



REPORT

DATE ISSUED: March 18, 2014

REPORT NO: HCR14-035

ATTENTION: Chair and Members of the San Diego Housing Commission
For the Agenda of April 11, 2014

SUBJECT: Application for State of California Housing and Community Development Local
Housing Trust Fund Program Funding

COUNCIL DISTRICT: Citywide

REQUESTED ACTION

Recommend that the Housing Authority of the City of San Diego grant authorization for the San Diego Housing Commission to submit an application on behalf of the City of San Diego and commit matching funds of up to \$2 million for the application to the State of California's Local Housing Trust Fund Program.

STAFF RECOMMENDATION

That the San Diego Housing Commission (Housing Commission) recommend that the Housing Authority of the City of San Diego (Housing Authority) approve the following actions:

- 1) Authorize the Housing Commission President & Chief Executive Officer (President & CEO), or designee, to apply on behalf of the City of San Diego for up to \$2 million in funding from the State of California's Local Housing Trust Fund Program.
- 2) Authorize the President & CEO, or designee, to commit up to \$2 million in matching funds from the City of San Diego's (City) Inclusionary Housing Trust Fund, as required by the Notice of Funding Availability (NOFA) (Attachment 1).
- 3) Authorize the President & CEO, or designee, to execute all documents and instruments that are necessary and/or appropriate to implement these approvals, in a form approved by General Counsel, and to take such actions as are necessary and/or appropriate to implement these approvals.

SUMMARY

On February 26, 2014, the California Department of Housing and Community Development's Local Housing Trust Fund Program (LHTFP) released a NOFA for Matching Grants for new Local Housing Trust Funds or existing Local Housing Trust Funds with new or increased revenue. Funds made available under this NOFA are from the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C) Affordable Housing Innovation Fund (Health and Safety Code Section 53545.9 (c)), as amended by Chapter 769, Statutes of 2013 (AB 532). The application deadline is April 21, 2014.

State matching funds can be used to provide loans for payment of predevelopment expenses, acquisition, construction or rehabilitation of Eligible Projects. At least 30 percent of program funds and matching

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funds must be used on Eligible Projects that are affordable to, and restricted for, Extremely Low-Income households (households earning at or below 30 percent of Area Median Income (AMI); currently \$24,200 for a family of four in the City). No more than 20 percent of the total amount of the LHFP funds and matching funds can be expended on Eligible Projects affordable to, and restricted for, Moderate-Income persons and families (households earning at or below 120 percent of AMI; currently \$86,750 for a family of four in the City). The remaining LHFP Funds and Matching Funds shall be used for eligible projects that are affordable to and restricted for, Lower Income Households (households earning at or below 60 percent of AMI; currently \$48,360 for a family of four in the City). All assisted rental units must be restricted for not less than 55 years.

Further, use of the funds will also have to comply with the local Affordable Housing Fund program rules. It is anticipated that the funds will be used to develop affordable rental housing or permanent supportive housing projects serving households with incomes ranging from 30 percent to 60 percent of AMI.

Should the application be successful, up to \$2 million in matching State grant funds would be available for eligible projects that create or preserve affordable housing within the City. This funding opportunity is available to new Local Housing Trust Funds created on or after September 30, 2006, or an existing Trust for which the matching funds come from a new revenue source identified or created on or after June 30, 2012. Revenue generated from the Inclusionary Housing Trust Fund fee increase effective July 1, 2013, is the only eligible source of revenue that can be used as matching funds for this grant application.

AFFORDABLE HOUSING IMPACT

This application, if selected for funding, would increase revenues available for use within the San Diego Housing Trust Fund by up to \$2 million, thus positively impacting the availability of affordable housing in the City for extremely low-income, low-income and moderate-income residents.

FISCAL CONSIDERATIONS

The proposed matching funds approved by this action were included in the Housing Authority approved Fiscal Year 2014 Housing Commission Budget and are included in the draft Fiscal Year 2015 Housing Commission budget as Inclusionary Housing Trust Fund revenues and loan/grant expenses. The potential new grant revenues approved by this action were not included in the Housing Authority approved Fiscal Year 2014 Housing Commission Budget and are not included in the draft Fiscal Year 2015 Housing Commission budget. Approval of this action will increase Fiscal Year 2014 and 2015 funding sources and uses available by up to \$2 million if the application is approved. Funds from this award cannot be used for administrative costs.

