

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Sitting/Acting as HACC Board Policy Session Worksheet

**Presentation Date:** November 22, 2016 **Approx Start Time:** 9:30 am **Approx Length:** 1 hour

**Presentation Title:** Update on HACC Housing Bond activity for the Rosewood Terrace Apartment Project

**Department:** H3S/Housing Authority of Clackamas County (HACC)

**Presenters:** Richard Swift, Chuck Robbins, Jill Smith

**Other Invitees:** Angel Sully, Rich Malloy

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

1. Approval for staff to place Bond Inducement Resolution on HACC Board Agenda for Approval
2. Approval to hold a TEFRA Hearing

SUMMARY:

In October 2015, PEDCOR Inc., a housing developer out of Carmel, Indiana approached HACC requesting a partnership in the development of Rosewood Terrace Apartments, a 212 unit multi-family affordable rental housing project.

On September 29, 2016 the Board approved a Memorandum of Understanding and Term Sheet for this project, and instructed staff to schedule policy sessions at key milestones during the development process. To date, HACC has retained Foster Pepper PLLC as Bond and Real Estate Counsel and has worked with them to develop a Bond Inducement Resolution.

The Inducement Resolution is the first "official action" passed by the HACC Board communicating the intent to issue bonds for the Rosewood Terrace project. The Inducement identifies a not to exceed bond amount of \$32,000,000 and a not to exceed total project cost of \$63,000,000. With escalating construction labor and materials costs we increased the bond and contract amounts to ensure we could cover unforeseen contingencies; however it is our expectation that the additional funds will not have to be used.

As part of the bond approval process the HACC Board must also hold a Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) hearing. This hearing is mandated by the IRS to provide a reasonable opportunity for interested individuals to express their views on the issuance of bonds and the nature of the improvements and projects for which the bond funds will be allocated. The hearing must be held before the Oregon Private Activity Bond Committee will approve the application

Finally, HACC would like to advise the Board of upcoming documents and actions that will need to be addressed as this project continues. These include, but are not limited to:

1. Loan Documents for the HOME Loan and the HACC Disposition Proceeds. These include
  - a. Loan Agreement
  - b. Trust Deed
  - c. Promissory Note, and
  - d. Declaration of Restricted Land Use Covenants

COUNTY PARTICIPATION & BENEFITS

FINANCIAL IMPLICATIONS (current year and ongoing):

The financial impacts to HACC include:

\$ 900,000 HOME Funds  
\$ 1,100,000 HACC Disposition Funds  
\$ 32,000,000 Bond Funds

Is this item in your current budget?  YES  NO

The HOME funds are included in the Community Development Budget for 2016-2017. The HACC disposition funds are sitting in an account identified as Restricted Fund Balance but are not included in the 2016-2017 budget. Bond funds were also not included in the current budget.

What is the funding source?

1. HOME funds are allocated to the County from the U.S. Department of Housing and Urban Development (HUD) and are limited to the development of affordable housing
2. The Disposition Funds came from the sale of public housing units. They are limited to the development of affordable housing and require that the funded project also qualify for Project Based Section 8 Vouchers.
3. The Bonds are administered by the Oregon State Treasury through the Public Activity Bond Committee.

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department's Strategic Business Plan goals?  
Sustainable and Affordable Housing
- How does this item align with the County's Performance Clackamas goals?  
Ensure safe, healthy and secure communities

LEGAL/POLICY REQUIREMENTS:

PUBLIC/GOVERNMENTAL PARTICIPATION:

OPTIONS:

**RECOMMENDATION:**

1. Approve the Bond Inducement Resolution
2. Modify the Bond Inducement Resolution and approve.
3. Reject the Bond Inducement Resolution.

ATTACHMENTS:

- Bond Inducement Resolution

SUBMITTED BY:

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval \_\_\_\_\_

County Administrator Approval \_\_\_\_\_

A Resolution Declaring an Intent to Issue  
Not to Exceed \$32,000,000 of Revenue  
Bonds for the Rosewood Terrace  
Apartments

RESOLUTION NO.

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WHEREAS, the Housing Authority of Clackamas County (the "Authority") is a public body corporate and politic of the State of Oregon and is empowered by ORS 456.005 to 456.235 (the "Act") to issue revenue bonds for the purpose of financing housing projects; and

WHEREAS, the Authority seeks to encourage the provision of long-term housing for low-income persons residing within Clackamas County, Oregon (the "County"); and

WHEREAS, Pedcor Investments, A Limited Liability Company, a Wyoming limited liability company (the "Sponsor") intends to form a separate legal entity (the "Borrower") as an Oregon limited liability partnership of which an affiliate of the Sponsor will be the sole general partner, an Oregon limited liability company of which an affiliate of the Sponsor will be the managing member, or similar arrangement; and

