



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Leslye Krutko

**SUBJECT:** SEE BELOW

**DATE:** November 21, 2008

Approved

Date

11-21-08

**COUNCIL DISTRICT :** 2

**SNI AREA:** None

**SUBJECT: APPROVAL OF EDEN HOUSING, INC. AS DEVELOPER OF THE FORD & MONTEREY AFFORDABLE HOUSING DEVELOPMENT AND APPROVAL TO ENTER INTO EXCLUSIVE NEGOTIATIONS AND TO EXECUTE AN OPTION AGREEMENT BETWEEN THE CITY AND EDEN HOUSING INC.**

## **RECOMMENDATION**

It is recommended that the City Council adopt a resolution:

1. Approving the selection of Eden Housing Inc. ("Eden"), or its designated affiliate, as the developer of the Ford & Monterey affordable housing development; and,
2. Authorizing the Director of Housing ("the Director") to negotiate and execute an Exclusive Negotiations Agreement ("ENA") and an Option Agreement for the purchase of the property from the City by Eden, under which the City would agree to not sell the property to another entity while Eden Housing, Inc., is diligently negotiating the ENA with City and pursuing necessary land use entitlements and financing for an affordable housing project and which Option Agreement also would provide City with the ability to terminate the option if land use entitlements are not obtained or financing terms can not be reached.

## **OUTCOME**

The City Council's approval of the selection of Eden as the developer of Ford & Monterey affordable housing development will allow Eden to apply for a Planned Development ("PD") rezoning to allow for the proposed residential uses.

## **BACKGROUND**

The Housing Department currently owns the 3.05-acre vacant site located on the North side of Ford Road, one block East of Monterey Road. The site is one block from the Blossom Hill Caltrain Station. The site is zoned R-1-1, single family residential. The neighborhood has a mix of single family housing and commercial uses. The Housing Department purchased the site from the Valley Transit Authority after City Council approval on June 9, 2006 in order to develop affordable housing for lower-income households and to assist in the formation of a cohesive neighborhood in the Ford Road area.

On April 16, 2008 the Housing Department issued a Request for Qualifications (RFQ) for development of a multifamily rental affordable housing project that would incorporate significant green building features into the design and would include at least 25% of units targeted to extremely low-income households with at least 15% of units targeting special needs households. The RFQ also specified that the proposal must be a financially viable development with an architectural design and function that would enhance the existing neighborhood. Six proposals were received from local developers by the proposal response deadline of May 23, 2008.

## **ANALYSIS**

Housing staff performed a review of the submitted development proposals to ensure their compliance with the submittal requirements of the RFQ. An evaluation team comprised of staff from the Housing Department, Planning Department, and the Redevelopment Agency completed a review of the written proposals. Staff also held panel interviews with each proposal team in which the proposers were given the opportunity to present their development concept for the site.

After an evaluation of the development entities' project experience, financial capacity, project proposals, and proposed business terms, it was determined that that Eden was the most qualified respondent due in part to their extensive affordable housing development and management experience, the quality of their developments, the excellence they demonstrate in community outreach, and the thoroughness of their proposal in terms of both project design and detailed financing alternatives. Eden also scored the highest in terms of their ability to minimize the City's financial commitment and risk associated with the project. Therefore, the Department is recommending the selection of Eden as the developer of the site.

Assuming the City Council approves the selection of Eden, the Department would negotiate an Option Agreement to agree to not sell the property to another entity while Eden is negotiating the terms of the ENA and is diligently pursuing necessary financing and land use approvals, but would allow City to either sell or ground lease the property to the developer, depending on which alternative is determined to be most advantageous to the City, at an appropriate time, and would also allow City the ability to terminate the option if required land use approvals or acceptable

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financing terms are not obtained. The business terms of the Option Agreement would be based upon the land's appraised value.

