

PDC

PORTLAND DEVELOPMENT COMMISSION

DATE: June 23, 2010

TO: Board of Commissioners

FROM: Bruce A. Warner, Executive Director

SUBJECT: Report Number 10-66
Agreements with the City of Portland acting by and through the Portland Housing Bureau (PHB) to transfer housing programs and employees and to provide support services

EXECUTIVE SUMMARY

BOARD ACTION REQUESTED

Adopt Resolution No. 6803

ACTION SUMMARY

This action will authorize the Executive Director to execute multiple inter-governmental agreements that will transfer housing staff, programs, and assets as well as outlining certain services provided to the Portland Housing Bureau (PHB) by PDC staff beginning July 1, 2010.

- 1) Exhibit A: Housing Rehabilitation, Finance and Development Agreement: transfers responsibility for housing rehabilitation, finance and development activities in the City of Portland, utilizing both urban renewal and non-urban renewal resources, to PHB. Consistent with the City's Affordable Housing Set Aside Policy, this agreement establishes FY 2010-11 budget for the implementation of urban renewal housing activities to be funded through urban renewal resources and provide for payment of those resources to PHB on an expense reimbursement basis. The agreement requires, as part of the reimbursement process, certification from PHB that the costs incurred are eligible urban renewal expenditures.
- 2) Exhibit B: Assignment and Assumption Agreement: assigns PDC's rights and delegates its duties under designated housing related agreements (under which performance has not been completed) to PHB, including but not limited to loan agreements, disposition and development agreements, regulatory agreements, etc. The agreement also transfers PDC's real property assets that are related to housing activity to PHB.
- 3) Exhibit C: Housing Support Services Agreement: provides for PDC's delivery of services to PHB to support PHB's urban renewal and non-urban renewal housing activities including certain property management services, information technology services, construction and environmental services, records management, relocation services and prevailing wage services.

- 4) Exhibit D: Intergovernmental Agreement for the Transfer of Employees: provides for the transfer of PDC employees performing certain housing functions to employment with the City of Portland in accordance with applicable transfer statute.

PUBLIC BENEFIT

The City Council unanimously adopted City Ordinance #182465 on January 7, 2009 authorizing the creation of the Portland Housing Bureau and the transfer of all PDC housing functions and Bureau of Housing and Community Development housing and operational functions to the Portland Housing Bureau. The Ordinance stated that the creation of this new Bureau will strengthen Portland's capacity to meet the housing needs of the current and future residents of our City. It further stated that by transitioning appropriate functions and staff from BHCD and PDC, Portland will enhance its ability to end chronic homelessness, protect our most vulnerable residents, preserve and expand our affordable housing supply, assure housing stability, promote homeownership and connect our investments in housing to other strategies that support families and schools in vibrant, equitable neighborhoods.

This action will support the following PDC goals:

- Sustainability and Social Equity
- Healthy Neighborhoods
- A Vibrant Central City
- Strong Economic Growth and Competitive Region
- Effective Stewardship over our Resources and Operations, and Employee Investment

PUBLIC PARTICIPATION AND FEEDBACK

The opportunity for the public to comment on this transition was made during hearings on the City budget. No significant opposition to the anticipated arrangement for housing implementation was registered during the hearings or written testimony.

COMPLIANCE WITH ADOPTED PLANS AND POLICIES

The Housing Support Services Agreement was created in compliance with PDC's Full Cost Recovery Policy where PDC will be fully reimbursed for all time and materials incurred in providing the specified services to the Portland Housing Bureau. The overhead rate included is based on the average hourly support cost of facilities and information technology support services.

The Housing Rehabilitation, Finance and Development Agreement establishes a scope of work that is consistent with the City's Housing Policies and PDC's Urban Renewal Plans. The scope of work also requires PHB to comply with established City policies outlined in its Fair Contracting and Small Business Support Programs, which include the Good Faith Efforts Program, the Minority Evaluator Program, the Professional Services Marketing & Outreach Program, the Technical Assistance Program and its Workforce Training and Hiring program. In addition, PHB will supplement those programs by

adopting PDC's aspirational goal that 20% of "hard construction costs", as defined in PDC's Business and Workforce Equity Policy, be awarded to M/W/ESB firms. PHB will provide a report to PDC on its accomplishments no later than March 31, 2011. Both parties agree to review PHB's performance as well as the results of the Disparity Study in order to ensure contracting opportunities after the first year of this agreement.

FINANCIAL IMPACT

Implementation of URA Housing:

The Housing Rehabilitation, Finance and Development Agreement (Exhibit A) provides for the payment of urban renewal resources in an amount not to exceed \$67,526,814 by PDC to PHB for urban renewal housing program implementation in FY 2010-11. This amount is currently included in PDC's Approved FY 2010-11 Budget and is part of the Housing Set-Aside forecast. One project (Killingsworth Block) is partially not set-aside eligible. Of the total urban renewal resources committed by the Housing Rehabilitation, Finance and Development Agreement, approximately \$3.8 million is allocated for urban renewal related PHB staff and overhead for implementation of urban renewal housing activities in FY 2010-11.

Transfer of Non-URA Assets:

The Housing Rehabilitation, Finance and Development Agreement (Exhibit A) also identifies the residual non-urban renewal funds that will transfer to PHB on July 1, 2010. PDC's Approved Budget includes \$2.3 million in residual loan program cash assets that are not associated with urban renewal area activities (Housing Investment Fund, Neighborhood Housing Fund, Program Reserve, Rental Rehab Program Income and Bank of America Private Lender Participation Agreement) that will transfer in addition to other non-cash assets and liabilities in these funds. Funds associated with the Neighborhood Housing Fund (Fannie Mae program) will not fully transfer until after PHB receives Fannie Mae certification. Certification is estimated to take an additional six months. PDC will maintain responsibility over the Fannie Mae activities and residual funds until PHB certification is received.

