

PDC

PORTLAND DEVELOPMENT COMMISSION

DATE: September 24, 2008

TO: Board of Commissioners

FROM: Bruce A. Warner, Executive Director

SUBJECT: Report Number 08-115
Recommending Final Approval to Portland City Council for Issuance of Economic Development Revenue Refunding Bonds as related to the refinancing of the existing Bond Debt on the PSU Broadway Housing LLC Project

EXECUTIVE SUMMARY

BOARD ACTION REQUESTED

Adopt Resolution No. 6636

This action will recommend final approval to the Portland City Council regarding the issuance of one or more series of tax-exempt and/or federally taxable economic development revenue refunding bonds in an aggregate principal amount not to exceed \$52,000,000 ("Proposed Bonds") for the purpose of refunding (a) all or a portion of outstanding City of Portland, Oregon Economic Development Revenue Bonds (Broadway Project), Series 2003A (Tax-Exempt) in the principal amount of \$42,725,000 and (b) all or a portion of outstanding City of Portland, Oregon Economic Development Revenue Bonds (Broadway Project), Series 2003B (Federally Taxable) in the principal amount of \$4,700,000 (collectively, "2003 Bonds") and thereby refinancing the acquisition, development and construction of approximately 400 units of student housing and related commercial and academic space known as the Broadway Project, located at 1948 S.W. Broadway in Portland, Oregon ("Project"). The proceeds of the Proposed Bonds are also intended to fund the termination payment of the related interest rate swap, a deposit to the debt service reserve fund and the costs of issuance of the Proposed Bonds.

The recommendation made pursuant to the resolution and the accompanying report is made in accordance with process established under Chapter 5.72 of the Portland City Code.

PUBLIC BENEFIT

This action will ensure the continued financial viability of an important revitalization project in the Downtown Neighborhood of the South Park Blocks URA.

This action will support the following PDC goals:

- Develop healthy neighborhoods
- Provide access to quality housing
- Help businesses to create and sustain quality jobs
- Support a vibrant Central City (urban core)

Contribute to a strong regional economy

PUBLIC PARTICIPATION AND FEEDBACK

The recommended action is primarily administrative in nature and involves a delegation of responsibility to PDC to perform due diligence review of an application submitted by Broadway Housing, LLC (“Owner” or “Borrower”), as owner of the Project, to the City of Portland to issue the Proposed Bonds for the purpose of stabilizing debt service requirements on the outstanding 2003 Bonds. Neither the Proposed Bonds nor the 2003 Bonds are payable from any PDC financial resources.

A required public hearing known as a TEFRA hearing (Tax Equity and Fiscal Responsibility Act) was held on August 28, 2008 in the City of Portland’s Office of Finance & Management offices. There were no public comments.

Additional opportunities for public participation will be during the two upcoming City Council meetings (9/10 & 10/1/2008) addressing this financing.

COMPLIANCE WITH ADOPTED PLANS AND POLICIES

The Project was determined to be in compliance with adopted plans and policies of the City as set forth in PDC Resolution No. 5994. The building as constructed has met the criteria of an “economic development project” within the meaning of Chapter 5.72.020 and 5.72.040.C.6 of the Code of Portland, as was anticipated in Resolution 5994 dated March 12, 2003.

FINANCIAL IMPACT

No financial obligations are imposed on the City or PDC as a result of this transaction. As indicated above, neither the Proposed Bonds nor the 2003 Bonds are payable from any City or PDC financial resources. In accordance with Chapter 5.72 of the City Code, PDC will be paid a fee of \$7 per \$1,000 of bonds issued for processing this request. Based on an issue size of \$52,000,000, PDC’s fee would be \$364,000.

RISK ASSESSMENT

There is a potential risk that claims may be filed against PDC as a result of the due diligence review performed by PDC in accordance with its duties set forth in Chapter 5.72 of the City Code. However, staff is mitigating this risk by requiring indemnification from the Owner of the Project to minimize risk to PDC. It is anticipated that the Owner and the State of Oregon, acting by and through the Oregon State Board of Higher Education on behalf of Portland State University (“State”), will execute a new Housing Services and Facilities Agreement in connection with the issuance of the Proposed Bonds under which the State will agree to commit certain funds, some of which will be subject to appropriation, to the payment of the obligations of Owner relating to the Proposed Bonds, including the coverage