Any further agreements, including a Disposition and Development Agreement ("DDA") and any loan documents that the City enters into with Eden, would be contingent upon their ability to obtain Planned Development rezoning approval (including all environmental clearances) from the City Council, as well as approval by the City Council of a DDA and any City loan to Eden. At this point, the ENA and the Option Agreement are proposed only to allow the preliminary planning for a possible affordable housing project at the site by Eden to continue to be explored by the parties.

### Entitlements

The Director of Planning has determined that this site is subject to the *Framework for the Preservation of Employment Lands*. Therefore, the City must "offset" the conversion of approximately 3.05 acres of employment lands on the subject site by processing a General Plan Amendment on a separate site. Therefore, on June 6, 2008, the Housing Department filed General Plan Amendment file no. GP08-06-01 from Medium High Density Residential.(12-25 DU/AC) to General Commercial on a 2.37-acre site located on the north side Parkmoor Avenue, approximately 1,070 feet west of Meridian Avenue. The proposed amendment would partially offset the future rezoning involving the conversion of employment lands to residential use on a 3.05 gross acre site. GP08-01-01 is anticipated to offset the remaining acreage. On November 19, 2008, the Planning Commission deferred the proposed amendment to the Spring 2009 General Plan Hearings as agreed to by staff and the land owner so that other options could be explored to preserve the land owners ability to maintain income from the site.

The decision regarding the General Plan Amendment does not have a bearing on the selection of a developer for the Ford & Monterey site. City Council approval of Eden Housing, Inc. as the preferred developer of the site will allow City and Eden to continue to explore the possibility of an affordable housing development by Eden of the Ford & Monterey property.

### EVALUATION AND FOLLOW-UP

Once the specific terms of the development have been determined, Staff will return to the City Council and request that the City Council hold a public hearing to consider a Disposition and Development Agreement between the City of San José and Eden, an Option Agreement, and funding commitments to the project.

### POLICY ALTERNATIVES

The Housing Department considered the following alternative before recommending the selection of Eden as the developer of the Ford & Monterey affordable housing development:

**Alternative #1:** *The City could reject Eden's proposal and select another respondent or reissue the RFQ.*

**Pros:** Additional development proposals with alternative development schemes could be evaluated.

**Cons:** The Department received a significant number of proposals from which to select a developer. Eden is being recommended because they were determined to have the experience and a project proposal that best meets the affordable housing objectives for this specific project.

**Reason for not recommending:** Eden's proposal best met the requirement of the RFQ that included a proven track record to produce affordable housing on time and within budget. A decision to not move forward would result in this parcel remaining undeveloped which would not be in the best interest of the neighborhood.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item meets Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This Council report will be posted to the City's website for Council Agenda.

### **COORDINATION**

Preparation of this report has been coordinated with the City Attorney's Office and the Department of Planning, Building and Code Enforcement.

### **FISCAL/POLICY ALIGNMENT**

This expenditure is consistent with the Housing Department's *Five-Year Investment Plan, Fiscal Years 2007/08-2011/12* as adopted by City Council in June 2007 in increasing the supply of affordable housing, and with the City's *Consolidated Plan, 2008-09* in providing units for very low- and extremely low-income households.

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**COST SUMMARY/IMPLICATIONS**

1. **SOURCE OF FUNDING:** N/A. No funding is being requested at this time.
2. **FISCAL IMPACT:** No ongoing fiscal impact.

**CEQA**

NEPA: Not a Project

CEQA: Not a Project



LESLYE KRUTKO  
Director of Housing

For questions, please contact Leslye Krutko at (408) 535-3851.

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Attachment

**Attachment 1**  
**Potential Development Timeline**

November 2008	Anticipated City Council selection of Eden Housing as the developer
Spring 2009	Anticipated execution of Option Agreement for land
Summer 2009	Anticipated completion of project design documents
Summer 2009	Anticipated issuance of PD permit
Fall 2009	Anticipated issuance of Building Permit
Fall 2009	Anticipated start of construction
Early 2011	Anticipated completion of construction