



Office of the City Manager

PUBLIC HEARING

October 13, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing, & Community Services

Subject: California Municipal Finance Authority Bond Financing for 1717 University 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 the bonds by the California Municipal Finance Authority (CMFA) for the benefit of the 1717 University Avenue rental housing development.

SUMMARY

The developer of the rental housing project at 1717 University Avenue is requesting the City hold a public hearing and adopt a resolution in support of their multifamily housing revenue bond financing request from California Municipal Finance Authority (CMFA). The Council previously held a public hearing and approved the project to receive tax-exempt bonds from the California Public Finance Authority (CalPFA) but the CalPFA was unable to meet the request due to their bond volume cap. The project owner, 1717 University Associates, LLC ("Owner"), subsequently requested CMFA issue the bonds. The project has otherwise remained unchanged.

Approving this action will allow the Owner to access tax-exempt bonds in exchange for dedicating 20% of their units as affordable housing. This project will provide three Below Market Rate (BMR) units affordable to 50% Area Median Income (AMI) households and contribute a pro-rated Affordable Housing Mitigation Fee (AHMF) payment to support affordable housing. The City will not hold any obligations related to repayment of the bonds.

FISCAL IMPACTS OF RECOMMENDATION

The bonds to be issued by the CMFA for 1717 University Avenue will be the sole responsibility of the Owner, and the City will have no financial, legal, moral obligation, liability or responsibility for the development or the repayment of the bonds for the financing of the development. 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 Owner.

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. It is expected that that a portion of the issuance fee attributable to the City will be granted by the CMFA to the City’s General Fund. Such grant may be used for any lawful purpose of the City.

CURRENT SITUATION AND ITS EFFECTS

On July 14, 2020, City Council held a public hearing and adopted a resolution approving the issuance of the bonds by the California Public Finance Authority (CalPFA) for the benefit of the 1717 University Avenue rental housing development. CMFA reached out to staff in August 2020 about holding another TEFRA hearing since CalPFA did not have a sufficient bond volume cap to issue on bonds for this project. For this reason, the Owner had approached CMFA about issuing tax-exempt bonds for this project instead of CalPFA.

The resolution attached to this report will enable the Owner to access up to \$17,000,000 in tax exempt bond financing from CMFA for financing the acquisition and construction of a multifamily rental housing project located at 1717 University Avenue.

In order for the bonds to qualify as tax-exempt bonds, the City of Berkeley must conduct another public hearing (the “TEFRA Hearing”) to provide community members an opportunity to speak in favor of or against the use of tax-exempt bonds for the development’s financing. Following the close of the TEFRA Hearing, an “applicable elected representative” of the government hosting 1717 University Avenue 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.

The Owners opted to satisfy the Affordable Housing Mitigation Fee (AHMF) requirements with a combination of 3 Below Market Rate (BMR) units and a fee payment pro-rated proportionately to \$170,000. The BMR units will be available to households with incomes at or below 50% of Area Median Income (AMI). These units qualify the development to receive tax-exempt bonds

1717 University Avenue’s BMR units and AHMF payment are a Strategic Plan Priority Project, advancing the City’s goal to create affordable housing and housing support service for our most vulnerable community members.

BACKGROUND

1717 University Avenue

1717 University Associates, LLC was formed to build the project at 1717 University Avenue, and it is being managed by the developer, H3M Partners. The developer specializes in infill, multi-family housing and has experience working in the East Bay region.

1717 University Avenue is a proposed five-story, mixed-use housing development. The development will be approximately 22,000 square feet located on 8,478 square feet of land (or .19 acres). The development will provide 15 total units.

There will be three BMR units with a total of 11 bedrooms. They will be affordable to very low-income households for the life of the project and will be secured by a regulatory agreement, per the City's BMR standards. The project will also provide a pro-rated AHMF of approximately \$170,000 that will go into the Housing Trust Fund program.

The BMR Units include two five-bedroom units, which may be spacious enough to accommodate multi-generational families, and one studio unit. The remaining market-rate units will be rented as co-living units. The development will include shared space and amenities for the co-living units. The developers anticipate that the market-rate rents will be affordable to households earning approximately equivalent to 85% of AMI.