of all indemnification liability of Owner to PDC in accordance with the terms of a certain Letter of Intent and Indemnification and Compensation Agreement. Under the Housing Services and Facilities Agreement, the State is anticipated to commit "Available Funds" to cover obligations of the Owner relating to the Proposed Bonds, to the extent that the Owner's obligations relating to the Proposed Bonds exceeds all revenues from the Project, the funds and accounts pledged under an indenture of trust, amounts, if any, received pursuant to any credit facility that may be obtained by the Applicant at its expense. The term, "Available Funds," includes (1) all unrestricted funds of Portland State University ("PSU") including without limitation, the auxiliary housing services, auxiliary administration, vending machines, auxiliary copy service, auxiliary room rentals, unrestricted reserves and unrestricted funds being held by PSU and (2) funds appropriated or otherwise made available by the Oregon Legislative Assembly sufficient to allow PSU to pay amounts due under the Housing Services and Facilities Agreement for the fiscal period in which the amounts are due.

WORK LOAD IMPACT

There are sufficient staff resources to process this request

ALTERNATIVE ACTIONS

The Board may withhold approval. This will likely result in rising debt service requirements on the 2003 Bonds which will deplete revenues necessary to maintain and operate the Project on a long-term basis.

CONCURRENCE

PDC staff has worked with the City's Office of Management and Finance and City's bond counsel to evaluate the proposed refinance for the Project through the issuance of the Proposed Bonds.

BACKGROUND

In 2003, the Owner of the Project, Broadway Housing, LLC, received funding in the principal amount of \$47,425,000 through the issuance and sale of the 2003 Bonds. Pursuant to Chapter 5.72 of the City Code, PDC is delegated the responsibility of (a) receiving and reviewing applications to the City for financial assistance through the City's issuance of economic development revenue bonds and (b) making recommendations to the Portland City Council as to whether the City should issue economic development revenue bonds to finance the proposed project on the basis of PDC's review of the application and other considerations set forth under Chapter 5.72 of the City Code. If PDC makes final recommendation to the Portland City Council for the issuance of economic development revenue bonds and the Portland City Council authorizes the issuance of such bonds, the City of Portland issues such bonds on behalf of the applicant to finance or refinance the applicant's proposed project. The economic development revenue bonds are not payable from the financial resources of the City or PDC.

The 2003 Bonds were issued by the City in April 2003 to Broadway Housing LLC for the purpose of developing a ten-story building primarily used for Portland State University student housing. Broadway Housing LLC is a single asset tax exempt organization with its sole member

being Portland State University Foundation, Inc. The Borrower used the proceeds to develop 384-units of student housing, 21,135 square feet of retail space, and 20,800 square feet of academic space located at 1948 SW Broadway in Portland, Oregon.

The 2003 Bonds were issued as variable-rate demand bonds ("VRDBs") and credit enhanced by then rated triple "A" bond insurance issued through Ambac Assurance Corporation ("Bond Insurer"). The 2003 Bonds bear interest at a variable rate; concurrently with the issuance of the 2003 bonds, the Borrower entered into a floating-to-fixed interest rate swap with Ambac Financial Services, an affiliate of the Bond Insurer. The swap allowed the Borrower to achieve a synthetic fixed interest rate payment.

The Bond Insurer for the 2003 Bonds has been downgraded from its triple "A" rating to double "A" due to credit market turmoil, with a high risk of further downgrading. The rating downgrade has caused interest rates to increase on the outstanding 2003 Bonds. Ambac has threatened to invoke a "market disruption" clause that would eliminate the favorable aspects of the interest rate swap. If the interest rate swap is altered, the Borrower anticipates the rates it pays on the 2003 Bonds may increase from the current swap rate of approximately 4.85% to a level approaching 9.00% or higher.

The Borrower requests that the City approve the issuance of fixed-rate bonds that can be used to refund all the outstanding 2003 Bonds and to fund a termination payment for the existing interest rate swap, debt service reserves and cost of issuance. The repayment of the new Proposed Bonds would be secured by a loan agreement substantially similar to the prior loan agreement securing repayment of the 2003 Bonds. The proposed bonds are not anticipated to be insured with bond insurance. Since the Project has been constructed and has generated revenues for several years the Borrower expects the rating agencies to assign an "investment grade" rating to the Proposed Bonds based on the strength of the revenues derived from the Project and the Housing Services and Facilities Agreement executed by and between the Borrower and the State in connection with the issuance of the Proposed Bonds.

