



**HOUSING AUTHORITY AND
CITY OF RICHMOND**

Finance Department

AGENDA REPORT

DATE:	July 26, 2022
TO:	Richmond Housing Authority (RHA) Board of Commissioners and Members of the City Council
FROM:	Nannette J. Beacham, RHA Executive Director Delmy Cuellar, Director of Finance Rita Martinez, Senior Accountant Gabino Arredondo, Project Manager
Subject:	Update on the Public Housing Agencies Recovery and Sustainability (PHARS) Agreement and Financial Update
FINANCIAL IMPACT:	Completing PHARS agreement tasks related to asset repositioning and financial matters will improve RHA operations and financial standing. Neglecting PHARS tasks and outstanding financial matters will result in continued increased subsidies from the City of Richmond for RHA and financial penalties. The IRS has advised RHA and Finance staff of outstanding penalties and interest for years 2009-2015 and 2017 that have never been paid in the amounts of approximately (2010, \$5,300; 2011, \$5,300; 2012, \$6,200; 2013, \$12,600; 2014, \$5,300; 2015, \$14,560; 2017, \$69,600, Total estimated amount \$118,860). Staff has requested the IRS for official correspondence verifying the amounts owed. The City Manager, RHA Executive Director and Director of Finance plan to authorize the payments of up to \$10,000 per IRS penalties. RHA was also notified that the FY2018-2019 due to failure to submit 1099s properly, but RHA and City staff members and consultants are collecting the back-up information to challenge and reduce the penalty.

PREVIOUS COUNCIL ACTION:	N/A
STATEMENT OF THE ISSUE:	RHA staff is providing a status update on 1) 2019 PHARS agreement between RHA, City of Richmond, and HUD; and 2) outstanding RHA financial matters.
RECOMMENDED ACTION:	RECEIVE a presentation updating the RHA Board of Commissioners and City Council on the 2019 Public Housing Agencies Recovery and Sustainability (PHARS) Agreement and overall, RHA outstanding financial matters (Nannette J. Beacham/Delmy Cuellar 621-1300).

DISCUSSION:

Richmond Housing Authority (RHA) has traditionally provided affordable housing for low and very low-income residents of Richmond through U.S. Department of Housing and Urban Development (HUD) federally-funded housing programs. Currently, RHA owns multiple public housing properties, and manages two (2) properties that are occupied by tenants (Nevin Plaza and Nystrom Village). As of July 1, 2019, the Housing Authority of the County of Contra Costa (HACCC) assumed management responsibilities for approximately 2,004 Housing Choice Vouchers (HCV), formerly administered by the RHA, consistent with the PHARS.

It is essential that the RHA Board of Commissioners and the Richmond City Council understand the financial status of RHA in order to meet the need to provide decent, safe, and sanitary housing for its residents. Over the past three (3) years, significant progress has been made in accomplishing the fundamental outcomes RHA and HUD desire for RHA’s public housing portfolio. RHA Board Members and staff have remained steadfast in their commitment to the fundamental outcomes for RHA’s residents and portfolio. The October 22, 2019, Public Housing Agencies Recovery and Sustainability (PHARS) agreement provides details, actions, and milestones with completion dates. Although the commitment to the outcomes remains unchanged, we acknowledge some deliverables have not been completed by the established dates due to initial staffing shortages and unforeseen circumstances.

RHA and City staff members take these matters extremely seriously and continue to work towards full implementation of the PHARS agreement. It is also important to acknowledge the last two years have been unprecedented. All levels of government, the private sector, and individual families have adapted and modified plans in response to the COVID pandemic and rapid inflation. As such, the PHARS implementation and plan action plan was not immune to change.

The following staff report will update the Board and City Council on progress related to the PHARS Agreement and an overall RHA Financial update.

PHARS AGREEMENT UPDATE:

RHA has been operating under a Public Housing Authority Recovery and Sustainability (PHARS) Agreement with HUD since February 5, 2013, due to RHA’s designation as a “troubled” housing authority. RHA and City staff members collaborated with representatives from HUD Region IX to prepare a required 2019 Public Housing Authority Recovery and Sustainability (2019 PHARS) Agreement and Action Plan. The RHA Board of Commissioners approved the 2019 PHARS on October 22, 2019 (Attachment 1). The 2019 PHARS delineates performance outcomes, timelines, and reporting requirements focused on the repositioning of the RHA Public Housing portfolio.

