

RESOLUTION NO. 93-007

ADOPTED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO

ON DATE OF MAR 0 2 1993

PRESERVATION GRANT AND LOAN POLICY FOR FEDERALLY-SUBSIDIZED AFFORDABLE HOUSING PROJECTS AT RISK OF CONVERSION TO MARKET RATE RENTS

BE IT RESOLVED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO:

Section 1: The Preservation Grant and Loan Program attached as Attachment I is adopted.

Section 2: The allocation of additional funds for preservation activities is designated a high priority.

Section 3: Fifteen Thousand Dollars (\$15,000) from HUD opt-out preservation study (AO 1218) is reallocated for preservation activities in accordance with the Preservation Grant and Loan Program.

Section 4: The Loan Committee of the Sacramento Housing and Redevelopment Commission, in accordance with their jurisdiction, are authorized to accept, review and approve applications for funding which are in accordance with the Preservation Grant and Loan Program ("Opt-Out Projects").

Section 5: The Executive Director is authorized to negotiate, prepare, and execute contracts with the borrowing entities for selected Opt-Out Projects as approved by the Loan Committee.

Section 6: The Executive Director is authorized to release the Notice of Funds Available, attached as Attachment II, in the amount of Three Hundred Seventy Three Hundred Twenty-Two Thousand Dollars (\$370,322) under the guidelines of the Preservation Grant and Loan Program.

Section 7: The Executive Director is authorized to issue a Request For Proposal to select a consultant who will prepare and deliver the initial curriculum to tenants of all

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affected project, and to establish a selection committee to recommend a consultant proposal for approval to the Sacramento Housing and Redevelopment Commission in accordance with Agency's consultant selection policy.

Section 8: The Executive Director is directed to evaluate and to report back on Opt-Out Projects, and to recommend certain of the Opt-Out Projects for acquisition by the City or an affiliate organization, as the needs indicate.

Section 9: The Executive Director is authorized to amend the budget to reflect the provisions of this resolution.


CHAIR

ATTEST


SECRETARY

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**PRESERVATION LOAN AND GRANT
PROGRAM GUIDELINES**

Scope of Program

The Preservation Program has the following components: 1) education of tenants regarding the Title II and Title VI, and the abilities of the tenants to influence the process; 2) Phase I grants for the organization of tenants into a cohesive group as a non-profit corporation; 3) Phase II recoverable grants for pre-development activities prior to site control; 4) Phase III recoverable grants for implementation activities subsequent to site control; and 5) equity contributions for project purchase.

The Preservation Loan and Grant Program is designed to be very similar to HUD's NOFA for Technical Assistance (dated September 3, 1992) which offers three phases of funding: 1) Tenant Organization; 2) Pre-Development Activities; and 3) Implementation. If subsequent HUD NOFAs are substantially different, this NOFA may be amended to conform.

In order to maximize the limited funds available from the City and County of Sacramento, would-be applicants are required to apply first to HUD for funding, or supply a letter explaining their ineligibility or reasons why an application to HUD is not appropriate. SHRA will accept applications for funding which does not duplicate any HUD-financed activities. SHRA will accept the same application package that is required by HUD, although some additional items may be required.

Only one application is required to apply for all phases of assistance. However, only one phase at a time will be committed to and funded. Applicants do not need to apply for, or borrow for each phase. However, successful completion of the activities which were proposed for an earlier phase is required to receive funds for the next phase. If an owner accepts a purchase offer from any other qualified purchaser, then no further funding will be available to the applicant.

If multiple applications are received from different groups in connection with the same project, SHRA will hold a public meeting for all the residents and applicants and the vote taken of the residents present at that meeting will determine the eligible applicant.

Applicant Criteria

The Preservation Grant and Loan Program shall construe "applicant eligibility" in accordance with the rules and definitions for "purchaser eligibility" which are contained within the HUD Title VI regulations, or as those regulations may be amended from time to time.

