



Yolo County Housing

Lisa A. Baker, Executive Director

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DATE: June 4, 2009

TO: YCHA Board of Commissioners

FROM: Lisa A. Baker, Executive Director

SUBJECT: **Review and Approve Resolution Authorizing the Signing and Recording of Modernization Declarations of Trust in favor of the U.S. Department of Housing and Urban Development**

RECOMMENDED ACTIONS:

That the Board of Commissioners:

1. Review and Approve the Resolution approving the signing and recording of Modernization Declarations of Trust in favor of the U.S. Department of Housing and Urban Development (HUD); and
2. Authorize the Executive Director to execute the required documents.

BACKGROUND/DISCUSSION:

Background

The Agency acquired the current Administration building using Capital Funds, which are set aside for improvements to, and operations of, public housing units. In 2006, the Agency determined that it had not complied with HUD Capital Fund requirements in that acquisition. 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) 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.

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. From April 23 through April 25, HUD conducted an onsite audit of the Agency. Subsequent to the monitoring performed by the Recovery and Protection Corps of HUD, staff at HUD has proposed the framework in which a workout of this issue may be considered.

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) and \$480,000 loan with First Northern Bank of Dixon;
- 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. Because of this item, the Board, on September 11, 2007, disallowed coverage of the \$180,000 note with First Northern Bank of Dixon under the CFFP.

In February 2008, HUD required that the YCH adopt a new Resolution that showed the Board of Commissioners was authorized to approve the borrowing, that the Agency would comply with its amended Annual Contributions Contract and pledged the use of Capital Funds for debt service on the loan.

Subsequent to that Resolution, staff submitted a development proposal to HUD's San Francisco office as a preliminary prerequisite to the plan. That development proposal was approved by HUD and staff completed the third party management and fairness opinions required by HUD Headquarters, along with the CFFP application. That application is now under review and HUD staff requires that the YCH enter into new Modernization Declarations of Trust (DOT) for all properties that entered inventory prior to 2001. That includes all public housing properties except Las Casitas in West Sacramento and the main Administration Building, which were acquired after that date and already have new DOT's in place.

The modernization DOT's place additional restrictions on the YCH's property. Accordingly, staff recommends that the Resolution be approved, but that the DOT's be recorded after the YCH has some assurance that the CFFP will be approved by HUD.

FISCAL IMPACT:

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 resolution.

Attachments: Resolution

YOLO COUNTY HOUSING

RESOLUTION NO. _____

(Resolution Authorizing the Signing and Recording of Modernization Declarations of Trust in Favor of the U.S. Department of Housing and Urban Development Regarding 44-01, 44-02, 44-04, 44-05, 44-06, 44-07, 44-08, 44-15, 44-17, 44-18)

WHEREAS, the Housing Authority of the County of Yolo (“Yolo County Housing”) purchased and rehabilitated certain real property located at 147 West Main Street, City of Woodland, County of Yolo, State of California (the “Administration Building”); and

WHEREAS, Yolo County Housing used a portion of the Capital Funds received from the United States Department of Housing and Urban Development (“HUD”) to purchase and rehabilitate the Administration Building; and

WHEREAS, HUD has agreed to allow Yolo County Housing to submit a Capital Fund Financing Program (“CFFP”) application to request retroactive approval of loans made in order to acquire and rehabilitate the Administration Building;

WHEREAS, as a requirement of the Annual Contributions Contract between HUD and Yolo County Housing and as a condition of CFFP approval, HUD requires that Yolo County Housing record Modernization Declarations of Trust (the “HUD DOTs”) against the following Yolo County Housing properties (“Properties”):

- 44-01, Yolano Drive
- 44-02, El Rio Villa I
- 44-04, Vista Montecito
- 44-05, Ridgecut Homes
- 44-06, Yolito
- 44-07, Donnelly Circle
- 44-08, El Rio Villa II
- 44-15, Riverbend Manor I
- 44-17, Riverbend Manor II
- 44-18, El Rio Villa III

for the benefit of HUD, requiring that the Properties be used in compliance with all applicable HUD requirements for the period of time the Properties are owned by Yolo County Housing.

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by the Board of Commissioners of the Housing Authority of the County of Yolo, as follows:

1. The foregoing recitals are true and correct.

2. The Board of Commissioners does hereby authorize and empower the Executive Director and/or his/her designee to execute the HUD DOTs, and any and all amendments thereto, and to record them against the following Properties: 44-01, 44-02, 44-04, 44-05, 44-06, 44-07, 44-08, 44-15, 44-17, 44-18.
3. The Board of Commissioners does hereby authorize and empower the Executive Director and/or his/her designee to execute other related documents including but not limited to subordination agreements, and take any and all actions necessary to implement this Resolution.

EFFECTIVE DATES: This resolution shall take effect and be implemented from and after the date of its adoption.

PASSED AND ADOPTED, by the Board of Commissioners of the Housing Authority of the County of Yolo, State of California, this 4th day of June 2009, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Helen M. Thomson, Chair
Board of Commissioners of the
Housing Authority of the County of Yolo

Approved as to Form:

Agency Counsel

By _____
Sonia Cortés

Attest:
Ana Morales, Clerk
Board of Commissioners of the
Housing Authority of the County of Yolo

By _____
Deputy