in 2016. No other proposed developments in the City are at an appropriate phase to compete for AHSC this year.

AHSC awards additional points for joint applications (9 out of a potential 100 points). The City’s participation as a joint application will help make SAHA’s application more competitive for funds, and will demonstrate the City’s commitment to the project.
ALTERNATIVE ACTIONS CONSIDERED
The City could choose not to apply for AHSC funds as a joint applicant or provide additional funds. SAHA’s application would be less competitive, lowering its chances of receiving AHSC funds or 9% Low Income Housing Tax Credits in 2016. SAHA would need to identify and pursue other funds, which would delay development further.

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

Attachments:
1: Resolution
RESOLUTION NO. ##.###-N.S.

APPROVAL OF JOINT AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM APPLICATION AND FUNDING FOR GRAYSON STREET APARTMENTS

WHEREAS, the City Council established a Housing Trust Fund Program (HTF) 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 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, the City and Satellite Affordable Housing Associates (SAHA) entered into a development loan agreement on July 11, 2013 for the acquisition and development of Grayson Street Apartments (Grayson) (contract #9394) as authorized by Resolution No. 65,962 adopted on December 11, 2012; and

WHEREAS, SAHA acquired the development site on July 26, 2013, and continues to seek permanent financing for the project; and

WHEREAS, on January 20, 2015 the City Council approved issuing an RFP, to which SAHA responded with an application for $1 million for Grayson, which proposed including Project-Based Section 8 Vouchers from the Berkeley Housing Authority (BHA); and

WHEREAS, BHA released an RFP for Project Based Section 8 Vouchers on November 2, 2015, but rescinded the RFP on November 9, 2015, indicating that its future capacity to issue Project Based Vouchers is unknown; and

WHEREAS, SAHA has identified a new funding strategy involving the state’s Affordable Housing and Sustainable Communities program, and has requested a revised total of $1.4 million and the City’s acting as co-applicant to support an application to AHSC expected in February 2016; and

WHEREAS, the State of California, the Strategic Growth Council (SGC), and the Department of Housing and Community Development (Department) are expected to issue a Notice of Funding Availability (NOFA) in January 2016 under the Affordable Housing and Sustainable Communities Program established under Division 44, Part 1 of the Public Resources Code commencing with Section 75200; and

WHEREAS, SAHA desires to apply for AHSC Program funds for Grayson, and has requested that the City act as a joint applicant; and

WHEREAS, the City may be required to accept a portion of the project’s liability as a condition of the joint application, though the risk may be mitigated by a side agreement negotiated between SAHA and the City; and
WHEREAS, the City’s participation as a joint applicant and its commitment of additional funds will improve SAHA’s funding applications and make Grayson more competitive for funding.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the following for Grayson Street Apartments:

- $1.4 million HTF reservation for costs related to the development of the project; and
- Submission of a joint application with SAHA for the AHSC funding application.

BE IT FURTHER RESOLVED that the funding reservation is 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 funding reservation is conditioned upon SAHA securing all other funding for Grayson by December 31, 2016.

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to combine Grayson’s existing HTF loan and accrued interest with the new funding reservation in a development loan agreement subject to the standard HTF terms.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to apply for and submit to the Department the AHSC Program Application as detailed in the NOFA expected in January 2016, for the 2015-16 Fiscal Year. If the application is approved, the City Manager is hereby authorized and directed to enter into, execute, and deliver a State of California Standard Agreement and any and all other documents required or deemed necessary or appropriate to secure the AHSC Program funds from the Department, and all amendments thereto (collectively, the “AHSC Documents”).

BE IT FURTHER RESOLVED that the City shall be subjected to the terms and conditions as specified in the Standard Agreement. Funds are to be used for allowable capital asset project expenditures. The application in full is incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application are enforceable through the Standard Agreement. The City hereby agrees to use the funds for eligible capital asset(s) in the manner presented in the application as approved by the Department and in accordance with the NOFA and Program Guidelines and Application Package.
BE IT FURTHER RESOLVED that City Manager shall work to mitigate risk to the City from serving as a co-applicant, including negotiating an agreement with SAHA and Grayson regarding mutual responsibilities.

BE IT FURTHER RESOLVED that 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 the City Clerk.