

January 19, 2016

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution No. 9057 authorizing execution of a new Interlocal Agreement among the jurisdictions of King County, City of Seattle, Pierce County, Snohomish County, and the cities of Bellevue, Issaquah, Kenmore, Kirkland, Mercer Island, Redmond, and Woodinville regarding the “Regional Equitable Development Initiative” (REDI) fund. The REDI fund is an \$18+ million revolving loan fund for the purpose of acquiring equitable Transit Oriented Development (TOD) sites within King County and the greater Puget Sound region.

FISCAL IMPACT

In 2015, the City Council approved a conditional allocation of funds for the REDI fund through ARCH (\$500,000 total ARCH funding, including \$250,000 from City of Bellevue’s Housing Fund) (March 2, 2015, Resolution No. 8888). In total, \$5 million has been committed from public funders, including \$500,000 from ARCH members, \$2.5 million from the State of Washington, \$1 million from King County, and \$1 million from Seattle. The Interlocal provides for the REDI fund to commence when there is a minimum of \$18 million available from: (first tier) public funders; (second tier) foundations and mission driven investors; and (third tier) banks and community development financial institutions. The program is able to add additional funds with a long term goal of having \$25 million available. The revolving loan is expected to be in place for at least ten years. When the revolving fund is stopped, funds would be returned to investors with private investors being paid first, and any remaining funds returned to public funders based on their proportional investment.

STAFF CONTACT

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POLICY CONSIDERATION

Shall Bellevue enter into the REDI Fund Interlocal Agreement with public funders including ARCH cities, City of Seattle, King County, Pierce County and Snohomish County, as proposed in the Growing Transit Communities Strategy (October, 2013).

Comprehensive Plan Direction:

The REDI Fund program addresses Housing Policy HO-11: *Encourage housing opportunities in mixed residential/ commercial settings throughout the city*; HO12: *Provide incentives to encourage residential development for a range of household types and income levels in multifamily and mixed use commercial zones*; and HO-26: *Provide incentives and work in partnership with not-for-profit and for-profit developers and agencies to build permanent low- and moderate-income housing*.

Council Priority:

The REDI Fund program is consistent with Council priority 7: *Provide housing opportunities for the needs for our diverse population to include: Bring forward the opportunity for a revolving fund for affordable transit-oriented development in the Bel-Red area for the Council's consideration.*

DIRECTION NEEDED FROM COUNCIL

X Action
Discussion
Information

Tonight staff is requesting Council action to adopt a Resolution authorizing the City Manager or his designee to execute an Interlocal Agreement concerning the “Regional Equitable Development Initiative” (REDI) fund, a revolving loan fund for the purpose of acquiring equitable TOD sites within King County and the greater Puget Sound region.

BACKGROUND

The REDI Fund Interlocal was presented to Council at the October 19, 2015 Study Session. A summary of the previously presented information is included as Attachment A. The following new information is in response to questions raised by Councilmembers. If the Council is satisfied with these responses, staff recommends that the Council take action to adopt a Resolution authorizing the City Manager to execute an Interlocal Agreement for Bellevue’s participation in the REDI fund.

Council Study Session Questions from October 19, 2015

Q1. Does this program create any issue around gifts of public funds?

The program has been reviewed by the legal staff of all participating public funders, including the Bellevue City Attorney’s Office. It has been determined that the program does not constitute a gift of public funds. First, the Constitutional prohibition on gifting public funds contains an exception “for the necessary support of the poor and infirm.” Wash. Const. art. VIII, § 7. This is the very purpose of affordable housing endeavors such as ARCH. Second, the Washington Attorney General has determined that supporting affordable housing (typically defined as affordable up to 80% of median income) is a governmental (not proprietary) purpose, and does not run afoul of the Constitution’s prohibition of gifting public funds. *See, e.g.,* Wash. AGO 2006 NO. 12 (county program supporting low-income public housing with tax revenues was not a gift of public funds).

