



Office of the City Manager

PUBLIC HEARING
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services
 Subject: Public Hearing and Approval of California Municipal Finance Authority Bond
 Financing for Berkeley Way Affordable Housing

RECOMMENDATION

- 1) Conduct the 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
- 2) Adopt the resolution approving the issuance of the Bonds by the California Municipal Finance Authority (CMFA) for the benefit of BRIDGE Berkeley Way LP, a California limited partnership (the "Borrower"), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

FISCAL IMPACTS OF RECOMMENDATION

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, and the City will have no financial, legal, moral obligation, liability or responsibility for the Project or the repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California but are to be paid for solely from funds provided by the Borrower.

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 of Berkeley, 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. Such grant may be used for any lawful purpose of the City.

CURRENT SITUATION AND ITS EFFECTS

There are two TEFRA hearings and resolutions on the agenda tonight since the components of the Berkeley Way project are being financed separately. The resolution attached to this report will enable the Berkeley Way project to access \$42M in tax-exempt bond financing from the California Municipal Finance Authority (CMFA). The City will not be a borrower or a lender for this financing. Approval is needed no later than September 17, 2019 to meet the project's financing timeline.

BRIDGE Housing Corporation formed a limited partnership called BRIDGE Berkeley Way LP for the purpose of financing the 89 units of permanent affordable housing in the Berkeley Way project. This report refers to the partnership as "Borrower." The Borrower requested that the CMFA serve as the municipal issuer of the Bonds in an aggregate principal amount not to exceed \$42,000,000 of tax-exempt revenue bonds. The proceeds of the Bonds will be used for the purpose of financing the costs of the acquisition and construction of an 89 unit multifamily residential rental facility to be located at 2012 Berkeley Way in the City, currently identified as BRIDGE Berkeley Way Affordable Apartments, to be owned by the Borrower and to be operated initially by BRIDGE Property Management Company or another entity selected by the Borrower.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the City of Berkeley must conduct a public hearing (the "TEFRA Hearing") providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. Prior to such 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 governmental unit hosting the Project must provide its approval of the issuance of the Bonds for the financing of the Project.

The Berkeley Way project, including the 89 units of affordable permanent housing addressed in this report, is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

BACKGROUND

The City initiated the Berkeley Way project in 2013 after identifying the City-owned parking lot at 2012 Berkeley Way as a housing opportunity site. The BRIDGE Housing Corporation and the Berkeley Food and Housing Project with their architects Leddy Maytum Stacy (LMSA) were selected to develop the site via a competitive process in 2014. The project received its land use entitlements in December 2018. In addition to the City's committed predevelopment funding and reserved development funding, in 2019 the project has received funding awards from three California housing programs—Affordable Housing and Sustainable Communities (AHSC), No Place Like Home (NPLH), and Supportive Housing – Multifamily Housing Program (SHMHP)—in addition to project-based vouchers from the Berkeley Housing Authority.

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 300 municipalities 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 bonds 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

There are no environmental sustainability effects directly associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The proposed project is eligible for tax-exempt bonds and the Council's approval of CMFA's issuance will help move this priority project forward.

ALTERNATIVE ACTIONS CONSIDERED

Staff have not identified another action which is consistent with the Council's goal of bringing the Berkeley Way project to fruition.

CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406

Attachments:

- 1: Resolution
- 2: Public Hearing Notice

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

APPROVING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY FOR THE PURPOSE OF FINANCING AFFORDABLE MULTIFAMILY HOUSING IN THE BERKELEY WAY PROJECT

WHEREAS, pursuant Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies (the "Members") have entered into a Joint Exercise of Powers Agreement, effective on January 1, 2004 (the "Agreement") in order to form the California Municipal Finance Authority (the "Authority"), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes, or other evidences of indebtedness; and

WHEREAS, the City of Berkeley (the "City") is a member of the Authority; and

WHEREAS, the Authority is authorized to issue and sell revenue bonds for the purpose, among others, of financing or refinancing the acquisition and construction of multifamily rental housing projects; and

WHEREAS, BRIDGE Berkeley Way LP, a California limited partnership (the "Borrower") has requested that the Authority issue one or more series of revenue bonds in an aggregate principal amount not to exceed \$42,000,000 (the "Bonds"), and lend the proceeds of the Bonds to the Borrower for the purpose of financing the costs of the acquisition and construction of an 89 unit multifamily residential rental facility to be located at 2012 Berkeley Way in the City, currently identified as BRIDGE Berkeley Way Affordable Apartments (the "Project"), to be owned by the Borrower and to be operated initially by BRIDGE Property Management Company or another entity selected by the Borrower; and

