

*City of Brisbane &
Brisbane Housing Authority
Agenda Report*

To: City Council & Boardmembers via City Manager

From: Administrative Services Director

Subject: Sale of 163 and 163A Visitacion Avenue & 348 Monterey (5-Star Café site) from the Brisbane Housing Authority to the City of Brisbane

Date: March 4, 2013

Recommendation:

Adopt Resolution No. HA 2013-01, a resolution of the Housing Authority of the City of Brisbane approving the sale of 163 and 163A Visitacion Avenue & 348 Monterey Street (APN #'s 007-281-170, 007-281-080, & 007-281-100) to the City of Brisbane

Adopt Resolution No. 2013-06, a resolution of the City of Brisbane approving the purchase of 163 and 163A Visitacion Avenue & 348 Monterey Street (APN #'s 007-281-170, 007-281-080, & 007-281-100) from the Brisbane Housing Authority and authorizing a loan from the City's General Fund to the City's Capital Improvement Fund to finance such purchase

Background:

The Brisbane Redevelopment Agency purchased 163 and 163A Visitacion Avenue and 348 Monterey Street (5-Star Café site) in February of 2003 for \$804,111.73. The property was purchased with Low/Mod Housing Funds and was intended for a low/moderate income housing project in conjunction with a new library.

Discussion:

When the Redevelopment Agency was dissolved by State Legislation and Court action the property was transferred into the Redevelopment Agency's Successor Agency Housing Fund. The property was included on the Redevelopment Agency's Successor Agency's Due Diligence Review (DDR) as an asset to be transferred to the City's Housing Fund. The DDR was approved by both the Oversight Board and the Department of Finance so therefore it passed to the City's Housing Fund. State law requires assets within the Housing Fund to either be used for its intended purpose or sold by the end of ten years. The ten year holding period expires on March 20, 2013, so the Brisbane Housing Authority needs to sell the property and the City is a willing buyer.

The City had the property appraised by Lorel Appraisal Services. The value of the three parcels which make up this site was \$850,000. The City has a desire to hold this land for a future library site, therefore the property should be held in the City Capital Projects Fund.

Fiscal Impact:

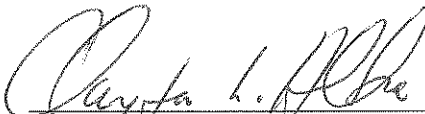
The City's Capital Project Fund does not have \$850,000 in cash available to purchase the site. However, the Capital Project Fund receives about \$400,000 a year through the Business License Tax.

The City's General Fund ended FY 2011/12 with a Fund Balance of \$9,527,302 of which \$6,755,811 is unassigned. Therefore the General Fund does have enough cash to purchase the property from the Housing Authority.

If the General Fund uses its cash for the purchase the Capital Projects Fund could pay it back over a period of time. Staff would recommend the period be 10 years. This would allow the Capital Projects Fund some ability to pay for smaller projects in the near term while planning for the ultimate building of a library on the Visitacion site. Also, this method would not have an impact on the General Fund's Fund Balance since it would be trading one asset (cash) for another (loan receivable). It would seem proper to charge the Capital Projects Fund an appropriate interest rate so the General Fund is held harmless due to this transaction. The current 10 year Treasury Bill rate is 1.89%. The annual payment from the Capital Projects Fund to the General Fund would be \$94,083.76. This is based on a 10 year loan of \$850,000 at an 1.89% interest rate.



Stuart Schillinger
Administrative Services Director



Clay Holstine
City Manager

RESOLUTION NO. HA 2013-01

A RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF BRISBANE APPROVING THE SALE OF 163 & 163A VISITACION AVENUE AND 348 MONTEREY STREET (APN #'s 007-281-180, 007-281-070, & 007-281-100) TO THE CITY OF BRISBANE

WHEREAS, pursuant to Resolution No. RA-2002-09, the Redevelopment Agency of the City of Brisbane purchased certain real Properties located at 163 and 163A Visitacion Avenue and 348 Monterey Street ("the Properties") from the Darko Matulich for the purpose of constructing affordable housing in conjunction with an library project thereon; and

WHEREAS, as a result of the adoption of ABx1 26 by the State Legislature (the "Dissolution Act"), all redevelopment agencies were abolished; and

WHEREAS, Section 34176(a) of the Dissolution Act provides that a city having a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency, and pursuant to this provision, the City Council adopted Resolution No. 2012-1 electing to serve as the Successor Housing Authority of the Brisbane Redevelopment Agency and to retain the housing assets and functions previously performed by the Agency; and