During the first six-month period beginning on the date of receipt by the HUD Commissioner of a second notice of intent eligible borrowers include:

- i) A resident council intending to purchase a project which has met the requirements for tenant support;

- ii) A resident council intending to purchase the project and retain it as rental housing, which has the support of a majority of the tenants; or
- iii) A community-based nonprofit organization which has the support of a majority of the tenants.

A community-based nonprofit organization is one that:

- i) Is organized under State laws;
- ii) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- iii) Is neither controlled by, nor under the direction of individuals or entities seeking to derive profit or gain from the organization;
- iv) Has applied for, or has a tax exemption ruling from the IRS under section 501(c) of the Internal Revenue Code;
- v) Does not include a public body (including the participating jurisdiction) or an instrumentality of a public body. An organization that is State or locally chartered may qualify as a community-based nonprofit organization; however, the State or local government may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members can be public officials;
- vi) Has standards of financial accountability that conform to Attachment F of OMB Circular No. A-110;
- vii) Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions, or by-laws;
- viii) Maintains accountability to low-income community residents by maintaining at least one-third of its governing board's membership for low income neighborhood residents, other low-income community residents, or elected representatives of low-income neighborhood organizations, and by providing a formal process for low-income program beneficiaries to advise the organization on its decisions regarding the acquisition, rehabilitation and management of affordable housing.

During the second six month period eligible applicants include (in addition to the above) any priority purchaser. A priority purchaser is any entity that is not a related party to the owner and that is either:

- i) A resident council organized to acquire the project in accordance with a resident homeownership program; or
- ii) Any nonprofit organization or State or local agency that agrees to maintain low income affordability restrictions for the remaining useful life of the project. A

nonprofit organization of State or local agency that is affiliated with a for-profit entity for purposes of purchasing a project shall not be considered a priority purchaser.

Any entity which, directly or indirectly, is wholly or partially owned or controlled by the owner of the housing that may be transferred under Title II or Title VI, is under whole or partial common control with such owner, or has any financial interest in such owner or in which such owner has any financial interest shall be deemed a related party.

Applicants may request less than the maximum amount of funds allowed and execute only a limited number of eligible activities.

OBJECTIVE CRITERIA FOR REVIEW OF NON-PROFIT APPLICANTS

Applicants must meet all of the following criteria:

- I ELIGIBLE NON-PROFIT (NOTE: Resident and community groups that are in the initial stages of organizing are eligible for Phase I tenant organization funding, but are prohibited from receiving Phase II predevelopment funding and Phase III implementation funding until formally organized into a Resident Council or Community-Based Nonprofit Organization.)
- A Does the applicant comport with Title VI requirements?
1. The applicant must have, or have applied for 501(c) status.
 2. No Board member, founder, or contributor may receive any of the net earnings of the non-profit.
 3. The applicant may not be controlled by or under the direction of individuals or entities seeking to derive a profit or gain from the organization.
 4. No more than one-third of the Board members may be appointed by a public body or by a for-profit organization.
 5. No more than one-third of the Board members may be public officials.
 6. At least one-third of Board members must be: a) low-income neighborhood residents; b) low-income community residents; or c) elected representatives of low-income neighborhood organizations?
 7. There must be a formal process for low-income program beneficiaries to advise the organization regarding rehab and management of the housing.
 8. The purchaser may not wholly or partially own or control the seller or property manager.

9. The seller or property manager may not wholly or partially own or control the buyer.

B Does HUD consider the applicant as eligible and qualified?

1. HUD must recognize the applicant as an eligible non-profit under Title II or Title VI.

2. HUD must grant the applicant conditional approval for a 241(f) loan in order to purchase the project.

II RELATED PARTIES

Any applicant or Prime Consultant performing services under this application shall be deemed a related party to the owner or operator and shall be ineligible for receipt of SHRA funds under this application if it fails to meet any of the following criteria (capitalized terms are defined below):

1. The applicant or Prime Consultant shall not be controlled by the Owner or Operator of any housing that may be transferred under Title II or Title VI.