Support Services to be provided by PDC:

The Housing Support Services Agreement (Exhibit C) provides for certain services to be delivered by PDC to PHB. These services are real estate management, loan servicing system support, prevailing wage, relocation, construction and environmental services, and records management services. While the IGA includes the provision for record management services, PHB is currently anticipating moving all the records to City of Portland archives and these services may not be required. Total estimated cost of all services is approximately \$1 million for FY 2010-11 and reimbursement for these services has been factored in the FY 2010-11 Approved Budget. Approximately \$260,000 of this total will be for work outside of urban renewal areas (federal or city funding) and will therefore not be billed back to PDC's urban renewal areas by the PHB.

Transfer of Employees:

Exhibit D is the employee transfer agreement that will transfer 36 housing and housing support positions to PHB on July 1, 2010. The agreement will not require PDC to fund

accrued sick or vacation balances – these accrued balances will be absorbed by the PHB. Total reduction in personal services is identified in the FY 2010-11 Budget, however, PHB will be charging back to PDC \$3.8 million in staff and other overhead expenses that are considered to be part of implementation of URA housing projects and programs. The \$3.8 million is included in the \$67.5 million total FY 2010-11 URA funding agreement identified in Exhibit A and is included in the total budget appropriations for Housing in the PDC FY 2010-11 Approved Budget.

RISK ASSESSMENT

PDC will be delegating to PHB the primary responsibility for insuring that reimbursable expenses are TIF eligible by law. This is deemed practically necessary to insure the expeditious and efficient delivery of housing services and functions. However, PDC Legal Counsel has determined any risks associated with such delegation are mitigated under the Housing Rehabilitation, Finance and Development Agreement by i) PHB express assumption of responsibility for insuring TIF eligibility, ii) PHB and its legal counsel being required to certify, with each reimbursement invoice, that all the listed expenses are TIF eligible expenses, and iii) PHB indemnifying PDC and its Board members in the event any claim is made against PDC or its Board for TIF non-compliance.

WORK LOAD IMPACT

Provision of services while being contracted for, will largely remain coordinated and implemented as performed prior to the transition. However, additional time will be required of Financial Planning and Accounting staff to receive review and authorize payment of invoices submitted by PHB for reimbursement of URA related housing activity and to invoice PHB for purchased support services. While this work will be absorbed by prioritizing work within current staffing levels, staff will be tracking time to determine appropriate staffing needs moving forward.

ALTERNATIVE ACTIONS

The Board may choose not to authorize the IGAs, in which case, the assets, employees and responsibilities of implementing housing projects would not transfer to the PHB on July 1, 2010.

The Board could direct staff to continue negotiations with PHB, in which case, the assets, employees and responsibilities of implementing housing projects could be delayed past July 1, 2010.

CONCURRENCE

This action supports City Council direction to transfer PDC Housing staff and functions to the PHB. The decision to transition all City housing activities from BHCD and PDC to the PHB was recommended by Mayor Adams and Commissioner Fish in January 2009 and unanimously supported by City Council.

BACKGROUND

The City Council unanimously adopted City Ordinance #182465 on January 7, 2009 authorizing the creation of the Portland Housing Bureau and the transfer of all PDC Housing functions and Bureau of Housing and Community Development housing and operational functions to the Portland Housing Bureau. The Ordinance stated that the creation of this new Bureau will strengthen Portland's capacity to meet the housing needs of the current and future residents of our City. It further stated that by transitioning appropriate functions and staff from BHCD and PDC, Portland will enhance its ability to end chronic homelessness, protect our most vulnerable residents, preserve and expand our affordable housing supply, assure housing stability, promote homeownership and connect our investments in housing to other strategies that support families and schools in vibrant, equitable neighborhoods.

On May 1, 2009 Commissioner Fish announced that the transfer of the PDC Housing Department staff and functions to the new PHB would be delayed beyond the original July 1, 2009 target to enable the City and PDC to work through technical issues necessary for full implementation. Challenges included development and integration of financial, accounting, IT and loan servicing systems within the City that support the lending and real estate investment functions of the PDC Housing department.

The PDC Commission passed the co-location resolution (resolution 6727) on August 12, 2009. The IGA and Resolution authorized the implementation of the co-locations strategy which is an interim step to full transition of the PDC Housing functions from PDC to PHB. In the IGA, PDC agreed to move PDC housing staff to the PHB office space in the Commonwealth Building and to pay PHB for the use of that space. The IGA also provides for the appointment of the PHB Director (or designee) to the PDC Investment Committee and, as authorized by the Resolution, the PDC Loan Review Committee, with authority to vote on housing matters. Finally, the IGA provides for the involvement of PHB in other PDC discussions and internal processes involving development or major revision of PDC housing programs and policies.

Through FY 2009-10 PDC and PHB staff have worked through all technical issues to fully implement the transition by July 1, 2010. PDC and PHB identified certain services that made more sense for PHB to purchase from PDC including real estate management, Mitas hosting (loan servicing system), prevailing wage services and construction and environmental services functions.

Also during FY 2009-10, PDC and PHB worked cooperatively building the FY 2010-11 budget and five-year forecast. PHB staff actively participated in the initial budget development phase with PDC's Urban Renewal Advisory Committees and coordinated in producing a forecast of projects, priorities and operating costs that needed to move forward in FY 2010-11.