



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Community Services
Department No.: 057
For Agenda Of: August 25, 2015
Placement: Departmental
Estimated Time: 15 minutes
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: George Chapjian, Community Services Director (805) 568-2467
Contact Dinah Lockhart, Deputy Director (805) 568-3523
Info: Laurie Baker, Grants and Program Manager (805) 568-3521
SUBJECT: Public hearing to receive comments on and approve the issuance of Private Activity Bonds by the Housing Authority of the County of Santa Barbara for the acquisition and rehabilitation of Positano Apartments. (District 2)

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Hold a public hearing in compliance with the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) regarding the Housing Authority of the County of Santa Barbara's (Housing Authority) plan to issue Private Activity Bonds, specifically multifamily housing revenue bonds (Bonds) for Positano Apartments, and consider public comment; and
- b) Adopt a Resolution approving the issuance of multifamily housing revenue bonds for Positano Apartments by the Housing Authority of the County of Santa Barbara, in an amount not-to-exceed \$22,000,000 (Attachment A). It is the purpose and intent of the Board of Supervisors that this resolution constitute approval of the Bonds for the purposes of Section 147(f) of the Code; and
- c) Authorize and direct, jointly and severally, the officers of the County to do any and all things and to execute and deliver any and all documents that 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 approved hereby; and
- d) Determine that the above actions for the existing Positano Apartments are not approvals of a project subject to environmental review under the California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(4), finding that the actions are the creation of a

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governmental funding mechanism or other government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and direct staff to file a Notice of Exemption (Attachment B).

Summary Text:

Federal law provides a process for entities to issue tax-exempt Private Activity Bonds that are used to finance qualified residential rental projects, as defined in Section 142(d) of the Internal Revenue Code. In order for the Bonds to be tax-exempt, the Tax and Equity Fiscal Responsibility Act of 1982 (TEFRA), at Section 147(f) of the Internal Revenue Code, requires the legislative body of the local public jurisdiction in which the project will be located to hold the TEFRA hearing. The County has the limited role of approving the financing, but is not a party to the issuance and assumes no liability by its approval.

The Housing Authority of the County of Santa Barbara (“Housing Authority”) is authorized and empowered by Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California, as amended (the “Act”) to issue revenue bonds for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing projects.

The Housing Authority intends to finance the acquisition and rehabilitation of Positano Apartments, at 11 Camino De Vida, in unincorporated Santa Barbara County, with tax exempt multifamily Private Activity Revenue Bonds and 4% Low Income Housing Tax Credits. The Housing Authority will pursue this financing plan by placing the property under the ownership of Positano Apartments LP, a limited partnership, and will thereby preserve the affordability and quality of the housing units for low-income households into the future.

The County will have no legal, financial or any other obligation or responsibility with respect to the repayment of the Bonds. These actions will also not create any relationship, legal or otherwise, between the County and the Housing Authority.

Background:

Positano Apartments is located in District 2 at 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33 and 35 Camino De Vida in (unincorporated) Santa Barbara County, California 93111. The property was acquired utilizing 9% low income housing tax credits (LIHTC) and was placed in service in 1997/98. The property consists of 12 two-story garden-style buildings and one single-story community building. There are 118 housing units that are restricted to households with incomes at or below forty-five percent 45.9% of the area median income (AMI). The property offers one, two, and three-bedroom units which will, upon acquisition, be restricted to low-income households earning 45.9% of AMI.

The Housing Authority was granted the option to purchase the property from the owner and, after petitioning the court, the Housing Authority is now in a position to exercise its option to acquire the property. The Housing Authority will place the property under the ownership of Positano Apartments LP, a limited partnership (Borrower) for the purpose of (i) financing the acquisition and rehabilitation of the property with tax-exempt multi-family housing revenue bonds and 4% Low-Income Housing Tax Credits and (ii) assuring that it will remain affordable to low-income households into the future. An application will be made to the California Debt Limit Allocation Committee and the California Tax Credit Allocation Committee respectively.

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The County previously held a TEFRA hearing and approved the issuance of bonds for Positano Apartments on November 5, 2013. The Housing Authority initially exercised its option to purchase the property on September 18, 2013 and moved forward to issue multi-family tax-exempt bonds to fund the acquisition and rehabilitation of the property. However, the current owner and the Housing Authority could not reach agreement on the appraised value of the property and the bonds were not issued within the one-year time period allowed under the TEFRA. A new appraisal was recently completed, which was approved by both parties and the Housing Authority is again in a position to exercise its option to acquire the property and pursue bond financing for acquisition and rehabilitation. Therefore, a new TEFRA hearing is required.

The Borrower will request that the Housing Authority serve as issuer of tax-exempt multifamily housing revenue bonds in an aggregate principal amount not to exceed \$22,000,000. The proceeds of these bonds will enable the Borrower to finance the acquisition and rehabilitation of the residential rental facility described above. The project will preserve the affordability of this 118 unit complex. As defined in Section 142(d) of the Internal Revenue Code, this project will meet the “40% at 60%” affordability requirement. At least 40% of the residential units in the project will be occupied by individuals whose income is 60% or less of area median gross income as calculated in the manner prescribed under Section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination). The Borrower will record 55 year affordability covenants on the property.

The County’s Division of Housing and Community Development (HCD) presented the Housing Authority’s intent to issue multi-family housing revenue bonds and financing plan to the County’s Debt Advisory Committee (DAC) on July 29, 2015. The DAC heard the staff report and had the opportunity to ask questions and hear responses directly from the Housing Authority staff and its bond counsel. The DAC voted to recommend that the County Board of Supervisors hold a TEFRA hearing on behalf of the Housing Authority for the Positano Apartments project.

Key Contract Risks:

The County will have no legal, financial or any other obligation or responsibility with respect to the repayment of the Bonds the Housing Authority issues.

The County provided a \$700,000 loan in federal HOME funds to the property owner, AMCAL, in 1996 toward the development costs of the property. The County recorded a fifty-five (55) year Regulatory Agreement that runs with the land and requires that eleven (11) of the units be rented to very-low income households. The County loan, plus interest, has been repaid in full. The State of California also recorded a fifty-five (55) year restrictive covenant that requires that all 118 units be maintained at affordable rents.

Staffing Impacts:

The Community Services Department (CSD) Staff will continue to monitor the property to ensure compliance with the fifty-five (55) year Regulatory Agreement until year 2053.

Special Instructions:

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- The Housing Authority's Bond Counsel published a notice in a newspaper of general circulation on July 31, 2015 to comply with the public notice requirement of TEFRA. HCD will provide a copy of the public notice and proof of publication to COB.
- Provide a certified copy of the executed Resolution to:
 1. Phil Willis-Conger (call ext. 3549 for pick up or email to pwillis-conger@co.santa-barbara.ca.us), and
 2. Justin Cooper, Esq., Orrick, Herrington & Sutcliffe LLP, 405 Howard St., San Francisco, CA 94105
- Provide a copy of the minute order reflecting Board Action of the August 25 Board Hearing to PWillis-Conger@co.santa-barbara.ca.us.

Attachments:

- A. Resolution
- B. CEQA Notice of Exemption
- C. Positano Acquisition and Rehabilitation Financial Plan