



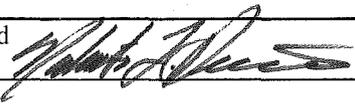
Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Krutko
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: August 13, 2009

Approved 

Date 8-18-09

COUNCIL DISTRICT: Citywide
SNI AREA: All

**SUBJECT: NEW CONSTRUCTION SECOND MORTGAGE LOAN PROGRAM
FUNDING INCREASE**

RECOMMENDATION

It is recommended that the City Council adopt the following amendments to the FY 2009-2010 Appropriation Ordinance in the Low- and Moderate-Income Housing Fund (Fund 443):

1. Increase the Second Mortgage Loan Commitment Appropriation by \$2,700,000.
2. Decrease the Unrestricted Fund Balance by \$2,700,000.

OUTCOME

Approval of the recommended action will allow additional homebuyers to be assisted with down payment assistance loans from the New Construction Second Mortgage Loan Program.

BACKGROUND

On March 4, 2008, the City Council approved the creation of a \$10 million Second-Mortgage Loan Commitment Program to assist homebuyers in purchasing homes in newly constructed developments selected through a Notice of Funding Availability (NOFA) process. This program was developed to respond to the mortgage market meltdown, which began in late 2007. At the time, several new construction for-sale developments that had started development at the height of the housing market were now ready to market units. Buyers were reticent to buy and lenders were tightening their lending rules, Under the Program, low- and moderate-income homebuyers

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were eligible to borrow up to \$50,000 to purchase a studio or one-bedroom unit, and up to \$60,000 for a two-bedroom unit or larger.

In April 2008, the Housing Department received eleven applications in response to the NOFA. The \$10 million was proportionately allocated for homebuyers in all eleven new construction housing developments in San Jose.

On May 5, 2009, the City Council approved the Housing Department's recommendation to make the remaining \$4.5 million in uncommitted funds from the original \$10 million appropriation available to homebuyers in any new construction for-sale development.

ANALYSIS

As of June 30, 2009, the Housing Department had approved a total of 131 loans to homeowners through the New Construction Second Mortgage Program. The Program has proven to be extremely popular. Two months after the Council's May action, the Department determined that that all the funds would soon be fully expended. In response, on July 28, 2009, the Department notified developers that only those loan applications for prospective homebuyers who had entered into purchase agreements no later than July 31, 2009 would be accepted. This announcement created a surge in loan application activity, resulting in loan requests totaling \$1,800,000 in excess of the funding appropriation.

Staff is proposing to allocate \$2,700,000 of funding from the Low- and Moderate-Income Housing Fund (Fund 443) Unrestricted Fund Balance. Approximately \$900,000 of the \$2,700,000 is from unexpended funds from the New Construction Second Mortgage Program that were not spent in FY 2008-09. It is requested that these funds be rebudgeted to FY 2009-10.

City Council approval of this memorandum will allow approximately 30 homebuyers who met the July 31st deadline to proceed with their home purchases.

Were funds available, the Department would support additional funding for this Program. It has proven to be quite successful, helping families become homeowners and helping our development community survive in otherwise difficult economic times. However, due to the housing market, the Housing Department has been unable to borrow funds to continue its lending activity and all other 20% Low and Moderate Income Housing funds have been committed to projects. Until the time that the markets allow, no new funding will be available for a program of this type. The Department will continue to administer homeownership programs funded with other State and federal funding, including the popular Teacher Homebuyer Program.

EVALUATION AND FOLLOW-UP

Progress on meeting the homebuyer assistance program objectives outlined in this report will be reported in the City Manager's Weekly Report to the City Council.

POLICY ALTERNATIVES

To arrive at the recommended proposals, staff also considered the following option:

Alternative #1: *Do not increase the funding available for the Second Mortgage Loan Assistance Program.*

Pros: Limiting the funding for this program to the originally approved \$10 million would allow Low- and Moderate-Income Housing Funds to be spent on other affordable housing programs.

Cons: At least 30 low- and moderate-income homebuyers with pending City loan applications would be denied funding for second-mortgage assistance through the New Construction Second Mortgage Program. In most cases, these homebuyers have been in the loan approval process for several months. Additionally, the lost sales will hurt the struggling development community, which is trying to ride out the economic slow down.

**Reason for Not
Recommending:** Homebuyers who are eligible under existing Program rules and met the application deadline will be able to receive second mortgage assistance for newly constructed developments. Developers that are depending on these sales will not be negatively impacted.

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)**

The action proposed in this report meets Criterion 1. Consequently, this report will be posted to the City Council Agenda for September 1, 2009 on the City's website.

COORDINATION

Preparation of this memorandum was coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The actions recommended in this report are consistent with the *2007-2012 Five-Year Housing Investment Plan* objective of providing assistance to lower- and moderate-income homebuyers as part of a broader affordable housing program.

BUDGET REFERENCE

The table below identifies the fund and appropriations proposed to fund the programs recommended as part of this memorandum.

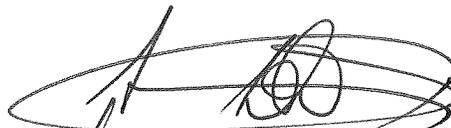
Fund #	Appn #	Appn. Name	Total Appn	2009-2010 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
443	3608	Second Mortgage Loan Commitment	\$1,880,000	XI - 54	N/A
443	8999	Unrestricted Fund Balance	\$5,961,514	XI - 54	N/A

* The Proposed Operating Budget was adopted by the City Council on June 23, 2009.

CEQA

CEQA: Not a project.


LESLYE KRUTKO
Director of Housing


JENNIFER A. MAGUIRE
Budget Director

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