



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Leslye Krutko

**SUBJECT:** SEE BELOW

**DATE:** November 24, 2008

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12-2-08

**COUNCIL DISTRICT:** 7  
**SNI AREA:** NA

**SUBJECT: APPROVAL OF A FUNDING COMMITMENT FOR SITE ACQUISITION  
OF THE ORVIETO FAMILY APARTMENTS PROJECT**

## RECOMMENDATION

It is recommended that the City Council adopt a resolution approving a funding commitment of up to \$3,680,000 of Low and Moderate Income Housing Funds (20% Funds) to the ROEM Development Corporation ("ROEM"), or its legal affiliate, for a land acquisition loan for future development of the 92-unit Orvieto Family Apartments, an affordable multifamily rental project located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive, to be made available to extremely low-income (ELI) and very low-income (VLI) households.

## OUTCOME

Approval of the recommended action will enable ROEM to acquire the site for the development of 91 affordable rental units to be made available to extremely low-income (ELI) at or below 30% of Area Median Income ("AMI") and very low-income (VLI) at or below 50% of AMI and one unrestricted managers unit. Approval of this recommendation is critical in order for the developer to meet the deadline for submittal of an application to the California Debt Limit Allocation Committee for an allocation to use tax-exempt bond financing for the project.

## BACKGROUND

On June 26, 2008, ROEM submitted a Notice of Funding Availability (NOFA) application for an acquisition/construction/permanent loan in the amount of up to \$10,575,400 for the development of the project, including \$3,680,000 for land acquisition. Due to the current market conditions,

the Housing Department is carefully managing its cash position. As a result, the Department is only requesting authorization for acquisition funding at this time. As liquidity returns to the credit markets, and the cost to obtain additional financing decreases, the Housing Department will return to the City Council to seek approval of a construction/permanent funding commitment for the project.

The subject 1.72 acre site is located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive. The project is within the second phase of the 22-acre Montecito Vista Urban Village development. This is a master planned community that will include eight distinct phases comprised of condominiums, affordable and market rate apartments, and attached townhouses. The community will include a two-acre park and 18,000 square feet of retail.

**ANALYSIS**

**Project Description**

The proposed Orvieto Family Apartments will consist of a four-story structure with three stories containing 92 residential units above a one-level podium garage with 145 parking spaces. The project will have 23 units that will be affordable to extremely low-income families, 68 units affordable to very low-income families, and one unrestricted manager's unit. The projected rental unit mix is provided in the table below.

# of Bedrooms	# of Units	AMI Income Limit
1Br	7	30%
1Br	5	45%
1Br	15	50%
2Br	10	30%
2Br	6	45%
2Br	21	50%
3Br	6	30%
3Br	3	45%
3Br	18	50%
3Br	1	unrestricted

The total estimated project cost is \$29,695,063. In addition to the proposed City Loan, the Sponsor intends to seek funding sources for the project from the California Debt Limit Allocation Committee (CDLAC), an allocation of 4% Low-Income Housing Tax Credits from the California Tax Credit Allocation Committee (CTCAC); a construction and permanent loan

from a commercial lender; and, an Affordable Housing Program permanent loan (AHP) from the Federal Home Loan Bank. The Sponsor is also proposing to defer a portion of the developer fee.

After the priority payment of the deferred developer fee, the City will share at least 70% of net cash flow in repayment of its loan. The City acquisition loan of \$3,680,000 will be repaid by a City construction/permanent loan of \$10,575,400 subsequent to approval from the City Council at a future date.

Specific business terms for the acquisition loan will be approved by the Director of Housing pursuant to the Director's Delegation of Authority ordinance, located in Chapter 5.06 of Title 5 of the San Jose Municipal Code.

#### Strengths of the Proposed Project

The proposed project has several strengths making it appropriate for a City loan commitment. The project is located on a major transit corridor and is near existing and new commercial development. A relatively high percentage of the units (71%) will be two- and three-bedroom units, which is atypical of most affordable rental developments. In addition, the project will offer deep affordability to families who are expected to be employed in low-wage employment positions that are vital to the economy. The fact that these units are in relatively close proximity to transit is particularly attractive. The project will contain Green building features in accordance with the City's emphasis on supporting environmentally-sensitive development. It will also be a non-smoking building.