California Municipal Finance 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 320 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 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 Council previously approved bond financing at the TEFRA hearing held on July 14, 2020. This development is

subject to this additional TEFRA hearing in order to switch the approved bond issuer from CalPFA to CMFA. All other aspects of the proposed development remain the same.

The Council's approval of CMFA's bond issuance will help the project access tax-exempt financing. This financing will support the development of three permanently restricted housing units for very low-income households and a mitigation fee payment. This development will increase the City's BMR portfolio and support the Housing Trust Fund program.

ALTERNATIVE ACTIONS CONSIDERED

The City could decline to approve CMFA's bond issuance. This would result in the owner not being able to obtain the proposed bond financing. The owner's alternative options might include asking Alameda County to fill this role or forgoing tax-exempt financing. The resulting delays and/or additional expenses might affect the development's feasibility.

CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, HHCS,
(510) 981-5406

Attachments:

- 1: Resolution
- 2: Public Hearing Notice

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

CALIFORNIA MUNICIPAL FINANCE AUTHORITY MULTIFAMILY HOUSING
REVENUE BONDS FOR 1717 UNIVERSITY AVENUE DEVELOPMENT

WHEREAS, 1717 University Associates, LLC (the “Borrower”) a partnership of which H3M Partners, LLC (the “Developer”) or a related person to the Developer is the general partner, has requested that the California Municipal Finance Authority (the “Authority”) adopt a plan of financing providing for the issuance of exempt facility bonds for a qualified residential rental project pursuant to Section 142(a)(7) of the Internal Revenue Code of 1986 (the “Code”) in one or more series issued from time to time, including bonds issued to refund such exempt facility bonds in one or more series from time to time, and at no time to exceed \$17,000,000 in aggregate principal amount (the “Bonds”), to finance or refinance the acquisition, rehabilitation, improvement and equipping of a multifamily rental housing project located at 1717 University Avenue, Berkeley, California (the “Project”); and

WHEREAS, pursuant to Section 147(f) of the Code, the issuance of the Bonds by the Authority must be approved by the City of Berkeley (the “City”) because the Project is located within the territorial limits of the City; and

WHEREAS, the City Council of the City (the “City Council”) is the elected legislative body of the City and is one of the “applicable elected representatives” required to approve the issuance of the Bonds under Section 147(f) of the Code; 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 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 issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority;

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

Section 1. The foregoing resolutions are true and correct.

Section 2. The City Council hereby approves the issuance of the Bonds by the Authority. 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 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.

October 13, 2020

Section 3. The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds.

Section 4. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) 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, construction, rehabilitation, installation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 5. 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 6. This Resolution shall take effect from and after its passage and approval.

NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

CALIFORNIA MUNICIPAL FINANCE AUTHORITY MULTIFAMILY HOUSING REVENUE BONDS FOR 1717 UNIVERSITY AVENUE

The Department of Health, Housing and Community Services is proposing a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986 (the "Code") will be held with respect to a proposed plan of financing providing for the issuance by the California Municipal Finance Authority of exempt facility bonds for a qualified residential rental project pursuant to Section 142(a)(7) of the Code in one or more series issued from time to time, including bonds issued to refund such exempt facility bonds in one or more series from time to time, and at no time to exceed \$17,000,000 in outstanding aggregate principal amount, to finance or refinance the acquisition and construction of a multifamily rental housing project located at 1717 University Avenue, Berkeley, California. The facilities are to be owned by 1717 University Associates, LLC (the "Owner") or a partnership of which H3M Partners, LLC (the "Developer") or a related person to the Developer is the general partner (the "Project").

The hearing will be held on, OCTOBER 13, 2020 at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor's Executive Order N-29-20.

Any member of the public may participate by using the following Zoom link and ID:

URL: <https://us02web.zoom.us/j/88371105282>

Webinar ID: 883 7110 5282

Or by calling toll-free to one of the following numbers:

US Telephone: +1 (669) 900-9128 or (877) 853-5257 (Toll Free) or (888) 475-4499 (Toll Free) or (833) 548-0276 (Toll Free) or (833) 548-0282 (Toll Free)

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **October 1, 2020**.

For further information, please contact Amy Davidson at (510) 981-5406.

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**

October 13, 2020

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: October 6, 2020

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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 October 1, 2020.

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Mark Numainville, City Clerk