The performance measures in the 2019 PHARS are designed to improve RHA’s financial position, increase RHA’s housing program performance ratings, and ensure ongoing sustainability. RHA staff members are committed to working with HUD and successfully delivering the desired outcomes in the 2019 PHARS. In addition, RHA staff members are continuing to work closely with the City’s interdepartmental team to ensure the action items listed in the 2019 PHARS are completed.

Richmond Housing Authority (RHA) PHARS Action Plan

Task Number	TASK	Target Date
	Hacienda	
1.1	Finalize Financial Terms between RHA and Mercy (Confirmation of a current Development Agreement to repositioning Hacienda)	12/28/2019 Complete
1.2	Request Revised Disposition Application from the Special Applications Center (SAC)	1/28/2020 Complete
1.3	Submit Financing Plan to SFRO and submit Financing 3/1/2020 Applications to The California Tax Credit Allocation Committee (TCAC)/California Department of Housing and Community Development (HCD)	3/1/2020 Complete
1.4	Conveyance / Closing of Hacienda	2/28/2021 Complete

1.5	<p>SAC acceptance of a complete Section 18 PIC disposition application for Hacienda Remainder Parcel</p> <p>Update: RHA made a prior attempt to secure a realtor to serve as the sellers' agent. Given the tight real estate market, no realtor's responded to a competitive Request for Proposal (RFP) for this listing. RHA believed listing with a realtor would have been an efficient approach to selling this property. RHA's current approach is to publish an RFP seeking development proposals. The RFP will be issued for a development plan for the outstanding parcel. In the interest of obtaining Section 18 approval sooner, RHA will begin working on the elements of the Section 18 application immediately. RHA is reviewing if the parcel is subject to the Surplus Lands Act.</p>	12/31/2021 In Progress
	Administration Building	
2.1	Submission of disposition application to SAC	10/1/2019 Complete
2.2	SAC acceptance of a complete Section 18 PIC application	3/29/2020 Complete
2.3	Submit Financing Plan to San Francisco Regional Office (SFRO) and submit Financing Applications to TCAC/HCD	8/30/2020 Complete
	Nevin	
3.1	Issue RFP for Development Partner w/ elevator addendum	1/28/2020 Complete
3.2	Select a Development Partner	4/29/2020 Complete
3.3	SAC acceptance of a complete Section 18 PIC application	5/29/2020 Complete
3.4	Submit Financing Plan to SFRO and submit Financing Applications to TCAC/HCD	6/30/2021 Complete

3.5	Closing /Conveyance /Start Construction Update: Applications for 4% Low-Income Housing Tax Credit (LIHTCs) and Private Activity Bonds (PABs) were submitted to Tax Credit Allocating Committee (TCAC) in March 2022. Nevin was awarded \$41,631,580 in construction bond tax exempt funding on June 15, 2022. Once all financing is in place, RHA and EAH Housing will move expeditiously to closing financing, convey ownership, and start construction. EAH Housing in collaboration with RHA has initiated Nevin Plaza resident and community engagement, contracted a relocation consultant, submitted building permit applications and begun the public art process. Anticipated start date for construction is December 2022.	3/1/2022 In Progress
	Nystrom	
4.1	Issue RFQ for Master Plan	2/28/2020 Complete
4.2	Finalize terms btw RHA and Developer Update: RHA released a Request for Proposal seeking a developer partner for Nystrom on April 20, 2020. McCormack Baron Salazar (MBS) and Richmond Neighborhood Housing Services (RHNS) were selected as the preferred developer partners on September 21, 2021. After their selection, work began to negotiate and enter into an Exclusive Right to Negotiate Agreement (ERNA) between RHA and MBS/RHNS. We anticipate the ERNA will be finalized by September 2022.	5/29/2020 In Progress
4.3	SAC acceptance of a complete Section 18 PIC application	9/1/2020 Not Started
4.4	Closing /Conveyance /Start Construction	11/28/2022 Not Started
	Richmond Village I, II and III	