2. The applicant or Prime Consultant shall not be controlled by any entity which also controls the Owner or Operator of any housing that may be transferred under Title II or Title VI.

3. The applicant or Prime Consultant shall not have any Financial Interest in the Owner or Operator of any housing that may be transferred under Title II or Title VI.

4. The Owner or Operator of any housing that may be transferred under Title II or Title VI shall not have any Financial Interest in the applicant or Prime Consultant.

For purposes of this Section II:

"control" shall mean having the aggregate majority voting interest in the operation and management of the entity, or the power to appoint or serve, by itself or its employees or agents, as the majority voting interest.

"Financial interest" means equity ownership or other receipt of ongoing financial benefits, including benefits from current agency or employment or contracts, or grant or loan agreements. Seller financing in connection with the transfer of a Title II or Title VI project is excluded.

"Owner" means title holder, general partner of a partnership holding title, or shareholder holding ten percent or more of a corporate titleholder, or general partner of a titleholder, or any affiliate or subsidiary thereof.

"Operator" means a management company, resident manager or other person or entity with day-to-day responsibility for operation and management of the housing.

"Prime Consultant" is the party designated in this application as primarily responsible for: 1) assisting the applicant to complete the scope of work detailed under the application; or 2) selecting and engaging additional qualified parties to assist with the work if needed.

UNDERWRITING CRITERIA FOR REVIEW OF APPLICANTS

I FINANCIAL CAPACITY

A Does the organization have adequate income/resources to support any activities which would be necessary or required?

1. Provide a current financial statement for the organization and profit and loss statements for the past two years of operation.

2. Provide a business plan which details how the anticipated expansion of your operations (due to acquisition of this project) will be financed.

B Has the organization demonstrated fiscal responsibility on previous transactions?

1. Provide references from previous lenders, bankers, or other sources which you feel are pertinent.

2. If the organization has ever defaulted on a payment to SHRA or otherwise failed to perform under an agreement with SHRA, provide an explanation.

II TECHNICAL CAPACITY

A How will the organization handle the increased work load associated with the acquisition of this project?

1. What projects does the non-profit currently have in process? What are planned for the near future?

2. What staff is available to handle the projects in process and coming on line?

3. What similar projects has the non-profit undertaken?

4. List current staff and their specific experience.
5. List any planned expansions of staff or facilities.

ORGANIZATION GRANT FOR TENANT GROUPS

This program is for the first step in tenant organization and may or may not lead to a resident council purchase. Tenants may apply any time after they have completed the basic curriculum as supplied by the Preservation Education Coordinator. Each tenant group will choose a qualified Prime Consultant whom they will identify at the time of application; sub-consultants may be used as necessary. All fiscal activities will be conducted between SHRA and the Prime Consultant.

Maximum Grant Amount

\$ 15,000

The grant amount shall be based upon a budget and list of proposed activities prepared by the applicants.

Eligible Activities

The grant for organization of a tenant association is intended to assist in the formation of a group which conforms to HUD's resident council definitions, and to provide support to assist the group in participating in the Plan of Action concerning their homes.

Eligible activities and expenditures include, but are not limited to:

1. Professional advice to assist with choice of type of legal "entity".
2. Preparation of legal documentation and filing fees if any.
3. Professional assistance to organize residents.
4. Training for the resident council board including leadership, financial management, and housing development.
5. Administrative fees related directly to preservation activities (e.g. phones, copying, etc.)
6. Investigation of related financial and legal issues.
7. Additional organizing funds as needed.
8. Professional interpreters for meetings or translation of written material.
9. Other related activities as approved by SHRA.