WHEREAS, in order for the interest on Bonds to be tax-exempt, section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") requires that an "applicable elected representative" of the governmental unit on behalf of which the Bonds are being issued and the governmental unit the geographic jurisdiction of which contains the site of Project to be financed approve the issuance of the Bonds following the conduct of a public hearing; and

WHEREAS, the Authority has determined that the City Council of the City (the "City Council") is an "applicable elected representative" for purposes of holding such hearing; 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 requirements of section 147(f) of the Code and the requirements of Section 4 of the Agreement; and

WHEREAS, notice of such public hearing has been duly given as required by the Code and the City Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the financing of the Project and the Authority's issuance of the Bonds therefore, and the City Council now desires to approve the issuance of the Bonds by the Authority.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby approves the issuance of the Bonds by the Authority for the purpose of providing funds to make a loan to the Borrower to enable the Borrower to finance costs of the Project, and it is the purpose and intent of the City Council that this Resolution constitute approval of the issuance of the Bonds by the Authority for the purposes of: (a) section 147(f) of the Code, by the applicable elected representative of the governmental unit on behalf of which the Bonds are being issued and the governmental unit having jurisdiction over the area in which the Project is located, in accordance with said section 147(f), and (b) Section 4 of the Agreement; and

BE IT FURTHER RESOLVED that the issuance of the Bonds shall be subject to approval of the Authority of all financing documents relating thereto to which the Authority is a party, and the City shall have no responsibility or liability whatsoever with respect to repayment or administration of the Bonds; and

BE IT FURTHER RESOLVED that the adoption of this Resolution shall not obligate the City or any department thereof to (a) provide any financing to acquire or rehabilitate the Project; (b) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, rehabilitation or operation of the Project; (c) make any contribution or advance any funds whatsoever to the Authority; or (d) take any further action with respect to the Authority or its membership therein; and

BE IT FURTHER RESOLVED that the City Manager, City Clerk and all other officers and officials of the City are hereby authorized and directed to do any and all things and to execute and deliver any and all agreements, documents and certificates 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; and

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to forward a certified copy of this Resolution to the bond counsel for the Bonds, addressed as follows:

Paul J. Thimmig, Esq.
Quint & Thimmig LLP
900 Larkspur Landing Circle, Suite 270
Larkspur, CA 94939-1726

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**CALIFORNIA MUNICIPAL FINANCE AUTHORITY BOND FINANCING
FOR BRIDGE BERKELEY WAY AFFORDABLE APARTMENTS**

The Department of Health, Housing & Community Services is proposing finance the acquisition and construction of an 89 unit multifamily rental housing facility to be located at 2012 Berkeley Way in the City of Berkeley, currently identified as BRIDGE Berkeley Way Affordable Apartments; and (2) pay certain expenses incurred in connection with the issuance of the Bonds.

NOTICE IS HEREBY GIVEN that on September 10, 2019, a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986 will be held by the City Council of the City of Berkeley 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 of approximately \$42,000,000 (the "Bonds"). The proceeds of the Bonds will be used to: (1) finance the acquisition and construction of an 89 unit multifamily rental housing facility to be located at 2012 Berkeley Way in the City of Berkeley, currently identified as BRIDGE Berkeley Way Affordable Apartments; and (2) pay certain expenses incurred in connection with the issuance of the Bonds. The facility to be financed is to be owned by BRIDGE Berkeley Way LP, a California limited partnership (the "Borrower"). All or a portion of the rental units in the facility will be rented to persons and families of low or very low income.

The Bonds and the obligation to pay principal of and interest thereon and any redemption premium with respect thereto will not constitute an indebtedness or an obligation of the Authority, the City of Berkeley, 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, but will be payable solely from certain revenues duly pledged therefor and generally representing amounts paid by the Borrower.

The hearing will commence at 6:00 p.m. or as soon thereafter as the matter can be heard, and will be held in the City Council Chambers, located in the School District Board Room, 1231 Addison Street, Berkeley, California. Interested persons wishing to express their views on the issuance of the Bonds or on the nature and location of the facility proposed to be financed may attend the public hearing or, prior to the time of the hearing, submit written comments.

Additional information concerning the facility to be financed may be obtained from Andy Turner, Development Manager for BRIDGE Housing Corporation, phone number (415) 321-4076. For general questions regarding the proposal, please contact Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of August 29, 2019.

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 981-6900 or clerk@cityofberkeley.info for further information.

Published: Berkeley Voice, August 16, 2019
(Published pursuant to Section 147(f) of the Internal Revenue Code of 1986)

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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 August 29, 2019.

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Mark Numainville, City Clerk

