



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Sara L. Hensley

SUBJECT: SEE BELOW

DATE: 04-01-04

Approved

Date

COUNCIL DISTRICT: 5
SNI AREA: Gateway East

SUBJECT: APPROVAL OF AN EXCEPTION TO THE CITY'S SUBORDINATION POLICY ALLOWING THE CITY TO SUBORDINATE ITS COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) LOAN TO THE MEXICAN AMERICAN COMMUNITY SERVICES AGENCY, INC. (MACSA) TO THE NATIONAL COOPERATIVE BANK DEVELOPMENT CORPORATION

REASON FOR ADDENDUM

MACSA is re-financing the loans on its properties located at 130 North Jackson Avenue and 2254 Alum Rock Avenue to take advantage of low-interest rates currently available. The re-financing process is time sensitive.

RECOMMENDATION

Approval of an Exception to the City's subordination policy allowing the City to subordinate its Community Development Block Grant (CDBG) Loan to The Mexican American Community Services Agency, Inc. (MACSA) to the National Cooperative Bank Development Corporation.

BACKGROUND

The City provided two CDBG loans to MACSA totaling \$1.09 million for the improvement of its properties located at 130 North Jackson Avenue and 2254 Alum Rock Avenue. These properties are used to provide senior services and youth services respectively. CDBG loans are secured by a Deed of Trust that includes restrictions that the properties are maintained in a

CDBG-eligible use for fifteen years. These loans convert to grants after the fifteen-year restriction is satisfied. As a condition of receipt of CDBG funds, the City requires that the City be in first position on the Deed of Trust.

MACSA is re-financing other loans that are also recorded on the properties. The lender, National Cooperative Bank Development Corporation, requires that the bank be in first position on the Deed of Trust and requests that the City subordinates its loans.

ANALYSIS

The City's Subordination Policy states that the City may subordinate to any lender under the following conditions:

1. All indebtedness ahead of and including the CDBG promissory note must not exceed 80% of the value of the property.
2. The covenants placed on the property by lenders in superior position are as restrictive or more restrictive than the CDBG covenants. This includes agreement to a condition or restriction that the property will be maintained in a CDBG-eligible use for 15 years.
3. A reasonable argument is given for the City to subordinate.

An appraisal on the properties located at 130 North Jackson Avenue and 2254 Alum Rock Avenue completed by Carneghi-Bautovich and Partners, Inc. on November 25, 2003 show the values of the properties at \$2.32 million and \$1.22 million, respectively. Encumbrances on the property, including the refinanced loan of \$2.5 million, total \$3.7 million. Therefore, total encumbrances are at 106% of the value of the properties and an exception to the City's subordination policy is required. The City loans total \$1.09 million. Approximately \$360,000 of the City loans has matured and will be converted into a grant. The remaining balance of approximately \$735,000 converts into a grant in fifteen years.

The City secures its CDBG investment in capital projects through a Deed of Trust specifying that the properties assisted by CDBG funds must be maintained in a CDBG-eligible use for fifteen years. This ensures that that the community benefits from the CDBG funds for fifteen years. Because the lender, National Cooperative Bank Development Corporation, agrees to restrict the use of the properties in a CDBG-eligible use for fifteen years, the City's investment in the properties and the community's benefits from it, remain protected. MACSA's refinancing of its loan to obtain a lower interest rate will strengthen its financial position.

PUBLIC OUTREACH

This request was presented to the CDBG Steering Committee in a meeting open to the public on March 15, 2004.

HONORABLE MAYOR AND CITY COUNCIL

04-01-04

Subject: Approval of an Exception to the City's Subordination Policy

Page: 3

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

COST IMPLICATIONS

The U.S. Department of Housing and Urban Development (HUD) requires that facilities assisted by CDBG funds be maintained in a CDBG-eligible use for five years. City policy extends this to fifteen years. Agreement by the lender in first position to include this restriction protects the City's investment in the project. Therefore, there is no impact to the CDBG or the General Fund.

CEQA

SARA L. HENSLEY
Director of Parks, Recreation
and Neighborhood Services