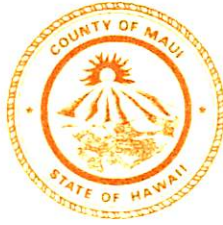


MICHAEL P. VICTORINO
Mayor

LORI TSUHAKE
Director

LINDA R. MUNSELL
Deputy Director



DEPARTMENT OF HOUSING
& HUMAN CONCERNS
COUNTY OF MAUI
2200 MAIN STREET, SUITE 546
WAILUKU, MAUI, HAWAII 96793
PHONE: (808) 270-7805

August 23, 2021



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COUNTY CLERK

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 8/25/21
Mayor Date

For Transmittal to:

Honorable Alice L. Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Lee and Members:

SUBJECT: APPROVING CERTAIN FINANCING STRUCTURE COMPONENTS RELATING TO THE USE OF FUNDS RECEIVED THROUGH CHAPTER 3.35, MAUI COUNTY CODE, THE KAIÄULU O HALELE'A APARTMENTS AFFORDABLE HOUSING PROJECT

I am transmitting a proposed resolution entitled "APPROVING CERTAIN FINANCING STRUCTURE COMPONENTS RELATING TO THE USE OF FUNDS RECEIVED THROUGH CHAPTER 3.35, MAUI COUNTY CODE, THE KAIÄULU O HALELE'A APARTMENTS AFFORDABLE HOUSING PROJECT".

The purpose of the proposed resolution is to obtain Council's approval to allow the Kaiäulu o Halele'a Phase 1B project to utilize certain financing structure components for the use of the Affordable Housing Fund grant award. As stated in Chapter 3.35, Maui County Code, these financing structure components require advance approval by Council.

Honorable Alice L. Lee, Chair
and Members of the Maui County Council
August 23, 2021
Page 2

I respectfully request that this matter be referred to the appropriate Council committee for review, discussion, and action.

Thank you for your attention to this matter. Should you have any questions, please feel free to call me at Ext. 7805.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lori Tsuhako", written in a cursive style.

LORI TSUHAKO, LSW, ACSW
Director of Housing and Human Concerns

Attachment

Resolution

No. _____

APPROVING CERTAIN FINANCING STRUCTURE COMPONENTS
RELATING TO THE USE OF FUNDS RECEIVED THROUGH
CHAPTER 3.35, MAUI COUNTY CODE, THE KAIĀULU O HALELE‘A
APARTMENTS AFFORDABLE HOUSING PROJECT

WHEREAS, the County Council (“Council”) passed Ordinance Number 5217, Bill 46 (2021), which approved an Affordable Housing Fund grant award of Three Million Twenty Five Thousand Four Hundred Forty-Two Dollars (\$3,025,442) (“Grant”) to Ikaika Ohana, a Hawaii nonprofit corporation (“Grantee”) for land acquisition, planning and design, on-site improvements, new construction, and other related development costs to produce 55 rental units for households at or below 60 percent of the area median income and one unit for an on-site property manager, to be known as Kaiāulu O Halele‘a Apartments Phase IB (“Project”); and

WHEREAS, under Section 3.35.040(F), Maui County Code (“MCC”), a permitted use of the Affordable Housing Fund is to leverage funds provided by Federal, State, nonprofit, or for-profit agencies and other non-County entities, to further expand affordable housing opportunities; and

WHEREAS, without the prior approval of Council by resolution, Section 3.35.070(A)(1), MCC, requires the Project be held in perpetuity by the grantee or borrower unless conveyed to the County or to a qualified nonprofit or community land trust; and

WHEREAS, the Project will be developed and owned by A0721 Kihei, L.P., a single purpose Hawaii limited partnership (“Limited Partnership”), a general partner of which is NP Holdings LLC, and the sole owner of NP Holdings LLC, is the Grantee; and

WHEREAS, the Limited Partnership has entered a Residential Workforce Housing Agreement, as defined in Section 2.96.080, MCC, and shall be subject to long-term affordability restrictions that have been recorded against the Project property; and

Resolution No. _____

WHEREAS, the Limited Partnership has received or will receive Federal Low Income Housing Tax Credits, State of Hawaii Low Income Housing Tax Credits, and Rental Housing Revolving Funds from the Hawaii Housing Finance and Development Corporation ("Non-County Funds"); and

WHEREAS, to realize the benefits to the Project from the Non-County Funds, the Grantee must loan the Grant funds to the Limited Partnership for the development and construction of the Project; and

WHEREAS, without the prior approval of Council by resolution, Section 3.35.070(A)(5), MCC, prevents the grantee or borrower from distributing or redistributing grant funds to other third party organizations; and

WHEREAS, the Project's lenders require the Project be subject to possible foreclosure or forfeiture in certain events of default under the Project's loan documents; and

WHEREAS, without the prior approval of Council by resolution, Section 3.35.070(A)(3), MCC, requires the Project not be sold, exchanged, divested, or converted to other uses that are inconsistent with the purposes set forth in Chapter 3.35, and Section 3.35.070(A)(4), MCC, requires conveyance of the Project to the County in the event of dissolution or bankruptcy of the grantee or borrower; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the Project may be transferred to, developed and owned by the Limited Partnership, so long as it is subject to the terms of a Residential Workforce Housing Agreement, including;
 - i. The Project must have a deed-restricted affordability period of 65 years.
 - ii. The County must have the option to purchase the Project on the same terms as any bona fide third party purchase offer, unless such third party assumes the Project owner's obligations under the Residential Workforce Housing Agreement.
 - iii. The County must have the right to purchase the Project within 90 days of the expiration of the term of the Residential Workforce Housing Agreement, unless an additional 30-year deed restriction is recorded against the Project with substantially similar affordability requirements as under the Residential Workforce Housing Agreement;

Resolution No. _____

2. That in the event title to the Project is transferred by reason of foreclosure or forfeiture under a deed of trust, mortgage or real estate contract, by deed in lieu of foreclosure, or by any other similar process, Chapter 3.35 will no longer apply to the Project, except to any portion not transferred;
3. That in the event of dissolution or bankruptcy of the Grantee, the requirement to convey the Project to the County will be subordinate to the rights of any Project lender under a deed of trust, mortgage or real estate contract, by deed in lieu of foreclosure, or by any other similar process;
4. That the Grantee may redistribute the Grant to the Limited Partnership as a loan; and
5. That certified copies of this Resolution be transmitted to the Mayor, the Director of Public Works, the Planning Director, the Director of Housing and Human Concerns, and Ikaika Ohana.

APPROVED AS TO FORM
AND LEGALITY:

/s/ Mimi Desjardins

MIMI DESJARDINS
Deputy Corporation Counsel
County of Maui

LF2020-2027 2021-08-18 resolution kaiaulu