WHEREAS, on March 7, 2011, the City Council adopted Resolution No. 2011-15 to activate the City's previously established Housing Authority for the purpose of receiving the housing assets and performing the functions previously performed by the City's former redevelopment agency, and pursuant to Section 34290 of the California Health and Safety Code, the City Council declared itself to be the Commissioners of the Brisbane Housing Authority, to be vested with all rights, powers, duties, privileges, and immunities of housing authority commissioners as provided by state law; and

WHEREAS, the Properties has been determined to be a housing asset of the City's former redevelopment agency; and

WHEREAS, by virtue of the Dissolution Act, legal title to all of the housing assets owned by the City's former redevelopment agency has passed by operation of law to the Brisbane Housing Authority, including legal title to the Properties; and

WHEREAS, the Dissolution Act requires the Housing Authority to either utilize a housing asset for the development of affordable housing or to dispose of such asset by a sale at the asset's current market value; and

WHEREAS, the Housing Authority has determined that the Properties will not be utilized in the near future for development of affordable housing and the Housing Authority has therefore elected to sell the Properties; and

WHEREAS, the Housing Authority has obtained an appraisal of the Properties prepared by Lorel Appraisal Company, dated February 23, 2013, showing the current market value of the Properties to be [\$850,000.00]; and

WHEREAS, the City of Brisbane has offered to purchase the Properties from the Authority for an amount equal to its current market value and the Housing Authority desires to sell the Properties to the City, on the terms and conditions hereinafter set forth,

NOW, THEREFORE, BE IT RESOLVED by the Boardmembers of the Brisbane Housing Authority as follows:

1. Sale of the Properties to the City on the following terms is hereby approved:
 - (a) The total purchase price for the Properties shall be the sum of [\$850,000.00], payable in cash at transfer of legal title to the Properties from the Housing Authority to the City.
 - (b) The Properties is being sold to the City in "as is" condition and the Housing Authority has made no representations or warranties to the City concerning the present condition of the Properties or its suitability for the City's intended use.
 - (c) It shall be the responsibility of City to satisfy itself concerning the legal title to the Properties. City may elect to obtain an updated preliminary title report and also to obtain a policy of title insurance showing legal title vested in City and containing such exceptions to title as may be approved by City. If a title policy is obtained, the premium for such policy shall be paid by City.

- (d) Any costs or expenses related to the sale shall be paid by the City.
2. The Chairman of the Housing Authority is authorized and directed to execute, on behalf of the Housing Authority, a grant deed and any other documents as may necessary or appropriate to complete a sale of the Properties to the City on the terms contained in this Resolution.
3. This Resolution shall be effective immediately upon adoption.

Raymond C. Miller
Chairman of the Brisbane
Housing Authority

I hereby certify that the foregoing Resolution No. HA 2013-01 was duly and regularly adopted at a meeting of the Brisbane Housing Authority held on March 4, 2013 by the following vote:

AYES:
NOES:
ABSENT:

Sheri Marie Spediacci
Board Clerk

RECORDING REQUESTED BY:

City of Brisbane

AFTER RECORDATION, MAIL TO:

City of Brisbane
Attn: City Clerk
50 Park Lane
Brisbane, CA 94005

THIS SPACE FOR RECORDER'S USE

Grant Deed

APN 007-281-080

APN 007-281-070

APN 007-281-100

The undersigned Grantor declares under penalty of perjury that the following is true and correct:

Documentary transfer tax is: \$ -0-

NO TRANSFER TAX IS PAYABLE BECAUSE THIS IS A CONVEYANCE TO A PUBLIC AGENCY

GRANTOR:

**THE BRISBANE HOUSING AUTHORITY, as successor in interest to
THE REDEVELOPMENT AGENCY OF THE CITY OF BRISBANE**

HEREBY GRANTS TO:

THE CITY OF BRISBANE, a municipal corporation

that certain real property in the City of Brisbane, County of San Mateo, State of California, commonly known as 163 and 163A Visitacion Avenue and 348 Monterey Street, and more particularly described as follows:

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE

Dated: _____, 2013

BRISBANE HOUSING AUTHORITY

By: _____
RAYMOND C. MILLER, Chairman

Attest:

Sheri Marie Schroeder,
Board Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN MATEO)

On _____, before me _____,
Notary Public, personally appeared RAYMOND C. MILLER, proved to me on the basis of
satisfactory evidence to be the person whose name is subscribed to the within instrument
and acknowledged to me that he executed the same in his authorized capacity, and that
by his signature on the instrument the person, or the entity upon behalf of which the
person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

LEGAL DESCRIPTION EXHIBIT

CITY OF BRISBANE

PARCEL ONE:

LOTS 8, 9 AND 10, BLOCK 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "AMENDED MAP OF SUBDIVISION NOS. 1, 2 AND 3 OF THE CITY OF VISITACION, CALIFORNIA", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON OCTOBER 14, 1908 IN BOOK 6 OF MAPS AT PAGE 45.

