



# STAFF REPORT

AGENDA ITEM NO: 10d

MEETING DATE: December 2, 2019

**To:** Honorable Mayor and City Council

**Date:** December 2, 2019

**From:** Lisa Goldman, City Manager – (650) 558-7204  
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**Subject:** Consideration of a Resolution Authorizing the City of Burlingame to Become an Additional Member of the California Community Housing Agency (CalCHA)

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## **RECOMMENDATION**

Staff recommends that the City Council consider the opportunity to become a noncharter additional member of the California Community Housing Agency (CalCHA).

## **BACKGROUND**

A new bond-financing program was recently created, with the stated purpose of supporting rental housing affordable for middle and moderate-income households earning less than 120 percent of the AMI. The California Community Housing Agency (CalCHA) was formed pursuant to a joint exercise of powers agreement (the Agreement) between two original members, Kings County and the Housing Authority of Kings County. Under the auspices of this Joint Powers Agreement (JPA) agency, multi-family developments are acquired through public bond financing. The bonds are issued with a 30-year term, with amortization beginning in year 15. Rents are capped (with maximum annual increases) for existing tenants satisfying the target AMI. For existing tenants who earn in excess of the target AMI, rents may be raised as suggested by the market (and now capped under AB 1482). Once existing tenants who earn in excess of the target AMI leave their units, the units are rented to tenants satisfying the income requirement. Therefore, how quickly the multifamily project reaches the target AMI depends on its existing tenants and the speed of turnover, as well as there being sufficient demand for the units among prospective tenants earning the target income. The JPA is exempt from property taxes on the multifamily developments it holds.

In accordance with the Agreement, additional cities, counties, and other local government entities may, and have, joined CalCHA (additional members). CalCHA is authorized to issue revenue bonds and to conduct a range of activities including acquisition, ownership, maintenance, and operation of any property. Under the Agreement, bonds are issued as limited obligations of CalCHA and not of the additional member and are payable solely out of the revenues and receipts derived from the project being financed.

The Agreement expressly provides that CalCHA is a public entity separate and apart from its

members, and that the debts, liabilities, and obligations of CalCHA do not constitute debts, liabilities, or obligations of any members. Bonds issued for any particular project will be indebtedness solely of CalCHA, and payable only from revenues of the project.

The JPA Agreement states that only members of the Kings County Board of Supervisors may be voting board members of the JPA. The Board members do not receive a separate stipend, although their expenses may be reimbursed. Additional members, such as Burlingame, have no voting rights or guarantee of direct influence on the JPA's investment, policy, or operational decisions. CalCHA states that it has adopted a policy to not issue bonds for a project unless the governing body of an additional member in which the proposed project is located approves the issuance of the bonds, although this and other policies may be modified from time to time. The JPA board has retained two private entities to run the operations of the JPA. While additional members can make their wishes known, there is no structural guarantee in the JPA Agreement itself that additional member jurisdictions can control future purchases by the JPA.

To participate in this new program, the City would need to become a non-voting member of CalCHA.

## **DISCUSSION**

CalCHA has proposed purchasing a multifamily rental apartment complex in Burlingame for conversion to below market rate rental housing. The purchase does not include any financial investment from the City. Existing tenants who qualify would be offered below market rents that would increase at no more than 4 percent per year. As vacancies occur, new tenants would need to income qualify for the below market rate program to be eligible to lease units.

As proposed by the JPA, the City could enter into a Purchase Option Agreement that allows the City, at its sole discretion, to purchase or sell the property between year 15 and year 30 (the end of the life) of the bonds. The City may also assign this purchase option to another entity, provided that assignment is approved by the JPA Board. To maintain housing affordability past 30 years, the most likely outcome would be for the City to assign its purchase option to a nonprofit housing organization. If approved by the City Council, the City will be provided with a Purchase Option Agreement for future properties in Burlingame (including but not limited to the property currently being considered). The Purchase Option agreement provides that surplus cash generated by the project may be held for the City's use if it decides to exercise the option. In order to exercise the purchase option, the City would need to pay off any remaining debt on the asset as well as fees and costs of the JPA and its managers. The JPA Board has the authority to dispose of the property at the end of the bond term if the City does not exercise a Purchase Option.

CalCHA represents that it cannot sell or transfer the property during the initial 15 years and can only sell or transfer the property between years 15 and 30 with the City's approval, and that the property will be encumbered with a regulatory agreement that will be enforced by CalCHA. According to the JPA, a professional property management company with experience managing market rate and below market rate properties will manage the property.

CalCHA would be acquiring an existing market rate complex. While there is no guarantee CalCHA

will be selected as the buyer, passing the resolution creates future opportunities for CalCHA to acquire similar properties in Burlingame to create and preserve affordability.

In evaluating the program, several considerations should be weighed against the program benefits. To provide assistance with this evaluation, staff has consulted with Bill Lowell, who has experience with the County of San Mateo Department of Housing (DOH), as well as the Home for All initiative, and has provided assistance to the City on other housing program endeavors. Attached to this staff report is a memo from Mr. Lowell outlining areas of consideration.

### **FISCAL IMPACT**

No financial expenditures, liabilities, or obligations would be created by joining CalCHA or executing the purchase option agreements. However, if a project is purchased through the tax-exempt funding model, the development would be eligible for the welfare tax exemption, resulting in a loss of revenue to the City and other agencies benefitting from local taxes. While the value of the currently anticipated acquisition is unknown, an estimate of \$100M for the purchase price would have losses to the City of \$170,000 per year in property tax, \$290,000 in loss to the County, \$470,000 in loss to the State for education, and \$70,000 to other County entities. Should the JPA acquire other properties in Burlingame, future property tax losses would adhere as well.

If the purchase option agreement is exercised between year 15 and year 30 (the end of the life of the bonds), a fiscal impact could result from the acquisition cost. Surplus cash flow from the property could be used to offset the cost of exercising the purchase option.

#### Exhibits:

- Memorandum – Considerations
- Proposed Resolution
- Attachment A – CalCHA Joint Exercise of Powers Agreement
- Attachment B – CalCHA Additional Member Signature Page
- Attachment C – CalCHA Purchase Option Agreement (sample, subject to revision)
- Attachment D – CalCHA No Liability Letter