Minimum Applicant Requirements

1. If there is no formal tenant association the application from a tenant group must be accompanied by:
 - a) Signatures on a petition which clearly indicates the proposal and has the support from parties representing the greater of five units or 20% of all units;
 - b) A copy of the notice announcing an organizational meeting;
 - c) A copy of the agenda of the organizational meeting;
 - d) A list of the attendees.
2. If a tenant association exists it must evidence support for the loan request with a board Resolution Authorizing Loan Application.
3. Priority shall be given to tenants of projects where owner has indicated an intent to sell or to prepay.
4. Other applicants must conform to the criteria found in the HUD NOFA dated September 3, 1992.

Threshold Requirements

Tenant groups must reside in a HUD 236 or 221(d)(3) project which has filed, or is eligible to file, a Notice of Intent under Title II or Title VI and have completed the basic curriculum. All applicants must have previously applied for funds under the HUD NOFA dated September 3, 1992, or indicate why they are ineligible to do so. All applicants must provide evidence of endorsement by a majority of the tenants.

Application Requirements

The application package shall include:

1. Resolution Authorizing Application for Grant by an existing tenants' association or Petition for Grant signed by occupants of the greater of five (5) units or twenty percent (20%) of the units in a project.
2. The HUD application for Preservation Technical Assistance Planning Grants.
3. Narrative description of relevant organization activity or other related tenant activity to date.
4. Letter of Intent from a Prime Consultant.

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5. Resume and financial statements of the Prime Consultant.

Disbursement Procedures

Prior to any disbursement, SHRA must review and approve the contract between the borrower and the Prime Consultant. Funds shall be disbursed once a month to the chosen Prime Consultant under contract to the tenant group to cover eligible expenses incurred and as evidenced by receipts. The disbursement request form shall be signed by both the Prime Consultant and the resident group.

Checks shall be made payable to the Prime Consultant.

Repayment Plan

These funds shall be considered a Recoverable Grant. If the applicant proceeds to purchase the project, the FHA 241(f) loan or other financing may cover these expenses and provide a repayment source.

If the applicant purchases the project, or if the FHA 241(f) loan or other financing provides sufficient funds to cover all expenses, then the Grant will be repaid, to the extent of available funds.

PREDEVELOPMENT FINANCING

This program is designed to finance the activities necessary for a tenant association or non-profit housing organization to reach the stage of site control. Applicants will contract with a Prime Consultant to guide them through the procedure. Applicants may work without benefit of a Prime Consultant upon approval by SHRA. SHRA's approval will be based upon the borrower's experience and capacity.

Maximum Loan Amount

\$50,000

Eligible Activities

This program will provide applicants with the funding needed to reach an informed conclusion regarding desirability of purchasing a property, and to draft and negotiate an offer to purchase. This loan will cover activities up to the acceptance of an offer to purchase.

Activities eligible for financing include but are not limited to:

1. The professional assistance to reach a conclusion as to whether purchase of the project is feasible and/or warranted and to determine the most appropriate form of ownership.
2. Professional assistance to: analyze tenant rent and other income data; project's financial and physical condition; project's loan documents, contracts and regulatory agreements; and to perform other preliminary due diligence activities.
3. Deposit assistance.
4. Professional help to assist in analyzing all costs associated with a purchase.
5. Preliminary cost estimates for necessary repairs and rehabilitation.
6. Professional assistance in preparation of an offer to purchase.
7. All steps required for selection and/or endorsement of a preservation purchaser (tenant organization).
8. Development of a preliminary plan for all phases of property management and ongoing tenant participation.
9. Professional interpretation into foreign languages at meetings or translation of written materials.
10. Other related activities approved by SHRA.

Minimum Applicant Standards

Applicant must be a priority purchaser within the definitions supplied by HUD. Preference may be given to borrowers which meet the HUD definition of a Community Based Organization.

Applicant shall: 1) be incorporated as a non-profit, and shall have applied (or will apply) for 501 (c) Internal Revenue Code tax exemption; or 2) be a local housing agency. Borrower shall have the endorsement of the tenants. Loan Approval Committee may require that the borrower use the services of a fiscal agent.