#### Project Feasibility

Staff reviewed the proposed Project pursuant to the criteria in the Project Selection System for the City's affordable housing development program as published in the current Notice of Funding Availability (NOFA) on the Department's website. Although the project did not meet the 70-point threshold score for the City's NOFA, Housing Department staff is currently updating the NOFA criteria to better fit with current market conditions and availability of other subsidy funding.

Considering all factors, staff has determined the project to be financially feasible. Given that it is feasible and it meets many of the policy objectives of the Housing Department as stated above, staff recommends the project for funding. Closing of the City's loan will be subject to the receipt of a City-commissioned third-party appraisal which supports the required Loan-to-Value ratios for the requested loan amounts.

Accordingly, the Housing Department recommends that this Project be given an acquisition funding commitment by the City Council of up to \$3,680,000. Specific business terms will be approved by the Director of Housing through the City's Delegation of Authority ordinance in Chapter 5.06 of the San José Municipal Code.

### **EVALUATION AND FOLLOW-UP**

The Housing Department will return to City Council with a recommendation for construction/permanent financing once the Department's cash position has improved. The Department posts quarterly reports on the status of its subsidized construction projects to its website, [www.sjhousing.org](http://www.sjhousing.org). If construction financing is approved, the Orvieto Family Apartments project would be included in these reports.

### **POLICY ALTERNATIVES**

To arrive at this proposal, staff considered the following options:

**Alternative #1:** *Deny the requested funding commitment.*

**Pros:** The funds being requested could be used for other affordable housing projects and programs.

**Cons:** The proposed funding commitment complies with the Department's funding priorities and has been judged financially feasible. Additionally, there is continued strong demand for large family housing close to transit that is affordable to ELI and VLI working households.

**Reason for not recommending:** The proposed project will help to meet the demand for family housing that is affordable to ELI and VLI households and will help the City to fulfill its affordable housing goals.

### **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 Memorandum will be posted to the City's website for the December 16, 2008, Council Agenda.

Notices for the Planning Commission and City Council public hearings were distributed to the owners and occupants of all properties located within 1,000 feet of the project site. An on-site sign was placed on the site to provide information on the proposed development. The Planning Department website contains information regarding development applications, staff reports, and hearing schedules. The website contains current information regarding the status of rezoning and development permit applications. Staff has also been available to discuss the project with members of the public.

**COORDINATION**

This report has been coordinated with the Office of the City Attorney 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 for Fiscal Years 2003/04-2008/09* 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.

**COST SUMMARY/IMPLICATIONS**

1. **COST OF PROJECT:**

<b><u>CONSTRUCTION USES</u></b>	<b><u>AMOUNT</u></b>
Site Acquisition	\$3,680,000
Hard (Construction) Costs	\$18,567,874
Soft (Financing & Other) Costs & Reserves	\$7,447,189
<b>TOTAL</b>	<b>\$29,695,063</b>

2. **COST ELEMENTS OF CITY LOAN AMOUNT:**

<b><u>USES</u></b>	<b><u>AMOUNT</u></b>
Site Acquisition	\$3,680,000
<b>TOTAL</b>	<b>\$3,680,000</b>

3. **SOURCE OF FUNDING:** Fund 443—Low- and Moderate-Income Housing Fund.

4. **FISCAL IMPACT:** No ongoing fiscal impact.

HONORABLE MAYOR AND CITY COUNCIL

November 24, 2008

**Subject: Approval of a Funding Commitment for Site Acquisition for the Orvieto Family Apartments**

Page 6

**BUDGET REFERENCE**

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract	2008-2009 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
443	0070	Loans, Grants & Site Acquisitions	\$90,000,000	\$3,680,000	XI-53	6/24/08, 28349

**CEQA**

CEQA: EIR resolution 72768 adopted June 21, 2005, file number PDC07-101.

  
LESLYE KRUTKO  
Director of Housing

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

Attachments



**ATTACHMENT 1**  
**Anticipated Project Timeline**

Application submitted to the Federal Home Loan Bank's AHP Program	October 2008
Anticipated award of FHLB AHP Funding	December 2009
Submitted to California Debt Limit Allocation Committee	March or May 2009
Notification of Award from CDLAC	May or July 2009
Estimated City Council approval of Construction/Permanent Funding	Late Spring 2009
Estimated Date of Construction Loan Closing	Early Fall 2009
Estimated Start of Construction	Early Fall 2009
Estimated Date of Construction Completion	Spring 2011
Estimated Conversion to Permanent Period	Spring or Summer 2011

**ATTACHMENT 2**  
**Site Map**