Funding sources approved by this action will be as follows:

State Local Housing Trust Funds - \$2,000,000

Funding uses approved by this action will be as follows:

Affordable Rental Housing Development - \$2,000,000

PREVIOUS COUNCIL and/or COMMITTEE ACTION

The Housing Commission has sought matching grants from the State of California Office of Housing and Community Development Local Housing Trust Fund Program funds on two prior occasions. City

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Resolution R-298562 (Attachment 2), adopted on November 3, 2003, authorized an application that resulted in an award of \$2 million to the San Diego Affordable Housing Fund. These funds were used, in part, to finance three affordable housing projects: Becky's House II, Sunburst Apartments and Veterans Village Phase Two. A second application was submitted in January 2009, and was authorized by City Resolution R-304523 (Attachment 3), which was passed on December 15, 2008. That application was not selected for funding. Resolution R-304523 provided authorization for the Housing Commission to submit applications for any subsequent NOFAs issued through the California Department of Housing and Community Development Local Housing Trust Fund Program.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS

If funds are awarded, proposed projects will be taken to the applicable Community Planning Groups for their review and input.

KEY STAKEHOLDERS and PROJECTED IMPACTS

Extremely low-income to moderate-income residents of the City are the targeted beneficiaries of this funding opportunity. Affordable housing developers are also potential stakeholders.

ENVIRONMENTAL REVIEW

The application for State funding is not a project as defined by the California Environmental Quality Act Section 21065 and State CEQA Guidelines Section 15378(b)(4), as it is 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. The determination that this activity is not subject to CEQA, pursuant to Section 15060(c)(3), is not appealable and a Notice of Right to Appeal the Environmental Determination (NORA) is not required. Processing under the National Environmental Policy Act is not required as no federal funds are involved in this action.

Respectfully submitted,



Debra Fischle-Faulk
Vice President
Administrative Services

Approved by,



Jeff Davis
Executive Vice President & Chief Operating Officer
San Diego Housing Commission

Attachments: 1) State of California Local Housing Trust Fund Program NOFA
2) Resolution R-298562
3) Resolution R-304523

Hard copies are available for review during business hours in the main lobby of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101 and at the Office of the San Diego City Clerk, 202 C Street, San Diego, CA 92101. You may also review complete docket materials on the San Diego Housing Commission website at www.sdhc.org.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

Rental Housing Development Section
Local Housing Trust Funds Program
2020 West El Camino Avenue, Suite 650
Sacramento, CA 95833
(916) 263-2771 / FAX (916) 263-2764



February 26, 2014

MEMORANDUM FOR: ALL POTENTIAL APPLICANTS**FROM:** Laura A. Whittall-Scherfee, Deputy Director
Division of Financial Assistance**SUBJECT: NOTICE OF FUNDING AVAILABILITY – \$8.1 MILLION
LOCAL HOUSING TRUST FUND PROGRAM**

The Department of Housing and Community Development (HCD) is pleased to announce a Notice of Funding Availability (NOFA) of approximately \$8.1 million in funding for new Local Housing Trust Funds (matching grant) Program (LHTFP). Funds made available under this NOFA are from the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C) Affordable Housing Innovation Fund (see Health and Safety Code Section 53545.9(c)) as amended by Chapter 769, Statutes of 2013 (AB 532). LHTFP is administered by HCD and will provide grant funds to eligible city, county, and nonprofit applicants for the purpose of supporting new Local Housing Trust Funds dedicated to the creation or preservation of affordable housing.

Applications from new local housing trust funds will be accepted on an over-the-counter basis **beginning April 21, 2014, and ending when all funds have been awarded or no later than April 21, 2015 at 5:00 p.m., Pacific Standard Time.**

HCD is available to assist applicants in preparing their applications or provide technical assistance based on their specific needs and requirements. If you should have any questions regarding the NOFA, the application, the application process or required documents, please contact HCD's LHTFP staff at (916) 263-2771.

Thank you for your interest in the Local Housing Trust Fund Program.