The final terms for the Proposed Bonds will be established as of the date of sale of the Proposed Bonds, which is anticipated to occur during the first week of October 2008. The bond underwriter will determine the interest rate and other terms for the Proposed Bonds based upon their sales and marketing efforts in the municipal bond credit market. The interest rate and offering price are expected to be set during the first week of October and the Proposed Bonds will be issued shortly thereafter. Current market conditions in the taxable and tax exempt bond markets as of the date of this report indicate the blended interest rate to be in the 4.80% - 4.90% range. Based on an interest rate without significant variation from the current range available in the current market and assuming continued financial support from PSU as set forth in the Housing Services Agreement, PDC staff believes that the Proposed Bond issue will be financially feasible. PSU has been providing financial support to the project through the existing Housing Services Agreement since 2003 bond issuance. PSU will continue to provide ongoing financial support to the project in the manner specified in a new Housing Services Agreement to be executed in connection with the issuance of the Proposed Bonds.

ATTACHMENTS:

- A. March 12, 2003 PDC Commission Resolution (#5994) recommending final approval to City Council for Series 2003A and Series 2003B Economic Development Revenue Bonds to City Council

B. Project Summary

CC: K. Kalevor, Interim Director of Housing
D. Williams, Interim Housing Development Finance Manager
N. Lydon, Housing Development Finance Coordinator
D. Elliot, Interim General Counsel
J. Jackley, Executive Operations Manager

**PORTLAND DEVELOPMENT COMMISSION
Portland, Oregon**

RESOLUTION NO. 5994

RESOLUTION RECOMMENDING FINAL APPROVAL TO CITY COUNCIL FOR ECONOMIC DEVELOPMENT REVENUE BONDS (BROADWAY PROJECT), SERIES 2003A AND ECONOMIC DEVELOPMENT REVENUE BONDS (BROADWAY PROJECT), SERIES 2003B, WHICH TOGETHER IN AN AGGREGATE PRINCIPAL AMOUNT WILL NOT EXCEED \$50,000,000, FOR THE PURPOSE OF PROVIDING FUNDS FOR THE ACQUISITION, DEVELOPMENT AND CONSTRUCTION OF STUDENT HOUSING UNITS AND RELATED COMMERCIAL AND ACADEMIC SPACE.

WHEREAS, the Portland Development Commission (the "Commission"), by Resolution No. 5979, adopted on February 12, 2003 (the "Resolution"), recommended to the Council of the City of Portland, Oregon (the "City") preliminary approval of revenue bonds in an aggregate principal amount not to exceed \$50,000,000 to finance the acquisition, development and construction of approximately 400 units of student housing and related commercial and academic space to be known as the Broadway Project, located on S.W. Broadway between College and Jackson Streets, in Portland, Oregon (the "Project"); and

WHEREAS, the Resolution found that the Project constitutes an "economic development project" within the meaning of Chapter 5.72 of the City's Code (the "Code") and that the financing of the Project will serve the purposes of the City pursuant to its authority under ORS 280.410 to 280.485 (the "Act") and the Code. Further, by Ordinance No. 177258 enacted on February 19, 2003, the Council authorized the Commission to proceed with the processing of the application, to execute a Letter of Intent and Indemnification and Compensation Agreement, and to proceed with a review of the proposed terms and conditions of the financing; and

WHEREAS, Commission staff has determined that the proposed Project does not conflict with any adopted plans or policies of the City and is an "economic development project" within the meaning of Chapter 5.72.020 and 5.72.040.C.6 of the Code of Portland; and

WHEREAS, Commission staff has received and reviewed all requested and required final documents and find that the documents comply with the rules and policies established within Chapter 5.72 of the Code; now, therefore, be it

RESOLVED that the Commission recommends to the Council that the issuance of economic development revenue bonds for the Project in an aggregate principal amount

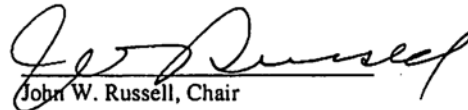
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not to exceed \$50,000,000 in accordance with the final documents be authorized by emergency Ordinance; and be it

FURTHER RESOLVED that the Commission, acting on behalf of the City, concurs with the terms and conditions of the issuance and sale of City of Portland, Oregon Economic Development Revenue Bonds (Broadway Project), Series 2003A and Economic Development Revenue Bonds (Broadway Project), Series 2003B, which together in an aggregate principal amount will not exceed \$50,000,000 (collectively, the "Bonds"); and be it

FURTHER RESOLVED that this Resolution shall become effective immediately upon its adoption.

ADOPTED by the Commission March 12, 2003.


John W. Russell, Chair


Douglas C. Blomgren, Secretary

**PORTLAND DEVELOPMENT COMMISSION
Portland, Oregon**

DATE: March 12, 2003

TO: The Commissioners

FROM: Donald F. Mazziotti

REPORT NO.

