



## Legislation Text

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**File #:** 20-352, **Version:** 1

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*Report Prepared by: Scott McBride, Director of Development Services, Housing Division/Department of Development Services*

**SUBJECT:** Continued Public Hearing to Allow Interested Persons to be Heard Prior to the Submittal of an Application to the United States Department of Housing and Urban Development (HUD) for Financing Through the Section 108 Loan Guarantee Program for the Childs Court Apartments - Childs and B Street Transit Oriented Development (TOD) Affordable Housing Project and Adopting City Council Resolution 2020-49 Approving a Conditional Commitment of HUD 108 Loan Guarantee Funds and Authorizing the Loan Guarantee Application to HUD

### REPORT IN BRIEF

Continued Public Hearing to allow interested persons to be heard prior to the submittal of an application to the United States Department of Housing and Urban Development (HUD) for financing through the Section 108 Loan Guarantee Program for the Childs Court Apartments - Childs and B Street Affordable Housing Transit Oriented Development (TOD) Project and Adopting City Council Resolution 2020-49 Approving a conditional commitment of HUD 108 Loan Guarantee Funds and Authorizing the Loan Guarantee Application.

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Recommending that the City Council conduct the Public Hearing, receive any testimony given; and,
- B. Adopting **Resolution 2020-49**, a Resolution of the City Council of the City of Merced, California, approving a conditional commitment of HUD 108 Loan Guarantee Funds for the Childs and B Street Transit-Oriented Development Affordable Housing Project; and,
- C. Authorizing the Loan Guarantee Application.

### ALTERNATIVES

- 1. Approve, as recommended by staff; or,
- 2. Approve, with modifications; or,
- 3. Deny the request completely; or,
- 4. Refer to staff for reconsideration of specific items as requested by Council; or,
- 5. Continue to a future City Council meeting (date and time to be specified in the motion).

### AUTHORITY

Municipal Code Section 200; Code of Federal Regulations, Title 24, Part 570 - Community Development Block Grants, Subpart M - Loan Guarantees.

## **CITY COUNCIL PRIORITIES**

The Childs Court Apartments - Childs and B Street Affordable Housing Transit Oriented Development (TOD) Project has been included in the City's HUD Annual Plan and Consolidated Plan (Con Plan). Funding has also been included in adopted budgets. The Council has also pledged commitments of support and approval in various ways including;

- Issuance of a Request for Proposals (RFP) to solicit qualified developers for the Childs and B St. site in March 2017
- Awarding approval of the RFP to the Richman Group and Central Valley Coalition for Affordable Housing in May 2017
- Execution of a Ground Lease and Option to Purchase with Merced County for 1137 B Street, site location with Merced County in 2018
- Execution of an Exclusive Negotiating Agreement with the project developer in October 2018
- First Amendment to the Exclusive Negotiating Agreement in January 2019
- Approval of an Enforceable Commitment Agreement in February 2019 outlining the City's commitment of \$6,580,000 in funds from various funds and sources
- Adoption of City Council Resolution 2019-06 in February 2019 authorizing the application to the State of California Affordable Housing Sustainable Communities program for funding support
- Approval of City Council Resolution 2019-82 in December 2019 authorizing the application and issuance of bonds under the California Statewide Community Development Authority for project financing
- Acceptance of Monetary Donation from the Central Valley Opportunity Fund (CVOF) in May 2020 in the amount of \$1,080,000 for land acquisition costs

## **DISCUSSION**

The City of Merced is an entitlement community and receives funding from HUD annually under the Community Development Block Grant (CDBG) and HOME programs. Distribution of the funds is tied to community priorities and an adopted Consolidated or Con Plan and Annual Plans that are approved each year. The program funds are used towards community services, supporting affordable housing rehabilitation, construction of affordable housing, and public infrastructure - improvements in qualifying areas.

HUD does not allow for CDBG funds to be retained or banked for future projects. The City has target expenditures measured each May 1<sup>st</sup>. Should the City not meet expenditure requirements it can negatively affect future year allocations.