Attachments

**AFFORDABLE HOUSING INNOVATION PROGRAM (AHIP) LOCAL
HOUSING TRUST FUND PROGRAM (LHTFP)**

2014

Notice of Funding Availability



**State of California
Governor Edmund G. Brown Jr.**

**Department of Housing and Community Development
Randall A. Deems, Acting Director
Division of Financial Assistance
P.O. Box 952054
Sacramento, CA 94252-2054
(916) 263-2771**



**NOFA FOR NEW LOCAL HOUSING TRUST FUNDS
LOCAL HOUSING TRUST FUND PROGRAM (LHTFP)**

February 26, 2014

TIMETABLE FOR LHTFP APPLICATIONS	
NOFA Issued:	February 26, 2014
Technical Assistance:	See Section P
Application Forms Available:	February 26, 2014
Applications Due: Over-the-Counter:	Starting: April 21, 2014 Ending: April 21, 2015
Technical Assistance:	See Section P

**NOFA FOR NEW LOCAL HOUSING TRUST FUNDS
LOCAL HOUSING TRUST FUND PROGRAM
February 26, 2014**

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**NOFA FOR NEW LOCAL HOUSING TRUST FUNDS
LOCAL HOUSING TRUST FUND PROGRAM (LHTFP)**

A. Introduction

The new Local Housing Trust Funds (matching grant) Program (LHTFP) is administered by HCD and will provide grant funds to eligible city, county, and nonprofit applicants for the purpose of supporting new Local Housing Trust Funds dedicated to the creation or preservation of affordable housing. The LHTFP was created by Chapter 892, Statutes of 2006 (AB 2638; Section 50843.5 of the Health and Safety Code) and amended by Chapter 769, Statutes of 2013 (AB 532).

“A New Local Housing Trust Fund” is a local housing trust fund that was created, funded, and operated by a city, a county, a city and a county, or 501(c)(3) charitable nonprofit organization on or after September 30, 2006 or an existing trust for which the matching funds come from a new revenue source identified or created on or after June 30, 2012 (“New Revenue Source”).

This NOFA is governed by the LHTFP Regulations, Title 25, California Code of Regulations 7150, *et seq.* and the Local Housing Trust Fund Program Guideline that incorporates modifications to LHTFP in AB 532. The Regulations and Guideline are available on HCD’s website at <http://www.hcd.ca.gov/fa/ahif/lhtf.html>. Capitalized terms in this NOFA are terms in Section 7151 of the Regulations.

Applications from new local housing trust funds will be accepted on an over-the-counter basis beginning April 21, 2014, and ending when all funds have been awarded or no later than April 21, 2015 at 5:00 p.m., Pacific Standard Time.

The Local Housing Trust Fund Program makes grants for the development of affordable multifamily rental and ownership housing and emergency shelters. It is intended to support local entities that have identified and committed sources of funds not traditionally utilized in the development and provision of affordable housing. The grants must be matched dollar-for-dollar by the applicant. Applicants must have committed long-term on-going revenues to continue the operation of the Local Housing Trust Fund for a minimum of five years from the date that the Department signs the Standard Agreement.

Applications *mailed via the U.S. Postal Service* must be mailed to:

Department of Housing & Community Development
Division of Financial Assistance
Local Housing Trust Fund Program
P.O. Box 952054
Sacramento, CA 94252-2054
Attention: Ben Dudek

Applications sent using the U.S. Postal Service must have a postmark no later April 21, 2015.

Applications sent using private *carriers or delivered in person* must be received on or after April 21, 2014, but no later than 5:00 p.m. Pacific Standard Time on April 21, 2015.

If applications are personally delivered, the receptionist will date stamp the application and provide a receipt as proof of delivery. The delivery address is:

Department of Housing & Community Development
Division of Financial Assistance
Local Housing Trust Fund Program
2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833

An over-the-counter award for a new Local Housing Trust Fund will be announced when an application has been received and has met program requirements.

B. Program Definitions

The following definitions govern this NOFA:

“Assisted unit” means a residential housing unit that is purchased, developed or rehabilitated with assistance from the Local Housing Trust Fund Program and is subject to the occupancy, resale, or rent restrictions imposed by LHFTP Statutes, Regulations, and this NOFA.