There must be no relationship between the seller, the consultant, or the buyer.

Threshold Requirements

Owner(s) of the project must have evidenced a willingness to sell. This could be demonstrated by a letter of understanding between the owner(s) and loan applicant regarding the sale; or a letter from the owner stating an interest in selling.

Other evidence or demonstration of intent will be considered on a case by case basis at the discretion of SHRA.

Applicant must have made previous application to HUD for funding or supply a statement explaining ineligibility for HUD funds. SHRA will not duplicate any funding supplied by HUD.

Loan application may be made no earlier than the eighteenth anniversary date of the FHA mortgage.

Applicant must be able to provide evidence of the support of the residents which is satisfactory to SHRA. After the sixth month after the filing of the second Notice of Intent, SHRA may consider applications from borrowers without the endorsement of the residents upon demonstration of their attempt to obtain resident endorsement, and lack of significant resident opposition.

If there is more than one group interested in purchasing the project, the following priorities will be considered:

- 1) The applicant which has a written commitment from the owner;
- 2) The applicant which can demonstrate the greatest tenant support;
- 3) The applicant which the Agency deems most likely to be able to culminate a purchase.

Loan Application Package

The loan application shall include:

1. The HUD application for Preservation Technical Assistance Planning Grant.
2. Evidence of tenant/resident council endorsement.
3. Long-term plan for on-going tenant participation.
4. Copy of the Capital Needs Assessment (CNA)
5. Narrative of relevant activities to date.
6. Identify other pre-development financing sources which are being developed.
7. Letter of Intent from chosen Prime Consultant.
8. Resume and financial statements of the Prime Consultant.

Disbursement Procedures

Funds shall be disbursed once a month to cover eligible expenses incurred and as evidenced by receipts;

Checks shall be made payable to the borrower or the fiscal agent as required by Agency loan approval.

Repayment Terms

Each loan shall be written for a term of two years; it may be extended upon application by borrower and approval by Agency. Interest shall accrue on the balance disbursed and outstanding at the rate of 5 percent per annum. The Promissory Note shall require no payments until maturity. If the borrower does not complete the purchase of the project, the loan will be forgiven.

The anticipated source of repayment is an FHA 241(f) loan or other funding made to the subject borrower. Repayment is conditioned upon successful purchase of the project and is subject to availability of sufficient proceeds from the FHA 241(f) loan or other source.

The loan may be forgiven if there is no feasible source of repayment.

IMPLEMENTATION LOAN

This program provides funding for the activities necessary to prepare a Plan of Action and Transfer of Physical Assets once a purchase agreement has been negotiated. All activities up to the time of legal transfer of title may be covered. Applicant must work with a Prime Consultant knowledgeable in this field unless otherwise approved by SHRA.

Maximum Loan Amount

\$ 50,000

Eligible Activities

This loan will supply funding for professional assistance in taking the steps necessary to acquire the property.

Eligible activities include but are not limited to:

1. Architectural and design services.
2. Engineering review of the structure and preparation of a scope of work and cost estimate; and hazardous substance review and abatement plan.
3. Financial analysis of past Income and Expense statements and preparation of pro forma operating statements.
4. Legal services as necessary.
5. Preparation and submission of a Plan Of Action and Transfer of Physical Assets.
6. Preparation and submission of a 241(f) or other loan application.
7. Preparation of a plan for ongoing tenant organizing and education.
8. Leadership and housing management training for tenants and board members.
9. Preparation of a plan for ongoing tenant participation.
10. Professional interpretation and translation.

Threshold Requirements

Acceptance by owner of a bona fide offer to purchase made by applicant, and confirmed by HUD. Buyer must have tenant endorsement or demonstrate lack of significant opposition from tenants. The purchase must be an arms length transaction between non-related parties.

Borrower Requirements

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Borrower must be a priority purchaser within the definitions supplied by HUD. Preference may be given to borrowers which meet the HUD definition of a Community Based Organization.

