



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 10/8/2024

To: Board of Commissioners and Board of Supervisors
Department or Agency Name(s): Community Development Commission
Staff Name and Phone Number: Rhonda Coffman
Vote Requirement: Majority
Supervisorial District(s): All

Title:

Authority to Execute Amendments to Standard Agreement No. 83-RHC-133, Amend Community Development Commission Loan Policies, and Amend Delegated Authority for Procurement

Recommended Action:

- A) Authorize the Executive Director of the Sonoma County Community Development Commission and Sonoma County Housing Authority to revise and execute amendments to Standard Agreement No. 83-RHC-133 with the State of California for the Rental Housing Construction Program.
- B) Authorize amendments to the Sonoma County Community Development Commission Loan Policies.
- C) Amend the Sonoma County Community Development Commission Procurement Policy to authorize the Executive Director's delegated authority to increase to Sonoma County limits.

Executive Summary:

Standard Agreement

The Board of Commissioners authorized the Executive Director of the Sonoma County Housing Authority ("SCHA") to enter into Standard Agreement No. 83-RHC-133 ("Standard Agreement") with the State of California ("State") in 1986. Authorization was further granted for the Executive Director to approve revisions and execute amendments to the Standard Agreement for the implementation and participation in the Rental Housing Construction ("RHC") program. Since the initial implementation, the Standard Agreement has been renewed and revised each year to update the annuity payment schedule.

In 2019, the Executive Director of the Sonoma County Community Development Commission ("CDC") and the SCHA requested that the title of the Executive Director of the SCHA be amended to read Executive Director of the CDC on the amendments to the Standard Agreement. The State is now requiring a new resolution showing that this change is authorized.

CDC Loan Policies

The CDC Loan Policies were adopted by the Board of Supervisors and Board of Commissioners in 2009 and are amended from time to time. The CDC Loan Policies govern the administration of loans from various fund sources for affordable housing development, acquisition, multifamily rehabilitation, and community facility projects. The CDC requests approval of two amendments to the CDC Loan Policies, one to amend legal fees cost reimbursement and one to update the terms of subordination to be consistent with public financing requirements and strengthen the security of the CDC's loans and affordable housing assets.

Procurement Policy

The CDC requests authorization to increase the CDC Procurement Policy delegated authority limits of the Executive Director to align with the most recent authorized Sonoma County limits.

Discussion:

Standard Agreement Amendments

On May 13, 1986, the Board of Commissioners authorized the Executive Director of the SCHA to enter into the Standard Agreement with the State. Authorization was also granted for the Executive Director to approve revisions and execute amendments to the Standard Agreement for the implementation and participation in the RHC program. Since the initial implementation, the Standard Agreement has been renewed and revised each year to update the annuity payment schedule.

In 2019, the Executive Director of the CDC and the SCHA requested that the title of the Executive Director of the SCHA be amended to read Executive Director of the CDC on the amendments to the Standard Agreement. The State issues annual annuity subsidy payments through the Standard Agreement for the benefit of affordable units within the West Avenue Apartments owned and managed by Burbank Housing Development Corporation (“Burbank”), located in Santa Rosa, California. The CDC directs these annuity payments to Burbank.

Recently the State identified that the CDC’s change requested in 2019 from the title of the Executive Director of the SCHA to the Executive Director of the CDC was not authorized by the Board of Commissioners and Board of Supervisors. They subsequently requested this authorization of this change by resolution to continue to issue the annuity payments that support the West Avenue Apartments.

CDC Loan Policies

The CDC requests approval of two amendments to the CDC Loan Policies, one to amend legal fees and one to strengthen the security of the CDC’s loans and affordable housing assets. The first amendment is to subsection (1)(a) of section III. G. Loan Fees, to align the current “Developer Loans,” loan origination fee with those of typical financing lenders and other public financing and governmental lending entities, to allow for full cost reimbursement of legal fees. The current CDC Loan Policies permits the CDC to charge a 1% loan origination fee inclusive of legal fees incurred by the CDC. Loan origination fees are intended to offset the lender’s costs of processing the loan application and setting up the loan. The 1% loan origination fee fails to adequately reimburse the CDC for the legal fees it has incurred through the close of escrow, and thus doesn’t account for the costs to the CDC incurs in processing the loan application and booking the loan.