SUBJECT: **Recommendation to City Council for final approval of Economic Development Revenue Bonds Series 2003A for Broadway Project and Economic Development Revenue Bonds Series 2003B for Broadway Project which together in an aggregate principal amount will not exceed \$50,000,000 for the purpose of providing funds for the acquisition, development and construction of student housing units and related commercial and classroom space.**

The Commission has received a request for final approval of economic development revenue bonds for the Broadway Project (the "Project"). The applicant is Broadway Housing, LLC an Oregon Limited Liability Company affiliated with Portland State University Foundation (the "Applicant").

Through the City of Portland's authority to issue tax-exempt revenue bonds, the Commission is charged with reviewing proposed bond issues and determining that conforms to the bond guidelines contained in Chapter 5.72 of the Code of Portland ("City Code") and making a recommendation to City Council that it authorize issuance of the bonds.

On February 12, 2003, by Resolution No. 13, the Commission recommended to City Council preliminary approval of revenue bonds in an aggregate principal amount not to exceed \$50,000,000 to finance the acquisition, development and construction of the Project. On February 19, 2003, by Ordinance No. 177258, the City Council gave preliminary approval for the bonds and authorized the execution of a Letter of Intent to issue the bonds.

Ann Sherman, with Ater Wynne LLP, the City's bond counsel and PDC staff has reviewed or will have completed review of the following bond relevant documents before Commission action: Trust Indenture, Preliminary Official Statement, Regulatory Agreement, Bond Purchase Agreement, and Housing Services Agreement. Project

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construction is scheduled to begin April or May 2003 and is scheduled to be completed by September 2004. The key players are:

DEVELOPMENT TEAM

Borrower	Broadway Housing, LLC and affiliate of Portland State University Foundation
Development Manager	Urban Housing, LLC an affiliate of Gerding/Edlen Development Company
Architects	Otak Architects, PC
Bond Issuer	City of Portland, acting by through its City Council and Portland Development Commission
Bond Insurer	Ambac Assurance Corporation
Bond Trustee	U.S. Bank National Association
Bond Underwriter	MacDonald Investments
Contractor	Hoffman Construction Company
Interest Rate Swap Provider ¹	Ambac Financial Services, L.P.

This report recommends that the Commission recommend to the City Council final approval of the bond issue for the Project. If the Commission approves this recommendation, the City Council will take final action on the bond issuance on March 19th, thereby allowing the bond financing to close by the end of March or early April 2003.

PROJECT DESCRIPTION

The Project is a mixed-use housing, retail and classroom development located on a 30,000 square foot site on SW Jackson and SW Broadway between SW College and SW 6th Avenues. The Project will be composed of approximately a 214,000 total square feet in a ten-story building made up of approximately 400 studio apartment units that average 360 square feet each, approximately 18,486 of academic office and classrooms space and approximately 27,000 square feet of neighborhood serving ground floor retail space. There will be no residential parking spaces. The building will be constructed with post-tensioned concrete frame atop a mat slab with a façade consisting of combinations of brick, metal panels, and glazing. An eco-roof is also planned as part of the building.

¹ The City of Portland is not a party to the swap. The City is making 'interest rate swap certificate' solely at the request of the borrower for the purpose of allowing the yield on the bonds to be calculated, for federal tax purposes, taking into account payments to be made and received on the swap.

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PROPOSED FINANCING SOURCES

All uses of funds will be paid through bond proceeds. The total development cost for the residential, and academic and retail components of the Project will not exceed \$50 Million. Broadway Housing, LLC has proposed a financial structure for the project which identifies tax-exempt bonds in the approximate amount of \$45.15 Million and approximately \$4.85 in taxable bonds. Broadway Housing, LLC will apply for tax abatement for the residential units per City Code.

EVALUATION CRITERIA

Broadway Housing, LLC's application addressed the following evaluation criteria. The proposed Project does not conflict with any adopted plans or policies of the City and is an "economic development project" within the meaning of Chapter 5.72.020 and 5.72.040.C.6 of the City Code of Portland. Staff recommends approval of the final inducement resolution after reviewing the application and bond documents and consideration of the following standards contained in the City Code, Chapter 5.72

1. Economic feasibility and general benefits to the City of the proposed project

The Project is financially feasible with the proposed tax-exempt bond and taxable bond debt.

General benefits to the City of the proposed project

The Project meets an unmet need for student housing and economic development and helps the City of Portland fulfill its commitment to add 70,000 housing units within the Urban Growth Boundary as called for in Metro's 2040 Framework Plan. Portland State University (PSU) currently enrolls approximately 11,500 full time students and 8,900 part time students. PSU has 1,216 existing housing units to serve that enrollment. Over the past decade, PSU's enrollment has grown significantly and is expected to increase to 30,000 students by 2010 with at least 58% of those students being full time.