“Local Housing Trust Fund” is a public or joint public and private fund that was established by legislation, ordinance, resolution (including nonprofit articles of incorporation) or a public-private partnership to receive specific revenue to address local housing needs. The key characteristic of a Local Housing Trust Fund is that it receives on-going revenues from dedicated sources of funding such as taxes, fees, loan repayments, private contributions, and/or ongoing fundraising.

“A New Local Housing Trust Fund” is a local housing trust fund that was created, funded, and is operated by a city, a county, a city and a county, or 501(c)(3) nonprofit organization on or after September 30, 2006 or an existing trust for which the matching funds come from a new revenue source identified or created on or after June 30, 2012 (“New Revenue Source”).

“New Revenue Source” for this NOFA shall be targeted for and limited to, a new tax, fee, contribution of public or private funds not already dedicated to housing, or an increase in an existing tax or fee directly adopted by a city, county, or city and county.

“Ongoing Revenues” means a public source of revenue that is dedicated for an indefinite period (beyond annual appropriations); or other revenue that is dedicated for a minimum five-year period and the source of that revenue has an income history which can reasonably support the level of proposed funding.

“On Deposit” means cash or equivalent under the control of the applicant or Grantee at the time of application readily available for use by the Grantee as Matching Funds. For new trust funds that have not previously received a grant through the LHFTP, an application shall

not be considered unless the Department has received adequate documentation, as determined by the Department, that an ordinance imposing or dedicating a tax or fee to be deposited into the new trust has been enacted or the applicant has adopted a legally binding commitment to deposit matching funds into the new trust. Funds shall not be disbursed by the Department to any trust fund until all matching funds are On Deposit.

“Not Otherwise Restricted” means funds from governmental sources or private contributions that are not legally restricted by state or federal law for use in housing programs. “Not Otherwise Restricted” also includes those funds that have been traditionally restricted by federal, State or local practice for use in housing programs. The Home Investment Partnerships Program (HOME) and the Community Development Block Grant Program (CDBG) do not qualify as matching funds.

“Local Impact Fees” are impact fees, mitigation fees, or capital facility fees imposed on residential developments by municipalities, county agencies, or other jurisdictions such as utility districts, school districts, water agencies and resource conservation districts. Local Impact Fees may include fees for residential or commercial development (in lieu of building affordable housing), parks and recreation, schools, traffic, street and signals, law enforcement facilities, fire facilities, library facilities, water facilities, waste water treatment, waste water collection, drainage facilities, community development, general facilities, public facilities, governmental, environmental, and facilities assessments.

C. Eligible Applicants

The following entities shall be eligible to apply for LHTFP funds:

1. A city, county, or city and county, or combination thereof, which has created and funded a New Local Housing Trust Fund.
 - a. The trust fund shall have the following characteristics:
 - i. It shall utilize a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.
 - ii. It shall be funded from On-going Revenues from dedicated sources of funding such as taxes, fees, loan repayments, or private contributions.
 - b. The city, county, or city and county shall have, at the time of application an adopted housing element that the Department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.
 - c. A Local Housing Trust Fund that was created, funded, and operated by a combination of one or more cities or counties, shall in its application, agree to utilize LHTFP Funds only for Eligible Projects located in cities or counties that have, at the time of application, an adopted housing element meeting the requirements of subparagraph (b) above.

2. A charitable nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code that has created and funded a New Local Housing Trust Fund.
 - a. The trust fund shall have the following characteristics:
 - i. It shall consist of a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.
 - ii. It shall be funded from On-going Revenues from dedicated sources of funding such as taxes, fees, loan repayments, or private contributions.
 - b. The charitable nonprofit organization shall, in its application, agree to utilize LHTFP Funds only for Eligible Projects located in cities, counties, or a city and county that have, at the time of application, an adopted housing element that the Department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

D. Grant Amount

The maximum amount for an applicant under this NOFA is two million dollars (\$2,000,000) for a trust fund that has not previously received a grant through the LHTFP. The maximum amount for trusts funds that have received a previous award is one million dollars (\$1,000,000). The minimum amount that can be requested is five hundred thousand dollars (\$500,000).

The Department may make a partial award if less than \$2 million remains in the LHTFP fund and there is an eligible applicant who will accept a smaller grant than was requested.