Borrower shall: 1) be incorporated as a non-profit, and shall have applied (or will apply) for 501 (c) Internal Revenue Code tax exemption; or 2) be a local housing agency. Borrower shall have the endorsement of the tenants. Loan Approval Committee may require that the borrower use the services of a fiscal agent.

There must be no relationship between the seller, the consultant, or the buyer.

Loan Application Package

1. HUD application for Preservation Technical Assistance Planning Grant.
2. Copy of executed and HUD-approved Purchase Agreement.
3. Appraisal and statement of preservation value and preservation rents.
4. Preliminary title report
5. Rent roll and income profile.
6. Pro forma operating budget and anticipated sources and uses.
7. Resume of property management company (if already selected).
8. Beneficiary statement on first mortgage
9. Narrative of financing, planning and organizing activities to date.
10. Plan for long term ongoing tenant participation.
11. Preliminary rehabilitation budget and scope of work.
12. Copy of the Capital Needs Assessment (CNA)
13. Identify other financing sources which are being developed.
14. Letter of Intent from chosen Prime Consultant, and any sub-consultants which may be identified.
15. Resume and financial statements of Prime Consultant.

Disbursal Procedures

Funds shall be disbursed once a month to cover eligible expenses incurred and as evidenced by receipts.

Checks shall be made payable to the borrower or fiscal agent as required by Loan Approval Committee.

Terms of Repayment

The loan shall call for no monthly payments, all principal and interest accrued will be due upon close of the FHA 241(f) loan or other loan, which is the sole anticipated source of repayment.

Interest shall accrue at the rate of 5 percent per annum.
Should the purchase not be completed, this loan may be forgiven.

PERMANENT LOAN

This program supplies funds for the equity portion of the purchase transaction.

Maximum Loan Amount

Requests may be made for a loan in the maximum amount of 5 percent of preservation equity. Loans for a greater amount may be requested directly from the governing board.

Eligible Use of Funds

Funds may be used : 1) as the equity contribution in the purchase of a HUD-assisted low-income housing project by a priority purchaser; or 2) to defray other project-related expenses which are not reimbursable by the FHA 241(f) loan.

Borrower Requirements

Borrower shall: 1) be incorporated as a non-profit and shall have applied (or will apply) for 501(c) Internal Revenue Code tax exemption, or be a local housing agency; and 2) shall have the knowledgeable endorsement of a majority of the tenants. The borrower must be an eligible purchaser according to Title VI; preference will be given to those that meet the HUD definition of a Community Based Organization.

Threshold Requirements

The Plan of Action and Transfer of Physical Assets must have been submitted to HUD for approval. The draft of the FHA 241(f) loan application must be complete. The borrower must have obtained IRC 501c status. Scope of rehabilitation work should be completed; architect and contractor should be selected.

Loan Application Package

1. Resume of borrower
2. Resume of property management
3. Plan of Action
4. Appraisal and determination of preservation value and preservation rents.
5. Preliminary Title report
6. Pro Forma operating budget, and Statement of Sources and Uses.
7. Plan for repayment
8. Resumes of all technical service providers.
9. Evidence of any third-party financing commitment.
10. Narrative of financing and organizing activities to date.
11. Copy of the most recent HUD project audit.
12. Scope of work, budget and plans and specs for all rehabilitation work.
13. Copy of the FHA (or other) loan application.
14. Copy of the Capital Needs Assessment (CNA)
15. Identify other financial sources which are being developed.

Terms of Repayment

Repayment shall be in monthly payment of interest and principal as allowable by the terms for the first lien holder and by prudent loan underwriting. Payments may be deferred in any year if necessary to insure the financial viability of the project. Maturity shall be coincident with the maturity of the first trust deed.

The rate of interest accrual shall be 5 percent per annum.

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Disbursal Procedures

Funds shall be disbursed through escrow simultaneously with the transfer of title and the funding of the FHA 241(f) loan.

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