



# Yolo County Housing

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## BOARD OF COMMISSIONERS

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DATE: May 1, 2008

TO: YCHA Board of Commissioners

FROM: Lisa A. Baker, Executive Director

SUBJECT: **Ratify Execution of the two (2) Declarations of Trust by the Chair of the Commission between Yolo County Housing and the U.S. Department of Housing and Urban Development (HUD) for the Main Administration Building as part of the Capital Fund Financing Plan (CFFP).**

### RECOMMENDED ACTIONS:

That the Board of Commissioners:

1. Ratify the Execution of two (2) Declarations of Trust (DOT's) by the Chair of the Commission between Yolo County Housing and the U.S. Department of Housing and Urban Development (HUD).

### BACKGROUND/DISCUSSION:

On September 11, 2007, the Board of Commissioners authorized the Executive Director to negotiate and execute the documents necessary to complete the financial transactions required under the Capital Fund Financing Plan (CFFP). As part of those documents, HUD required that the YCH execute two (2) different DOT's for the transaction. One DOT is related to receipt of grant funds and the other is related to the receipt of loan funds. Since the YCH used Capital Funds to acquire the main Administration Building and then wishes to pledge future Capital Funds to pay debt services, both DOT's are required. The DOT's are HUD forms and require that both the Chair and the Secretary sign. The Director, Lisa Baker, signed in her capacity as Secretary and as authorized by the Board's action on September 11, 2007; the Chair signed in his capacity as Chairman of the Commission and as part of the authority granted to enter into the agreements with HUD. The Board is being asked to ratify the signature of the Chair.

As previously discussed, in 2006, the Agency determined that it had not complied with HUD Capital Fund requirements in the acquisition and rehabilitation of the main Administration Building. Namely, it did not submit and receive approval from HUD for use of the funds. Subsequent to the initial acquisition, the Agency refinanced the building on two (2) separate occasions, again without HUD approval. Because federal funds were pledged and used in the financing, HUD should have approved the transaction and the property should have

been placed under a declaration of trust in favor of HUD. In addition, the YCH pledged future Capital Funds as the source of a portion of the debt service payments on the property; an action for which it also needs HUD authorization and which it did not seek.

Because of this action, HUD withheld the majority of the Agency's Capital Fund grant for FY 2006-2007, pending a resolution of this matter. On May 11, 2007, the Agency received formal correspondence from the Office of Public and Indian Housing at the U.S. Department of Housing and Urban Development (HUD) regarding the proposed workout of the financing of the Administration building. In that letter, HUD states that, as part of its workout plan, the Authority may request retroactive approval of the loans that were made for acquisition and rehabilitation of the Administration Building, located at 147 W. Main Street, Woodland, CA 95695. In order to obtain this approval, YCH must submit a Capital Fund Financing Program (CFFP) proposal to HUD that meets the legal and programmatic requirements of the CFFP. HUD requires the following:

- The plan includes a retroactive approval of the \$2.24 million loan with First Northern Bank of Dixon (FNB);
- The Agency would pay a pro-rata share of use of building by public housing uses;
- The Agency completes a physical needs assessment for use in long term planning;
- Allow the Agency to dedicate a portion of future Capital Funds to debt service (no more than 33% of future funds) as long as it can show that future capital improvement needs will be met;
- Record a Declaration of Trust;
- Disallow \$121,919.59 of funds that were borrowed against the building for payables not associated with public housing capital fund.

### **FISCAL IMPACT:**

Recordation of the DOT's will allow the YCH to request release of balance of FY 2006-2007 Capital Funds. Approval of the CFFP will resolve the problem with HUD regarding sources and uses of funds for the acquisition and rehabilitation of the Administration building and will improve the Agency's position and improve day-to-day cash flow.

### **CONCLUSION:**

The Board of Commissioners should approve the recommended action.

Attachments: Declarations of Trust