WHEREAS, the Sponsor has requested that the Authority issue and sell its revenue bonds (the "Bonds") in an amount not to exceed \$32,000,000 pursuant to the Act, to assist the Borrower in financing the acquisition and development of a new approximately 212-unit apartment complex to be located at 8850 SE Otty Road, Happy Valley, Oregon 97086, in an unincorporated area of the County, to provide housing for low-income persons (the "Project"), the estimated cost of which is not expected to exceed \$63,000,000; and

WHEREAS, the use of the proceeds of the sale of the Bonds by the Borrower will permit the Borrower to acquire and develop the Project, thereby providing decent, safe, and sanitary housing for persons and families of lower income (as defined in the Act) for a period of not less than 60 years and other promoting the general health and welfare of the inhabitants within the jurisdictional limits of the Authority; and

WHEREAS, the Authority deems it necessary and advisable that it take such actions as may be required under the Act to authorize and issue the Bonds in one or more series to finance the cost of the Project in a total amount not to exceed \$32,000,000; and

WHEREAS, Treasury Regulations Section 1.103-8(a)(5) requires that, in order for expenditures for an exempt facility that are made before the issue date of bonds issued to provide financing for that facility to qualify for tax-exempt financing, the issuer must declare an official intent under Treasury Regulations Section 1.150-2 to reimburse any such expenditures from the proceeds of those bonds, and one of the purposes of this resolution is to satisfy the requirements of such regulations; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF CLACKAMAS COUNTY, as follows:

Section 1. To assist in the financing of the Project, with the public benefits resulting therefrom, the Authority declares its intention, subject to the conditions and terms set forth herein, to issue and sell its revenue bonds or other obligations (the "Bonds"), in one or more series, in a principal amount of not to exceed \$32,000,000 and to reimburse the Borrower, from proceeds of the Bonds, for expenditures for the Project made by the Borrower before the issue date of the Bonds.

Section 2. The proceeds of the Bonds will be used to assist in financing the Project, and may also be used to pay all or part of the costs incident to the authorization, sale, issuance and delivery of the Bonds.

Section 3. The Bonds will be payable solely from the revenues derived as a result of the Project or other funds of the Borrower and the Sponsor pledged thereto including, without limitation, amounts received under the terms of any financing document or by reason of any additional security furnished by or on behalf of the Borrower in connection with the financing of the Project. The Bonds shall bear such rate or rates of interest, payable at such times, shall mature at such time or times, in such amount or amounts, shall have such security, and shall contain such other terms, conditions and covenants as shall later be provided by resolution of the Board of Commissioners of the Authority.

Section 4. The Bonds shall be issued subject to the conditions that (a) the Authority, the Borrower and the purchaser(s) of the Bonds shall have first agreed to mutually acceptable terms for the Bonds and the sale and delivery thereof and mutually acceptable terms and conditions of the loan or other agreement for the Project, and (b) all governmental approvals and certifications and findings required by laws applicable to the Bonds first shall have been obtained. The Executive Director of the Authority or his or her designee is authorized to cooperate with the Sponsor to seek an allocation of volume cap for the Bonds from the Private Activity Bond Committee of the Debt Management Division of the Oregon State Treasury.

Section 5. For purposes of applicable Treasury Regulations, the Borrower is authorized to commence financing of the Project and advance such funds as may be necessary therefor, subject to reimbursement for all expenditures to the extent provided herein out of proceeds, if any, of the issue of the Bonds authorized herein. However, the passage of this resolution does not constitute a guarantee that the Bonds will be issued or that the Project will be financed as described herein. The Board of Commissioners of the Authority shall have the absolute right to rescind this resolution at any time if it determines in its sole judgment that the risks associated with the issuance of the Bonds are unacceptable.

Section 6. It is intended that this resolution shall constitute a declaration of official intent to reimburse expenditures for the Project made before the issue date of the Bonds from proceeds of the Bonds, for the purposes of Treasury Regulations Sections 1.103-8(a)(5) and 1.150-2.

Section 7. The Executive Director of the Authority is granted the discretionary authority to negotiate and enter into an Indemnification and Compensation Agreement with the Sponsor setting forth the respective agreements and undertakings of the Authority and the Sponsor with respect to the proposed issuance of the Bonds, if the Executive Director deems it necessary and advisable for the best interest of the Authority to enter into such an agreement.

Section 8. Any actions of the Authority or its officers prior to the date hereof and consistent with the terms of this resolution are ratified and confirmed.

Section 9. Any action required by this resolution to be taken by the Executive Director of the Authority may in the absence of such person be taken by the duly authorized acting Executive Director of the Authority.

Section 10. Effective Date. This resolution shall be in full force and effect from and after its adoption and approval.

DATED this \_\_\_\_ day of November, 2016.

BOARD OF COMMISSIONERS OF THE HOUSING  
AUTHORITY OF CLACKAMAS COUNTY, OREGON

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Chair

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Recording Secretary