To allow an agency to leverage funding for larger projects that exceeds an annual contribution, HUD offers the Section 108 Loan Guarantee Program. This program provides the opportunity to leverage future CDBG funding allocations when needed.

Currently the City is eligible to apply for just over \$4 million in HUD 108 funds. Uses are the same as normal CDBG and HOME and may include economic development, housing rehabilitation, public

facilities, affordable housing construction, and other physical development projects in qualifying areas or serving qualifying areas. The funds can be used by a designated public entity to undertake eligible projects, or alternatively, can be loaned to a third-party developer to undertake a project. This flexibility makes the Section 108 program an important public investment tool. The City has previously used this tool for other housing projects including the Grove Apartments.

Specific to the Childs Court Apartments - Childs and B Street TOD Affordable Housing Project the City entered into an Enforceable Commitment Agreement in February 2019. This included CDBG and HOME as well as HOME Community Housing Development Organization (CHDO) funding. The proposed funding commitment approved and pledged exceeded a single year allocation. The HUD 108 process is necessary to fulfill the City's financial contribution. This contribution was necessary by the private developer to leverage funding under the State Tax Credits Program, Affordable Housing Bonds, as well as the State of California Affordable Housing Sustainable Communities (AHSC) program. They are competitive programs that require public commitment or leverage. The overall project budget is approximately \$48,250,000 million.

The City's financial commitment will increase slightly from the Enforceable Commitment Agreement level of \$6,580,000 to \$6,601,329 due to the cost of issuance and interest charged by the HUD 108 Program. However, it should be noted that the project developer will repay the present value of the land, \$1,080,000 through Net Cash Flow of the project which will lower the actual City overall financial contribution. This land repayment was originally not included in the pro forma but has been added after consultation by the Developer with their bond and tax credit counsel. The City and Developer are working to finalize on a Disposition Development Agreement (DDA) and other funding documents which will provide for the full commitments from the City. In summary the DDA and other instruments will provide for the following;

- Enterprise Funds - \$1,470,000
- Housing Successor Agency - \$1,200,000
- HOME Funds - \$1,145,000
- HUD 108 - \$1,706,329 (\$1,685,000 to the project)
- Land Value - \$1,080,000

Commitment - \$6,601,329 less property payback over 55 years - \$5,521,329 in total.

### HUD 108 Details

Loan Summary - The proposed HUD 108 amount is \$1,706,329. The Central Valley Opportunity Fund (CVOF) Grant Commitment of \$1,080,000, which was used to assist in the acquisition of the project site from Merced County, is reducing the City's CDBG and Home contributions for the project.

Purpose of Funds - Loan proceeds will be used for issuance costs for the HUD 108 Loan, site acquisition, site improvements, infrastructure improvements, and development of solar energy systems.

National Objective - Provision of housing for Low - and Moderate - income households. The project will develop 118 new multi-family residential units for households at 30% and 50% of Area Median Income (AMI), with one site manager unit for a total 119 units. A section of the units will be available for document homeless individuals.

Eligible Activity - Public infrastructure, environmental remediation, and loan closing costs.

Displacement - The project will not displace any residents or existing businesses.

Repayment - Loan repayment of both principal and interest is proposed through the use of the City's annual CDBG entitlement funds. Rent levels projected for the project do not provide sufficient revenue to service the loan debt. The City's repayment would be over the 20-year life of the loan. Payments will range from \$75,000 per year to \$106,000 per year.

Next Steps - if approved the HUD 108 application will be submitted to HUD for their review and approval. The City's commitment is conditional to HUD's approval. HUD's Representatives have been involved and aware of the City's application. A final determination is likely in less than sixty days.

A Notice of the Public Hearing was posted on the City's Web Site on June 10th providing notice of the hearing on July 6, 2020 which was continued to July 20, 2020. The notice additionally discussed the 30-day comment period of the proposed application. The comment period closed on July 10<sup>th</sup>. Any public comments provided will be made available at the July 20, 2020 City Council Meeting.

## **IMPACT ON CITY RESOURCES**

None.

## **ATTACHMENTS**

1. City Council of the City of Merced Resolution 2020-49
2. Draft HUD 108 Loan Guarantee Package