



Office of the City Manager

PUBLIC HEARING
January 21, 2025

To: Honorable Mayor and Members of the City Council
From: Paul Buddenhagen, City Manager
Submitted by: Scott Gilman, 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 additional bonds, increasing the total amount of bonds to be issued for this project, 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 that CMFA adopt a financing plan to provide for the issuance of a tax-exempt loan in one or more bond series not to exceed \$44,957,471 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.

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, and approved the issuance of bonds in an amount not to exceed \$50,000,000 by the California Municipal Finance Authority (CMFA) in December of 2021 to support this project's financing. The actual issuance of bonds for the project was for \$42,607,471. Since this approval, the project is in the final stages of construction and is expected to be occupied in early 2025.

Because of various project delays, the development costs are higher than anticipated and RCD needed to identify a source of funding to fill the gap. RCD requested that CMFA issue the Bonds to finance the remaining 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 completion.

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 additional bond funds 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

Kelly deWolfe, Community Development Project Coordinator, HHCS, (510) 981-5424

Attachments:

- 1: Resolution
- 2: Public Hearing Notice

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY APPROVING THE REISSUANCE OF REVENUE BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$44,957,471 TO FINANCE AND REFINANCE A MULTIFAMILY RENTAL HOUSING FACILITY FOR THE BENEFIT OF MAUELLE SHIREK, L.P., OR ITS AFFILIATE, AND CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, Resources for Community Development (the “Sponsor”), on behalf of Maudelle Shirek, L.P., a California limited partnership (the “Borrower”), has requested that the California Municipal Finance Authority (the “Authority”) reissue one or more series of revenue bonds in an aggregate principal amount not to exceed \$44,957,471 (the “Bonds”), including but not limited to revenue bonds issued as part of a plan to (1) finance and refinance 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 (2) pay certain expenses in connection with the reissuance of the Bonds; and

WHEREAS, an “applicable elected representative” of the jurisdiction in which the Project is to be located is required to approve the reissuance 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 reissuance 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 reissuance of the Bonds, and now desires to approve the reissuance of the Bonds by the Authority.

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

Section 1. The foregoing recitals are true and correct.

Section 2. The City Council hereby approves the reissuance of the Bonds by the Authority, including but not limited to Bonds issued as part of a plan to finance and refinance the Project. It is the purpose and intent of the City Council that this resolution constitute approval of the reissuance 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

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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 immediately upon its adoption.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL
CALIFORNIA MUNICIPAL FINANCE AUTHORITY MULTIFAMILY
HOUSING REVENUE BONDS FOR 2001 ASHBY AVENUE**

The public may participate in this hearing by remote video or in-person.

The Department of Housing and Community Services is proposing that on January 21, 2025, a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986 will be held with respect to the proposed reissuance by the California Municipal Finance Authority (the "Authority") of its revenue bonds in one or more series in an amount not to exceed \$44,957,471 (the "Bonds"), including but not limited to revenue bonds reissued as part of a plan to (1) refinance 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 (2) pay certain expenses incurred in connection with the reissuance of the Bonds.. The facilities are to be owned and operated by Maudelle Shirek, L.P., a California limited partnership (the "Borrower").

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 January 21, 2025 at 6:00 p.m. or as soon thereafter as the matter can be heard in the School District Board Room, located at 1231 Addison Street, Berkeley, CA 94702. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Interested persons wishing to express their views on the reissuance of the Bonds or on the nature and location of the facilities proposed to be financed and refinanced may attend the City Council meeting or, prior to the City Council meeting, submit written comments.

A copy of the agenda material for this hearing will be available on the City's website at <https://berkeleyca.gov/> as of **January 9, 2025**.

For further information, please contact Kelly deWolfe at (510) 981-5424. 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.

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 (510) 981-6900 or clerk@berkeleyca.gov for further information.

Published: January 10, 2024 – The Berkeley Voice *[must be published at least 7 days in advance]*

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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 January 9, 2025.

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Mark Numainville, City Clerk