E. Eligible Use of Funds

1. Funds shall be used by the Grantee to provide loans for payment of predevelopment expenses, acquisition, construction, or rehabilitation of Eligible Projects.
2. At least 30 percent of the total amount of the LHTFP Funds and the Matching Funds shall be expended on Eligible Projects that are affordable to, and restricted for, Extremely Low Income households. No more than 20 percent of the total amount of the LHTFP Funds and the Matching Funds shall be expended on Eligible Projects affordable to, and restricted for, Moderate Income Persons and Families. The remaining LHTFP Funds and Matching Funds shall be used for Eligible Projects that are affordable to and restricted for, Lower Income Households. All assisted rental units shall be restricted for not less than 55 years. For sale housing must have a recorded deed restriction that meets the resale restrictions set forth in Health and Safety Code Section 50843.5(d)(3).

F. Ineligible Use of Funds

No LHTFP Funds shall be used for the costs of administering the Local Housing Trust Fund.

G. Match Requirements

1. For each LHTFP grant applicants shall provide Matching Funds equal to or in excess of the amount of the LHTFP grant.
2. Matching Funds shall be On Deposit at the time of application, and the source of the funds shall be identified.
3. Funds restricted for housing use by State or federal law (such as funds from the HOME Program or the CBDG Program shall not be considered Matching Funds.
4. A Local Housing Trust Fund that is exclusively funded by any combination of HOME, CDBG, or other State or federal funds restricted for housing use shall not be eligible to receive LHTFP Funds.

H. Time Frames for Use of LHTFP Funds

1. Any LHTFP Funds not encumbered by a newly established housing trust fund will be made continuously available for purposes of the LHTFP.
2. Repayments of LHTFP Funds received by a Grantee shall be retained by the Grantee in the Local Housing Trust Fund to be used for the purposes set forth in this subchapter.
3. If a Grantee ceases operations or Ongoing Revenues cease less than five years from the date of the Grantee's award of LHTFP Funds, all unencumbered LHTFP Funds shall promptly be returned to HCD, and all current and future loan repayments shall be remitted to HCD to be made available for purposes of the LHTFP.

I. LHTFP Grantee Responsibilities

1. Grantees are responsible for administering and implementing the programs as proposed in their application.
2. Grantees must continue the operation of their program for at least five years after the award date.
3. Grantees shall have held, or shall hold, a public hearing or hearings to discuss and describe the project or projects that will be financed with funds.
4. Grantees shall report annually to HCD on a form created by HCD.

J. Application Requirements

Applications for LHTFP funds shall be made using HCD's LHTFP application and the required documentation as described in detail within the LHTFP application. HCD requests, as a minimum, the following information:

1. Applicant identification information including: name, address, telephone number, contact person.

2. Corporate governing board resolution, in a form acceptable to HCD, authorizing the application.
3. Description of the Local Housing Trust Fund sufficient to ensure compliance with Health and Safety Code Section 50843.5 and this NOFA.
4. Local Housing Trust Fund operating guidelines including:
 - a. Types of projects in which the fund will invest.
 - b. Types of investments the fund will make (e.g., loans, grants).
 - c. The required terms and conditions of the investment, including types of security and regulatory agreements, and periods of affordability.
 - d. For rental housing projects funded by LHFTP funds, a copy of the documents to be recorded restricting the affordability for at least 55 years.
 - e. Any per unit or per project expenditure limitations.
 - f. The eligible household income limitations and/or income targeting goals.
 - g. The developer or owner eligibility requirements.
 - h. Underwriting requirements.
 - i. The borrower or project match or leverage requirements.
 - j. Geographic area to be served.
 - k. Amount of LHFTP Funds to be used for first-time homebuyer downpayment assistance.
 - l. For homeownership projects, a copy of the document to be recorded that meets the requirements of subdivision (d)(3) of Health and Safety Code Section 50843.5 (see Attachment) or a specific statement as to the other public funding source or law in conflict with this requirement.
5. Description of the management and staffing of the Local Housing Trust Fund.
6. Certifications and Acknowledgements (*see Sample Format in Application*).
 - a. Certification that the information submitted in the application is true and correct to the best of the knowledge of the signer, after reasonably diligent investigation.
 - b. Certification of the applicant's intent to maintain the Local Housing Trust Fund in existence for at least five (5) years from the date of application; and acknowledgement and agreement that if the Local Housing Trust Fund ceases to exist sooner, then the applicant agrees to repay any remaining uncommitted LHFTP Funds and to remit to HCD all repayment of loans made with LHFTP Funds until the full amount of the LHFTP grant is repaid.
 - c. For nonprofit applicants, an acknowledgement and agreement that LHFTP Funds shall be used only for projects located in a city, county, or city and county that have, at the time of application, an adopted housing element that HCD has determined to be in substantial compliance with State housing element law.
 - d. Certification that the applicant has held, or agrees to hold, at least one public hearing to discuss and describe the Eligible Project or Projects that will be financed with LHFTP Funds.