In real estate transactions, it is standard practice for the borrower to pay the lender’s legal fees incurred through the close of escrow. The CDC utilizes specialized legal counsel to review its loan and regulatory agreements for affordable housing projects structured with complex, multi-layered sources of private, state, and federal funding sources, including tax credits and bond financing. As standard practice, developers account for loan and financing expenses in the project budget early in their financial modeling. The CDC expects the impact of this change to projects and developers to be negligible and will benefit the CDC by providing full cost reimbursement for services rendered.

Subsection (1)(a) of section III. G., Loan Fees, currently states “The loan origination fee is 1% of the

Commission's principal loan amount and shall be paid at time of loan closing. The origination fee is inclusive of legal fees incurred by the Commission through the close of escrow." This subsection would be amended to state "The loan origination fee is 1% of the Commission's principal loan amount and shall be paid at time of loan closing. The origination fee does not include legal fees incurred by the Commission through the close of escrow which shall be reimbursed at the actual costs at the time of loan closing."

The second amendment will update the terms of subordination to be consistent with public financing requirements and strengthen the security of the CDC's loans and affordable housing assets. Commercial lenders generally will not permit public agency (or any other) deeds of trust to be senior to their deeds of trust. Typically, a subordination agreement is required. Such agreements usually incorporate notice and cure rights for the subordinate lender. Most lenders agree that regulatory agreements may remain senior so that they will survive a foreclosure. The State of California Department of Housing and Community Development ("HCD") regulations for some financing programs require HCD deeds of trust and regulatory agreements to be senior. Generally, when more than one public agency is providing financing, the agencies agree that the deed of trust for the lender that provides the most money will be senior to the other public agency's deed of trust.

Section IV. (A)(1), Loan Administration and Subordination policy. Developer Loans, currently states:

"The Commission will accept a subordinate position to a new senior mortgage only if the ongoing public purpose of the development is protected and the transaction will not adversely affect the security of the Commission's loan in any way."

This section would be revised to include required criteria for subordination of CDC deeds of trust and a statement that the CDC's regulatory agreements and/or restrictive covenants may not be subordinated unless required by regulations applicable to financing provided by State of California or federal agencies. The amended text in Section IV. (A)(1) would be revised to state:

"The Commission will permit subordination of deeds of trust securing Commission loans to mortgages provided by commercial lenders only if Commission staff reasonably determines that financing is not otherwise commercially available for the development and the Commission is provided with extended notice and cure rights and other protections for its security interest in the development. Subordination of deeds of trust securing Commission loans to mortgages provided by other public agencies is permitted only if (i) the senior lender loans for the development are greater in amount than the Commission loans for the development, and (ii) the Commission is provided with extended notice and cure rights and other protections for its security interest in the development. Subordination of Commission regulatory agreements and restrictive covenants is not permitted unless and to the extent required by regulations applicable to financing provided by State of California or federal agencies."

CDC Procurement Policy

The CDC's Executive Director is currently authorized to purchase or lease all personal property, engage independent contractors, and execute agreements with other special districts or County departments to perform services for the CDC, including the furnishing of material, in an amount not to exceed \$50,000 per year for the life of the contract, subject to statutory procedures. The CDC requests authorization to increase the CDC Procurement Policy delegated authority limits of the Executive Director to align with the most recent authorized Sonoma County limits.

Strategic Plan:

This item directly supports the County’s Five-year Strategic Plan and is aligned with the following pillar, goal, and objective.

Pillar: Organizational Excellence

Goal: Goal 1: Strengthen operational effectiveness, fiscal reliability, and accountability

Objective: Objective 5: Develop strategies that improve information and knowledge sharing within and between County departments.

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

Prior Board Actions:

05/13/1986, Resolution authorized the Executive Director of the Sonoma County Housing Authority to enter into and amend Standard Agreement No. 83-RHC-133 with the State of California.

FISCAL SUMMARY

Expenditures	FY23-24 Adopted	FY24-25 Projected	FY25-26 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

There are no fiscal impacts as a result of approval of these items.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Agenda Date: 10/8/2024

Narrative Explanation of Staffing Impacts (If Required):

None.

Attachments:

1. Resolution
2. CDC Loan Policies - Redline

Related Items "On File" with the Clerk of the Board:

Standard Agreement No. 83-RHC-133