Q2. Will the public funds be used to pay an immediate return on the private funds invested in the revolving fund while funds are awaiting to be invested in specific projects?

Private funds will not be placed in the fund until needed for a specific property; consequently, there will not be a “holding period” for private funds waiting to be invested in specific projects. Thus, there will be no interest collected by private investors except from specific projects, and no public funds will be used to pay interest to private investors.

To address this Council concern, staff have added a new Section to the draft Resolution for Council action tonight. This language will ensure that if Bellevue funds are involved, the intended approach is captured in the Master Credit Agreement.

New Section 2 of Draft Bellevue Resolution

Pursuant to the provisions of Sections V and VI.C of the Regional Equitable Development Initiative Development Agreement and Section 5 of the Amended and Restated Interlocal Agreement for ARCH, prior to executing the Master Credit Agreement, the City Manager will ensure that the Master Credit Agreement referenced in Section V of the Regional Equitable Development Initiative Development Agreement includes language that the second and third tier private investor funds will not earn interest while they are waiting to be invested in specific properties.

Q3. Will public funds be earning interest while waiting to be invested?

Each public funder's funds will be separately tracked and interest will be earned while they are waiting to be invested in specific projects.

Q4. What interest rate will the private investors receive once their funds are placed in a specific project?

The goal is for a blended rate of between 3.5% and 4% when accounting for all funds. The committed funds and respective interest rates are as follows:

- Public funders: \$5 million 0% interest
- Living Cities \$3.5 million 3% interest (a consortium of national foundations)
- Enterprise \$9.5 million ~5.35% Interest
- The blended interest rate will be ~3.8%

Q5. Clarify whether the Interlocal allows the program to be used for eminent domain.

Eligible applicants under the Interlocal include non-profits and for-profit developers, housing authorities and other community agencies. Cities are not eligible applicants for REDI funds. Therefore, the REDI program is not an appropriate vehicle for cities to use their eminent domain powers.

Q6. What has been the experience in other jurisdictions that have been using a similar approach?

In general the details of program structure and oversight have drawn heavily on the experience of other regional programs. Lessons learned from other programs include the following:

- There is value and success in the core concept of creating a nimble, high loan-to-value land acquisition resource by leveraging public resources with private capital to create affordable housing in areas with transit investment.

- It is important to maintain a careful balance in setting up the capital stack to achieve a sufficient fund size, but not overleveraging the public investment to the point where terms cease to be attractive to borrowers.
- Focus on simplicity and efficiency in fund mechanics to keep operating costs low.
- Creating a program that involves multiple public funders has added some complexity in the initial set up, but it brings the advantage of creating strong ties to a variety of public funders who could ultimately be involved with the permanent financing of the development. This will be an overall advantage of the program and its long term success.

EFFECTIVE DATE

If approved, this Resolution becomes effective immediately.

OPTIONS

1. Adopt the Resolution authorizing the City Manager or his designee to execute, on behalf of the City, an Interlocal Agreement between the City of Bellevue and ARCH cities, City of Seattle, King County, Pierce County and Snohomish County regarding the “Regional Equitable Development Initiative” (REDI) fund, a revolving loan fund for the purpose of acquiring equitable TOD sites within King County and the greater Puget Sound region.
2. Provide alternative direction to staff.

RECOMMENDATION

Option 1.

MOTION

Move to adopt Resolution No. 9057 authorizing the City Manager or his designee to execute, on behalf of the City, an Interlocal Agreement between the City of Bellevue and ARCH cities, City of Seattle, King County, Pierce County and Snohomish County regarding the “Regional Equitable Development Initiative” (REDI) fund, a revolving loan fund for the purpose of acquiring equitable TOD sites within King County and the greater Puget Sound region.

ATTACHMENTS

- A. Materials previously provided at October 19, 2015 Study Session
- B. Interlocal Agreement regarding Regional Equitable Development Initiative (REDI) Fund
- C. Proposed Resolution No. 9057