- e. For nonprofit applicants, an agreement that the applicant will hold at least one public meeting as required by Health and Safety Code Section 50843.5(g).

K. Application Review Process

1. Only complete applications shall be considered for funding. In order to be considered complete, an application must have all of the information requested and provide adequate documentation and information for HCD to determine the Local Housing Trust Fund's eligibility for funding pursuant to Health and Safety Code Section 50843.5 and this subsection. The applicant shall bear the burden of demonstrating compliance with these requirements. If the application is incomplete or ineligible, it will not be considered for funding. The applicant of such an ineligible application will be given a written explanation of the deficiencies.
2. The applications will be evaluated in the order in which they are received. In the event that the LHTFP applications received on any specific day exceeds the amount of funds still available, the applications received on this specific day will be evaluated and funded using criteria published in this NOFA, including, but not limited to the criteria listed in Paragraph M, "**Evaluation Criteria**" (below).
3. Staff recommends funding awards to HCD's Director, based on the information in the applications, and as evaluated by HCD. Applicants will be notified by mail of HCD's funding decisions, and those decisions will be posted on the website at www.hcd.ca.gov.

L. Standard Agreement

1. Successful Applicants will be awarded funds through the contract ("Standard Agreement") process that will specify, among other things, the amount of funds granted, timelines for expenditure of funds, as well as the proposed use of funds.
2. If funded, reports will be required of the Grantee. Report dates and requirements will be identified in the LHTFP Standard Agreement.

M. Evaluation Criteria (if required)

The applications will be evaluated in the order in which they are received. In the event that the LHTFP applications received on any specific day exceeds the amount of funds still available, the applications received on this specific day will be rated and ranked based on the following criteria with preference being given to criteria 1 and 2 listed below. The following is provided for informational purposes only:

1. The extent to which the applicant agrees to provide matching funds from sources other than local impact fees.
2. The extent to which the applicant agrees to expend more than 30 percent of the total amount of its LHTFP Funds and matching funds to serve persons and families of extremely low-income.

3. The extent to which the applicant agrees to expend less than 20 percent of the total amount of its LHTFP Funds and Matching Funds to serve persons and families with incomes exceeding 120 percent of the area median income. "Area Median Income" means the most recent applicable county median family income published by TCAC.
4. The extent to which the applicant agrees to provide Matching Funds in excess of the amount of the LHTFP Funds.

N. Protection of LHTFP Funds

1. In order to protect the LHTFP Funds awarded to a Grantee, the Grantee shall provide the LHTFP Funds in the form of a loan evidenced by a promissory note, the repayment of which shall be secured by a deed of trust recorded against the title to the real property or a security interest in the manufactured home being assisted with LHTFP Funds. The promissory note shall contain a special provision that repayment shall be made to HCD in the event that the Grantee is no longer in operation.
2. Where LHTFP Funds are provided to a rental housing development, emergency shelter, safe haven or transitional housing:
 - a. The Grantee and housing developer borrower shall enter into a development loan agreement setting forth the terms and conditions for closing and disbursing the LHTFP Funds, which shall include, but not be limited to, requirements for title insurance for the deed of trust, and the borrower's responsibilities and obligations with respect to hazardous substance detection, disclosure, and remediation.
 - b. The Grantee shall submit copies of all loan guidelines and underwriting standards and procedures for review by HCD.
 - c. HCD shall have the right to request copies of documentation of the activities of the Local Housing Trust Fund at any time prior to or after disbursement of LHTFP Funds.
3. Where LHTFP Funds are used in for sale housing projects (Homeownership Projects), the Grantee shall record a deed restriction in compliance with Health and Safety Code Section 50843.5(d)(3) unless such a deed restriction would conflict with the requirements of law or another public funding source as determined by HCD.

O. Important Legal Matters

HCD reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, HCD will notify all interested parties.

ATTACHMENT

Health and Safety Code Section 50843.5(d)(3)

(d)

(3) If funds are used for the acquisition, construction, or rehabilitation of for sale housing projects or units within for sale housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the following requirements upon resale of the for sale housing units, unless it is in conflict with the requirements of another public funding source or law:

(A) If the property is sold within 30 years from the date that trust funds are used to acquire, construct, or rehabilitate the property, the owner or subsequent owner shall sell the home at an affordable housing cost, as defined in Section 50025.5, to a household that meets the relevant income qualifications.

(B) The owner and grantee shall share the equity in the unit pursuant to an equity sharing agreement. The grantee shall reuse the proceeds of the equity sharing agreement consistent with this section. To the extent not in conflict with another public funding source or law, all of the following shall apply to the equity-sharing agreement provided for by the deed restriction:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The grantee shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used to make housing available to persons and families of the same income category as the original grant and for any type of housing or shelter specified in paragraph (1).

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the owner-occupant minus the initial sale price to the owner-occupant, plus the amount of any down payment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the grantee's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of the initial sale.

(R-2004-357)

RESOLUTION NUMBER R- 298562

ADOPTED ON NOV 03 2003

AUTHORIZING APPLICATION TO THE STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UP TO \$2,000,000 UNDER THE LOCAL HOUSING TRUST FUND PROGRAM; THE EXECUTION OF AGREEMENT(S) IF SELECTED FOR SUCH FUNDING AND ANY AMENDMENTS THERETO; AND ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE LOCAL HOUSING TRUST FUND PROGRAM.

WHEREAS, the State of California Department of Housing and Community Development [HCD] has issued a Notice of Funding Availability [NOFA] for the Local Housing Trust Fund [LHTF] Program which: 1) was created by AB 1891 of 2002 [Diaz]; and 2) established Section 50843 of the Health and Safety Code; and 3) is funded by the Housing and Emergency Shelter Trust Fund Act of 2002 [Proposition 46]; and

WHEREAS, on April 16, 1990, the City Council adopted Ordinance No. O-17454 (New Series) establishing the San Diego Housing Trust Fund; and

WHEREAS, the Housing Commission administers the LHTF for the City of San Diego; and

WHEREAS, rental housing production is an eligible activity under the Housing Trust Fund Program/Annual Plan which is approved annually by City Council; and

WHEREAS, the City of San Diego wishes to submit an application to HCD for an allocation of LHTF Program funds of up to \$2,000,000, as outlined in San Diego Housing Commission Report No. HCR03-084; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

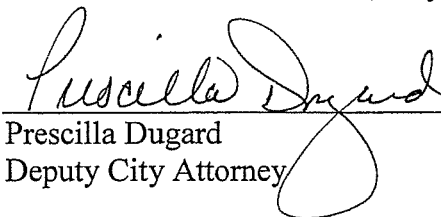
1. That the City of San Diego delegates responsibility to the San Diego Housing Commission's Chief Executive Officer [CEO] or designee to make application to HCD to participate in the LHTF Program, for an allocation of up to \$2,000,000, to receive such funding, to amend the Housing Commission budget, and to administer the LHTF Program on behalf of the City of San Diego.

2. That the CEO is directed to submit to HCD an application to participate in the LHTF Program in response to the NOFA issued August 18, 2003, and any subsequent NOFAs issued, and to request a funding allocation for rental housing production activities in the City of San Diego.

3. That if the application for funding is approved, the City of San Diego shall use the LHTF Program funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program guidelines.

4. That the CEO is authorized to execute in the name of the City of San Diego, the application, the Agreement, and all other documents required by HCD for participation in the LHTF Program, and any amendments thereto.