2. Density of use and potential impact in the area affected by the proposed project

The Project will provide benefits to the City through its provision of much-needed mixed-use development and high density, transit-oriented housing with immediate access to needed City services. The proposed project is a redevelopment of currently blighted and underutilized site and if developed, will enhance the surrounding area. The added density and housing will improve the neighborhood and make the area a safer place to live and work. The ground level retail will enliven the street and provide pedestrian friendly continuity between the neighborhood and campus. The retail is also anticipated to provide much needed services to the residents and the immediate community.

3. Land use, transit, and transportation facilities in the proposed project

KPK/AW

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Project is bounded to the North by SW Broadway and to the South by SW Sixth Avenue. Both Avenues are served by numerous transit buses. The location of the project is likely to increase ridership on the regional transit system. The Central City Streetcar is three blocks to the east of the proposed project.

4. City's ability to supply or support needed services for the project

The Project is an infill project in a developed area of the City with all required services in place.

5. Effect of proposed project on balanced economic development of the City

The proposed Broadway Project is consistent with the University District Plan which shows "future high-density housing" on this block. The fact that the ground floor will be taxable retail space with a neighborhood-serving retail focus is also consistent with the plan. This proposal also strengthens the growing partnership that PDC has been forging with PSU. Finally, this project is located in the South Park Blocks URA and with the taxable ground floor, will hopefully be tax-increment neutral while meeting a crucial need for PSU.

6. Employment and property tax income

The Project will generate both short-term employment opportunities associated with the Project's development and construction, as well as, long-term employment opportunities associated with the, retail space, and student housing apartment operations.

Even though the property tax issue still under review, it is anticipated that Portland State University Foundation will apply for limited tax abatement for the residential improvements but will pay property taxes on the land and retail space during the tax-abatement period and thereafter on the entire Project.

7. Employment Opportunities. City and Portland Development Commission will use agreements when and where appropriate

Project management will not discriminate and will use their best efforts to rent retail space and hire Minorities, Women and Emerging Small Businesses.

8. Suitability of project for proposed location

The Project is suitable for the proposed location and City of Portland design review will be required for the Project. The site area is one of a limited number of sites suitable for redevelopment into high density housing with immediate access to transit and the downtown core. Proposed project is not in conflict with adopted City plans or policies. Additionally, applicants will not discriminate against households with children and there will be no displacement of businesses or tenants.

Furthermore, the Project conforms to the following statewide and regional policies and plans:

KPK/AW

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Statewide Planning Goal:

- Goal #14 (Urban Development) mandates efficient use of urban lands. The project's density and transit orientation toward buses, light rail, and pedestrian malls meets these objectives.
- Oregon's Transportation Planning Rule mandates reduced reliance on the automobile, through measures such as high density, transit-supportive development. For the same reasons that the Project fulfills the other State goals, as well as its low parking ratios, the Project reduces reliance on automobiles and fulfills this policy.
- Metro's 2040 Framework Plan calls for infill development. The Project will assist in the development of the immediate neighborhood. High-density housing is crucial for the City to meet Metro 2040 Plan growth management goals. The Project helps the City of Portland fulfill its commitment to add 70,000 housing units within the Urban Growth Boundary by locating high-density housing close to public transportation and the Central City.

9: Conformance with Internal Revenue Code, Oregon Revised Statute, and City Code

Project is consistent with the requirements of Section 141 of the Internal Revenue Code, Treasury Regulation §1.150-2, Sections 280.410 to 280.485 of the Oregon Revised Statute, and Chapter 5.72 of the Portland City Code.

STAFF ASSESSMENT

The final application for the Project meets the requirements of the City Code, and the proposed project is consistent with adopted City rules and policies.

RECOMMENDATION:

Adopt the accompanying Resolution recommending to City Council final approval of the multifamily housing revenue bonds in an amount not to exceed \$50,000,000.

ACTION:

Donald F. Mazziotti,
Executive Director

KPK/AW

PROJECT SUMMARY

Project Name: Broadway Housing

Description: 10-story high-rise apartment style student housing facility with first floor retail and 2nd floor academic space

Location: SW Broadway and SW Jackson between SW College and SW 6th Avenue

URA: South Park Blocks

Current Phase: Occupied

Next Milestone: N/A

Completion Target: N/A

Outcome: N/A

Site/Project Map: