



Memorandum

TO: HONORABLE MAYOR, CITY
COUNCIL, AND REDEVELOPMENT
AGENCY BOARD

FROM: Harry S. Mavrogenes

SUBJECT: EXCEPTION TO COUNCIL
APPOINTEE HOME LOAN
PROGRAM

DATE: July 27, 2006

RECOMMENDATION

Adoption of a resolution by the City Council providing an exception to the Council Appointee Home Loan Program established through Resolution #69478 (copy attached) on April 4, 2000, to allow the Executive Director of the Redevelopment Agency to participate in the Program at this time and adoption of a resolution by the Agency Board to provide a home loan benefit to the compensation of the Executive Director.

BACKGROUND

Upon appointment as Executive Director in November 2004, I was offered and accepted the same compensation package as the former Executive Director. The former Executive Director also received a loan pursuant to the City's Housing Assistance Program as had her Deputy and her Assistant Executive Director. All of those loans have now been paid off.

At that time, I did not specifically request a loan under the Housing Assistance Program, as I was more focused on commencing my duties as Executive Director. Based on my review of the existing Program, this exception may be necessary for me to receive the same benefits as provided in the Program and it is within the discretion of the Mayor and Council to grant the assistance to new appointees, as it is not available as a matter of right.

ANALYSIS

The Program requires that loan documents must be entered into within two years of the initial appointment (in this instance that would be by November 2006). Loans shall not exceed \$250,000. The loan shall only be available to acquire residential property within the corporate limits of the City of San Jose, and used as the principal residence of the employee. The loan must also be paid off if the home is sold or employment is terminated or if I move out of the house.

MAYOR, CITY COUNCIL, AGENCY BOARD

8/8/06

Exception to Council Appointee Home Loan Program

Page 2

The interest rate on the loan is established by matching the interest that the City earns on its investments, hence there is little or no cost to the City. In the case of Agency executives, the City has been reimbursed by the Agency whenever a loan has been approved.

In this case, I am requesting a loan under the Housing Assistance Program of \$250,000. I realize that this request is after the fact, but my energies over the last year and a half were fully focused on the financial survival and success of this Agency and not my personal finances. Recently, my wife and I entered into a contract to purchase a new home in San Jose, which will be completed in November of this year. While we have been pre-qualified for a mortgage, the uncertainty of constantly increasing interest rates is making the acquisition challenging. The City's financial assistance will go a long way to mitigate this concern, as it will strengthen my position to secure a lower interest rate (i.e., larger down payment, smaller first mortgage, and lower payment) on the balance of the purchase price.

COORDINATION

This action has been coordinated with the City Manager and the City Attorney.

COST IMPLICATIONS

No impact to the City of San Jose.


HARRY S. MAVROGENES
Executive Director

Attachment

RESOLUTION NO. 69478

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ ESTABLISHING A PROGRAM FOR THE PROVISION OF RELOCATION AND HOUSING ASSISTANCE TO NEWLY APPOINTED CITY OF SAN JOSE COUNCIL APPOINTED OFFICERS AND SENIOR STAFF OFFICIALS

WHEREAS, the recruitment and hiring of top quality high level management employees is essential to the efficient operation of the government of the City of San Jose; and

WHEREAS, recent trends in housing costs, the relative unavailability of new housing and current housing financing conditions in the Santa Clara Valley Area, and particularly in the City of San Jose, tend to act as a disincentive to persons relocating to this area, and therefore, as an obstacle to the recruitment and hiring of such top quality personnel; and

WHEREAS, said conditions act not only as an obstacle to the recruitment and hiring of such personnel, but also in the event of the hiring of such personnel, tend to discourage such persons from residing within the City of San Jose; and

WHEREAS, the City Council believes and appreciates the fact that the interests of the City of San Jose would best be served by encouraging such Council appointed officers and members of the City Manager's Senior Staff to live within the San Jose corporate limits to ensure their ready availability and familiarity with the community; and

WHEREAS, the City regularly invests its funds in a variety of financial securities at varying earning rates, some of which are substantially below current mortgage rates; and

WHEREAS, a portion of these reserves may be utilized to accomplish the intent of the City Council to promote the recruitment and hiring of the best available personnel and

JRG:EM
4/3/99

to encourage such personnel to reside within the boundaries of the City of San Jose, and still produce substantially equivalent investment income; and

WHEREAS, in order to promote said objectives the City Council desires to institute a policy under which the City, in appropriate cases, may provide financing assistance and other relocation assistance to newly appointed City Council appointed officers and members of the City Manager's Senior Staff for the purpose of assisting such persons to relocate to San Jose and purchase a residence within the City of San Jose.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ THAT:

SECTION 1. The City Council finds that the recruitment and hiring of personnel to fill the positions of Council appointed officers and the City Manager's Senior Staff is of key importance to the functioning of the City government, that it is in the interest of the City to encourage such officers to live within the corporate boundaries of the City of San Jose, that the provision of housing and other relocation assistance may, in certain cases, enhance the ability of the City to accomplish the two aforementioned purposes, and that such assistance can be provided without significantly affecting the financial status of the City.

SECTION 2. The City Council hereby declares that it shall be the policy of the City, in appropriate cases, where necessary to secure the services of such persons, to assist newly appointed Council appointed officers and the City Manager's Senior Staff to reside within the City of San Jose by making available, as an additional benefit of employment, a secured loan of City funds to acquire local housing. The need for such assistance shall be reviewed on an individual basis and shall not be deemed available as a matter of right to such newly appointed employees. For purposes of this program, Senior Staff members are those employees serving in the positions of Assistant City Manager, Deputy City Manager(s), Department Directors, and other senior members of

JRG:EM
4/3/99

the City Manager's Office as designated by the City Manager. In addition, the terms of each such loan shall be negotiated based upon the circumstances surrounding the appointment of each such employee, provided that the terms of any such loan shall not be inconsistent with the provisions of this resolution.

SECTION 3. The need of a loan shall be reviewed on an individual basis and shall not be deemed available as a matter of right. The loan, if made, shall be made available only upon the following terms and conditions, and upon such other terms and conditions, not inconsistent with the following, which may be deemed reasonable by the City:

(a) Any such loan shall constitute a benefit of employment in consideration for the employee's services, to be evidenced by a separate written loan documents entered into within two (2) years of the initial appointment;

(b) The loan shall not be construed to provide a contract of employment. The City continues to maintain its sole discretion to terminate an employee's employment at any time. The exercise of termination authority by the City shall not establish a cause of action for any money damages due to a loss of mortgage loan assistance authorized by a mortgage assistance agreement.

(c) The loan subject to this resolution shall not exceed an amount of \$250,000.00 and in no event shall any such loan be for a term exceeding 30 years

(d) The loan shall be available only to acquire residential property within the City of San Jose which is, in fact, used as the principal residence of the employee.

(e) Any such loan shall be due and payable in full within six months of any sale or transfer of the property by the employee, termination for any reason of the employee's employment with the City, termination of the use of the property as the

JRG:EM
4/3/99

principal residence of the employee, or any other default of the loan documents.

(f) Any such loan shall provide for an interest rate no lower than the City's current average annual earnings rate on its idle funds investment portfolio.

(g) The loan shall only be made from available funds in the appropriate City Operating Fund(s).

(h) Any such loan shall be secured to the satisfaction of the City Manager, City Attorney, and Director of Finance and evidenced by a promissory note secured by a Deed of Trust.

(i) The employee shall be responsible for all costs associated with the purchase and sale of the residence including, but not limited to, any costs of a title insurance policy naming the City as beneficiary.

(j) The employee shall repay the promissory note by making bi-monthly or monthly interest only payments.

(k) Other relocation assistance including, but not limited to, interim housing assistance, moving expenses and other reasonable and customary expenses associated with relocation may be provided by the City to the employee as deemed appropriate by the City Council for Council appointed officers and by the City Manager for Senior Staff members.

SECTION 4. With respect to Senior Staff members appointed by the City Manager, the City Manager is hereby authorized to act in accordance with the policy set forth in this resolution and to implement said policies as deemed necessary in order to fulfill the recruitment and hiring needs for such positions. The City Manager is authorized to determine in each case whether housing assistance shall be offered as an element of

JRG:EM
4/3/99

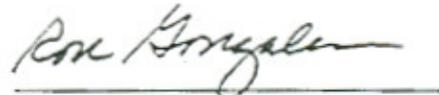
compensation and, if so, the terms upon which such assistance shall be offered. Any loan issued shall be consistent with the provisions of Section 3 of this resolution; but, the City Manager is authorized to impose conditions more restrictive than or in addition to those in Section 3 so long as they are consistent with this resolution.

ADOPTED this 4th day of April, 2000, by the following vote:

AYES: CHAVEZ, DANDO, DIQUISTO, FISCALINI, LeZOTTE,
MATTHEWS, POWERS, SHIRAKAWA; GONZALES

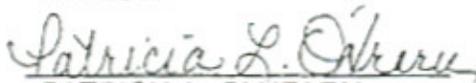
NOES: NONE

ABSENT: DIAZ, WOODY



RON GONZALES
Mayor

ATTEST:



PATRICIA L. O' HEARN
City Clerk