ASSESSOR'S PARCEL NOS. 007-281-070	JOINT PLANT NOS. 007-028-281-07A
007-281-080	007-028-281-08A

PARCEL TWO:

LOTS 13 AND 14, BLOCK 7, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "AMENDED MAPS OF SUBDIVISION NOS. 1, 2 AND 3, OF THE CITY OF VISITACION, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA ON OCTOBER 14, 1908, IN BOOK 6 OF MAPS AT PAGE 45.

ASSESSOR'S PARCEL NO. 007-281-100	JOINT PLANT NO. 007-028-281-10A
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RESOLUTION NO. 2013-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE APPROVING A PURCHASE OF 163 & 163A VISITACION AVNEUE AND 348 MONTEREY STREET (APN #'s 007-281-080, 007-281-070, & 007-281-100) FROM THE BRISBANE HOUSING AUTHORITY AND AUTHORIZING A LOAN FROM THE CITY'S GENERAL FUND TO THE CITY'S CAPITAL IMPROVEMENT FUND TO FINANCE SUCH PURCHASE

WHEREAS, the Brisbane Housing Authority, as successor to the former Brisbane Redevelopment Agency, has acquired legal title to the real properties located at 163 and 163A Visitacion, and 348 Monterey Street (APN #'s 007-281-080, 007-281-070, & 007-281-100) ("the Properties"); and

WHEREAS, the Brisbane Housing Authority has determined that the Properties must be sold because it will not be utilized in the near future for the development of affordable housing; and

WHEREAS, the Brisbane Housing Authority has obtained appraisals of the Properties prepared by Lorel Appraisal Company, dated February 23, 2013, showing the current market value of the Properties to be [\$850,000.00]; and

WHEREAS, the City desires to purchase the Properties for an amount equal to its appraised market value, to be utilized for a future capital improvement project to be determined by the City Council; and

WHEREAS, the purchase price for the Properties should be paid from the City's Capital Improvement Fund but the present balance on deposit in this Fund is inadequate to finance the entire purchase price; and

WHEREAS, it will be necessary for a loan to be made from the City's General Fund to the City's Capital Improvement Fund in order to provide sufficient cash to enable the City's purchase of the Properties; and

WHEREAS, concurrently herewith, the Brisbane Housing Authority is adopting Resolution No. HA 2013-01 approving a sale of the Properties to the City, on the terms and conditions set forth therein,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brisbane as follows:

1. The City Council hereby approves a purchase of the Properties from the Brisbane Housing Authority, for a total purchase price of [\$850,000.00], to be paid in cash upon transfer of legal title to the Properties by the Housing Authority to the City.

2. The City Council authorizes and approves a loan from the City's General Fund to the City's Capital Improvement Fund in the amount of [\$850,000.00], the proceeds of such loan to be used for payment of the purchase price for the Properties. The loan shall be made on the following terms, to be recorded in the financial records of the City:

- (a) The term of the loan shall be ten (10) years.
- (b) The principal balance of the loan shall bear interest from the date of disbursement at the rate of two percent (1.89%) per annum.
- (c) The loan shall be repaid in annual installments of principal and interest in the amount of \$ 94,083.76 each, due and payable on March 1st of each calendar year, beginning in 2014; and

3. The City Manager is authorized and directed to execute, on behalf of the City, any documents as may necessary or appropriate to complete a purchase of the Properties by the City, including a certificate of acceptance for attachment to the grant deed and, if necessary, a promissory note or other instrument to evidence the indebtedness owed by the Capital Improvement Fund to the General Fund.

4. This Resolution shall be effective immediately upon adoption.

Raymond C. Miller
Mayor

I hereby certify that the foregoing Resolution No. 2013-06 was duly and regularly adopted at a regular meeting of the Brisbane City Council held on March 4, 2013 by the following vote:

AYES:
NOES:
ABSENT:

Sheri Marie Spediacci
City Clerk

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Deed dated _____ from the Brisbane Housing Authority to the City of Brisbane, a public agency, is hereby accepted by the undersigned officer on behalf of the City of Brisbane, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CLAY HOLSTINE, City Manager

STATE OF CALIFORNIA)
COUNTY OF SAN MATEO)

On _____, before me _____,
Notary Public, personally appeared CLAY HOLSTINE, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____