<p>5.1</p>	<p>Submit RAD Application</p> <p>Update: Repositioning Richmond Village (converting to Rental Assistance Demonstration (RAD)) involves three distinct and related tasks: 1) exit the investor limited partner (so called “year 15”), 2) negotiate new terms with MBS for the future ownership and operations of Richmond Village, and 3) submit a RAD application.</p> <p>Regarding #1: MBS was able to secure a commitment from the investor limited partner to exit the partnership for \$1.00. This is the best possible outcome under the Right of First Refusal and Option Agreement. Work to finalize the exit is on-going. Timeliness of this task has been frustrated by the fact the investor was in the process of selling their LIHTC investment portfolio.</p> <p>Regarding #2: RHA and MBS have finalized the terms of a memorandum of understanding (MOU). This MOU protects RHA, current public investments, and future use as affordable rental housing.</p> <p>Regarding #3: The elements of a RAD application are in place (resident meetings, Mixed Finance Affidavits, and plan). Changes in subsidy type by unit over time at Richmond Village has required confirmation of unit information necessary for the RAD application. This work is nearly complete. We anticipate a RAD application submittal by the end of September 2022.</p>	<p>10/1/2019 In Progress</p>
<p>5.2</p>	<p>Submit RAD Financing Plan</p> <p>Update: RHA and MBS assume a “non-debt” RAD/Section 18 Small PHA Blend conversion for Richmond Village I, II, and III. This is a change from the plan reflected in the PHARS agreement. This change is advantageous to RHA and HUD and became possible with the publication of the Office of Public and Indian Housing (PIH) Notice 2021-07 on January 19, 2021. At the time the PHARS Agreement was executed, this option was not available. “No debt” conversions are the most streamline of all RAD conversions. The Financing Plan will be submitted as soon as possible following receipt of the RAD Commitment to Enter into a Housing Assistance Payments Contract (CHAP).</p>	<p>11/28/2020 In Progress</p>

5.3	<p>Close RAD conversion</p> <p>Update: Under the new approach mentioned above (5.2), closing for Richmond Village I, II and III will occur simultaneously. Closing should occur within 120 to 180 days on submittal of the Financing Plan. Processing by HUD's Recapitalization office and RHA will determine the schedule for closing. Additionally, we except Richmond Village I and II (AMP 007 and 008) will proceed as a RAD "many-to-one" transaction since both AMPs are currently and will continue to be owned by a single ownership entity.</p>	<p>12/1/2020 In Progress</p>
	Richmond Village III	
6.1	<p>SAC acceptance of a complete Section 18 PIC application</p> <p>Update: This task no longer applies because of the change mentioned above under Richmond Village I & II task 5.2.</p>	<p>5/30/2021 Not Applicable</p>
6.2	<p>Receive Tenant Protection Vouchers</p> <p>Update: This step will occur automatically because of HUD's approval of a RAD Conversion Commitment for Richmond Village I, II and III.</p>	<p>6/30/2021 In Progress</p>
6.3	<p>Closing /Conveyance /Start Construction</p> <p>Update: Closing will occur for Richmond I, II and III simultaneously as part of a RAD/Section 18 Small PHA Blend conversion.</p>	<p>12/31/2021 Not Started</p>
	Other	
7.1	<p>Submit PH Organizational Chart of RHA staff; chart to include names, titles, and responsibilities and duties.</p>	<p>1/28/2020 Completed</p>
7.2	<p>Complete HCV Close Out Audit</p> <p>Update: Auditor is making final adjustments on 2018 audit. Once completed, 2019 will be initiated.</p>	<p>4/26/2020 In Progress</p>
7.3	<p>Submit operating budgets for each AMP and Central Office Cost Center (COCC).</p> <p>Update: Final Cost Allocation report submitted to HUD for review/approval on 6/23/22.</p>	<p>2/28/2020 In Progress</p>

FINANCIAL UPDATE:

The Finance Department and RHA has made significant progress on the HUD-funded CVR Associates report and recommendations. RHA and Finance staff participated in the HUD-supported financial training. RHA and City Finance staff continue to work with Maze & Associates (auditors) to complete audits, as well as working with NBS

Consultants regarding Cost Allocation plan matters in accordance with HUD requirements to the Title 2 CFR, Part 200 Compliant Version. Due to urgent unresolved financial tasks related to completing outstanding Internal Revenue Service (IRS) compliance matters and transmitting completed audits to HUD Real Estate Assessment Center (REAC) system, the RHA and Finance staff have contracted with a financial consultant who is an expert in the public housing field to support and expedite resolving outstanding financial matters.