APPROVED: CASEY GWINN, City Attorney

By 

Precilla Dugard
Deputy City Attorney

PD:dm
09/24/03
Or.Dept:Hsg.Comm.
R-2004-357

R-2004-357 SDHC Local Hsg Trust Fund Prog

Passed and adopted by the Council of San Diego on November 3, 2003 by the following vote:

YEAS: PETERS, ZUCCHET, ATKINS, LEWIS, MAIENSCHIN, FRYE, MADAFFER, INZUNZA, MAYOR MURPHY

NAY: NONE

VACANT: NONE

NOT PRESENT: NONE

AUTHENTICATED BY:

DICK MURPHY

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By: Esther Ramos, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. R-298562, passed and adopted by the Council of The City of San Diego, California on November 3, 2003.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By: , Deputy

RESOLUTION NUMBER R- 304523DATE OF FINAL PASSAGE DEC 15 2008

12/02

A RESOLUTION AUTHORIZING APPLICATION TO THE STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING OF UP TO \$2,000,000 UNDER THE LOCAL HOUSING TRUST FUND PROGRAM AND AUTHORIZING THE PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE SAN DIEGO HOUSING COMMISSION, OR DESIGNEE, TO EXECUTE ANY AND ALL AGREEMENT(S) AND RELATED DOCUMENTS NECESSARY, IF SELECTED, TO FACILITATE PARTICIPATION IN THE LOCAL HOUSING TRUST FUND PROGRAM.

WHEREAS, the State of California Department of Housing and Community Development [HCD] has issued a Notice of Funding Availability [NOFA] for the Local Housing Trust Fund [LHTF] Program which is funded by the Housing and Emergency Shelter Trust Fund Act of 2006 [Proposition 1C] and requires LHTF Program funds to be used for the purposes set forth in Section 50843.5 of the Health and Safety Code; and

WHEREAS, on April 16, 1990, the City Council adopted Ordinance No. O-17454 (new Series) establishing the San Diego Housing Trust Fund; and

WHEREAS, the Housing Commission administers the San Diego Housing Trust Fund for the City of San Diego; and

WHEREAS, eligible activities under the Housing Trust Fund Program Annual Plan, which is approved annually by City Council, include but are not limited to rental housing development and assistance to first-time homebuyers; and

WHEREAS, on November 3, 2003, by Resolution Number R-298562, the City of San Diego City Council delegated responsibility to the San Diego Housing Commission's President and Chief Executive Officer [President & CEO] (formerly CEO) or designee to make application to HCD to participate in the LHTF Program and to administer the LHTF Program on behalf of the City of San Diego; and


WHEREAS, the City of San Diego wishes to submit an application to HCD for an allocation of LHTF Program funds of up to \$2,000,000, as outlined in City Council Report No. CCR-08-008; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the City of San Diego hereby designates the San Diego Housing Commission's [Commission] President & CEO or designee to make application to HCD for an allocation of up to \$2,000,000 for City participation in the LHTF Program.
2. That the President & CEO or designee is directed to submit to HCD an application to participate in the LHTF Program in response to the NOFA issued October 24, 2008, and any subsequent NOFA's issued, and to request a funding allocation for affordable housing activities in the City of San Diego that are in accordance with the Housing Trust Fund and the LHTF Program.
3. That if the application for funding is approved by HCD, the City of San Diego shall use the LHTF Program funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program guidelines.
4. That the Commission is hereby authorized to accept and administer LHTF funds on behalf of the City.

5. That the President & CEO or designee is authorized to execute in the name of the City of San Diego, the application, the Agreement, and all other documents required by HCD for participation in the LHTF Program, and any amendments thereto.

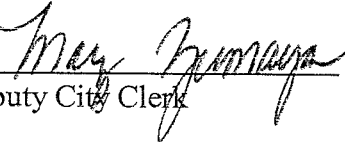
APPROVED: MICHAEL J. AGUIRRE, General Counsel

By 
Alex W. Sachs
Deputy General Counsel

AWS:mm
11/19/08
Or.Dept: San Diego Housing Comm.
R-2009-689
MMS#7092

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of DEC 02 2008.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 12.15.08
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Passed by the Council of The City of San Diego on December 2, 2008, by the following vote:

YEAS: PETERS, FAULCONER, ATKINS, FRYE, MADAFFER, & HUESO.

NAYS: NONE.

NOT PRESENT: YOUNG & MAIENSCHHEIN.

RECUSED: NONE.

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)


By: GIL SANCHEZ, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. R-304523, approved by the Mayor of The City of San Diego, California on December 15, 2008.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By:  _____, Deputy