Task	Status & Update
2017 Audit	<p>Audit Complete. Challenges to complete submission in HUD REAC system.</p> <p>Update: RHA has inputted completed audit into HUD System but having challenges with it successfully being accepted and are currently working with financial consultant Tony Ma (“consultant”) to trouble shot and input successfully. Initially, Finance staff and the consultant went through the discrepancies, determined auditors changed adjusting entries and Finance has taken corrective action. The task is time consuming, and the HUD software isn’t user friendly. The consultant was able to identify an error in HUD REAC system. Analysis will need to be completed to determine where the discrepancies and corrective action. Next Step, once audit is submitted successfully in HUD System, the auditor’s (Maze) will need to gain access to the site to validate the data.</p>
2018 Audit	<p>Draft Audit Complete. Management and Legal letters are in the process to be signed to complete the audit.</p> <p>Update: Legal letters have been completed. RHA has suggested edits to the Management letters which is currently under review. Next Step, upon receiving the final audit, Finance will perform the crosswalk to translate financial data into 'HUD language'. Once this information is entered in REAC, the Auditor's will need to gain access to the site to validate the data.</p>
2019 Audit	<p>All requested and available information provided to auditors (Maze and Associates). Upon completion of 2018 Audit, Finance and RHA will review and update the Trial Balance.</p>
2020 Audit to Current	<p>2019 Audit must be completed before auditor can initiate for 2020. New auditors, Badawi & Associates will complete the 2020 audit.</p>
Cost Allocation Plan	<p>Finance and RHA worked with NBS to complete a Cost Allocation plan for FY21-22 and FY22-23 in compliance with the Federal Guidelines, Title 2 CFR Part 200. Final Cost Allocation report submitted to HUD for review/approval on 6/23/22.</p>
IRS 1099’s Compliance	<p>The IRS has advised RHA and Finance that there are missing submissions of RHA 1099’s (2018 and 2019). Penalties that date back</p>

<p>and Penalties</p>	<p>to 2010 have not been paid (2010 \$5,300; 2011 \$5,300; 2012 \$6,200, 2013 \$12,600; 2014 \$5,300, 2015 \$14,560, 2017 \$69,600).</p> <p>Regarding 2017 1099 mismatches, the financial consultant began correcting the mismatches, provided specific instructions, timelines and a draft response for Finance staff to respond to the IRS when the 972CG was sent by the IRS. Unfortunately, the draft response was never sent to the IRS. There is an IRS fax that mention a \$9M backup withholding tax and penalty in the event of non-compliance.</p> <p>RHA and Finance does not agree to the backup withholding tax and penalties suggested by the IRS for years 2018/2019. The consultant has been in communication with the IRS agent. RHA and Finance staff are working diligently to provide copies of the W9's for the landlords on the 2018 1099 list, the backup withholding penalty requirement will not be required. The landlord files were transferred to the Housing Authority of Contra Costa County (HACC) June/July 2019 during the transition of the Housing Choice Program from RHA to HACCC. HACCC put the files in storage at the San Pablo office. The Consultant and Finance staff have spoken to the IRS agent. RHA and City staff are reconciling 1099's and W-9's for landlords and will transmit to the IRS for review and consideration.</p> <p>The landlord files were shipped to HACCC June/July 2019 during the transfer of the Housing Choice Voucher (HCV) Program (Section 8) from RHA to HACCC. HACCC put the files in storage at the San Pablo office. The consultant was able to locate the RHA 2019 1099's that were scanned by Finance. Tony Ma has been to the HACCC (San Pablo office) and taken pictures of the W9's that are in the landlord files. Finance sent the 1099's and pictures to the IRS agent requesting next steps. RHA staff, City staff, and Interns have been all hands-on deck reviewing each Landlord file and scanning the W9s (over 1,000 files). Upon completion these files will be sent to IRS. City's Account Payable (AP) staff is working on creating a new account log in to electronically file the 2018 and 2019 1099s via IRS FIRE System. If electronic submission is not a possibility, the 1099s will need to be typed manually (~1200 forms) on the forms and submitted via scan or mail. For 2019, RHA found the 1099 list and scanned copies of the 1099's that was sent to the recipients. This will be provided to the IRS. RHA and Finance is confident that 1099's was sent to the recipients for 2018 and 2019. The 1099's were not filed with the IRS.</p>
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A considerable amount of City resources has been allocated to assist RHA in meeting obligations to program participants and HUD; significantly impacting other City operations. RHA and City staff members continue to work to reduce the RHA budget

deficits, improve compliance, and will continue to diligently oversee and monitor RHA's budget to maintain financial integrity and the health and safety of RHA's residents and preserve and increase affordable housing units.

As additional final information becomes available, as required, staff will return with requests for authorization to clear any outstanding IRS matters. RHA and Finance staff members and consultants will continue to work with the IRS and City Attorney's Office with the aim of reducing fees and penalties and quickly issuing payments from appropriate RHA funds and/or e City's Reserves.

ATTACHMENTS:

Attachment 1 – 2019 PHARS