COUNCIL AGENDA: 1/26/10
ITEM: 2.13

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: January 4, 2010

Approved [signature] Date 1-11-09

COUNCIL DISTRICT: 3
SNI AREA: N/A

SUBJECT: APPROVING A CHANGE IN THE SERIES DESIGNATION OF THE PREVIOUSLY-AUTHORIZED ISSUANCE OF TAX-EXEMPT BONDS FOR THE BELOVIDA AT NEWBURY PARK PROJECT

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving a change in the series designation of the previously-authorized issuance of tax-exempt multifamily housing revenue bonds for the Belovida at Newbury Park Project to "City of San José Multifamily Housing Revenue Bonds (Belovida at Newbury Park Senior Apartments), Series 2010B".

OUTCOME

The City Council's approval of the recommended action will clarify the designation of the previously authorized bonds to reflect that they will be sold in January 2010.

BACKGROUND

CORE and EAH (collectively, "Developers") have obtained entitlements and City funding commitments to build a 185-unit affordable senior housing project called Belovida at Newbury Park. The Project is to be developed on a 1.97-acre site located approximately 250 feet East of King Road and approximately 375 feet North of Dobbin Drive. The site is located on the 25-acre new Newbury Park development at the Northeast corner of King Road and Dobbin Drive. San José Transit Village, LLC (SJTV), is the master developer of the site, which will ultimately be developed with between 800 and 1,300 total dwelling units. The Newbury Park neighborhood will be close to the future BART extension to San José, and will include neighborhood-serving commercial uses and a one-acre park. Also to be located at Newbury Park will be the New San José Family Shelter and the Kings Crossing affordable family housing project.

On March 18, 2008, the City Council adopted a resolution approving a loan of up to $17,925,000 to the Project's borrowing entity, of which $9,010,400 financed land acquisition and the remainder financed a construction/permanent loan. The City's land acquisition loan closed in March 2008.

On December 9, 2008, the City Council adopted a resolution approving a reclassification of $500,000 of the previously approved funding commitment to a predevelopment loan.

On May 19, 2009 the City Council adopted a resolution approving an additional reclassification of $450,000 of the previously-approved construction/permanent as predevelopment funds, a construction/permanent loan increase of up to $2,566,607, and the forgiveness of up to $560,000 in accrued interest on the City's predevelopment and acquisition loans. As part of the total City construction/permanent loan of up to $23,614,937, City Council also approved a loan commitment to serve as a backstop for the previously-awarded Infill Infrastructure Grant of $3,123,330 in the event that the State of California cannot fund this during construction.

On October 27, 2009, the City Council adopted a resolution approving the issuance of tax-exempt multifamily housing revenue bonds in an aggregate principal amount not to exceed $26,200,000, a loan of the bond proceeds to Belovida at Newbury Park, L.P., and a change in the project's income restrictions. The Bonds will be non-rated and not credit-enhanced and will be structured as a private placement with Bank of America as the initial purchaser.

On December 17, 2009, pursuant to the Delegation of Authority granted to the Director of Housing by the City Council by Chapter 5.06 of Title 5 of the San José Municipal Code, the Director of Housing approved business terms for an interim construction loan of up to $1,400,000 from the previously-approved construction/permanent loan to the Project. The funding of this loan enabled the Project to pay more than $991,000 in City permit costs and fees, to get local construction jobs started as quickly as possible, and to start site grading and trenching so as to stay on schedule for its construction and lease-up deadlines imposed by the proposed upper-tier investor, JP Morgan Chase.

ANALYSIS

Hudson Housing Capital LLC ("Hudson") is the tax credit syndicator for this Project. Hudson obtains its equity from various upper-tier investors in need of low-income housing tax credits. Hudson's proposed upper-tier investor for this Project is JP Morgan Chase.

The need for a change in the bond series designation arose as a result of a delay by JP Morgan Chase in bringing its equity investment request to its internal credit committee. Originally, the request was to be heard by the credit committee on December 4, 2009, which would have provided sufficient time for the financing for the project to close by the CDLAC imposed deadline of December 7, 2009, as scheduled. In late November, the financing team was informed that December 18, 2009 was the earliest that JP Morgan could bring the project to its committee.

On advice from its financial advisor and bond counsel for this transaction and internal legal counsel, staff opted to wait to close the bonds after the upper-tier investor is formally admitted to the partnership. Therefore, the bond issuance could not close by the required December 7, 2009 deadline, and the project was forced return its 2009 bond issuance allocation.

In making this decision, City staff worked with bond counsel and CDLAC staff in requesting that CDLAC accept the 2009 allocation back and agendize the project for a new 2010 authorization at CDLAC's January 27, 2010 meeting. CDLAC has confirmed that the project will not be forced to surrender its CDLAC deposits, and that the developer will not be assigned negative points for the return of the allocation. Assuming the new CDLAC authorization is approved, which has a very high likelihood of occurring, it will enable the bonds to close immediately thereafter in late January.

A change in the bond series designation allows the Developer to seek approval of a 2010 tax-exempt bond allocation from CDLAC and close the project's financing as soon as possible in late January 2010. Approval of the recommendation allows this shovel-ready project to proceed.

Staff therefore recommends the requested approval the bond series designation from Series 2009A to Series 2010B.

EVALUATION AND FOLLOW-UP

If these actions are approved, the City Council will later be able to track the project's construction status through the Housing Department's quarterly construction report available on-line at the Department's website: http://www.sjhousing.org/report/quarter.html.

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)

Although this memorandum's recommendations do not meet any of the above criteria, it will still be posted to the City Council Agenda via City's website.

COORDINATION

This report has been prepared by the Housing Department in coordination with the Finance Department and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

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

COST SUMMARY/IMPLICATIONS

There are no cost implications of changing the bonds' series designation. Compensation for the financing team participants (financial advisor, bond counsel, and trustee) and the costs of the financing are contingent on the sale of the Bonds and will be paid from Bond proceeds, City loan proceeds, and/or equity. The Bonds are tax-exempt obligations secured by mortgage loans payable from Project revenues. No payment of the Bonds will be paid from, or guaranteed through, the general taxing power of the City or any other City asset.

Once the Bonds are issued, the City will receive revenues from an initial issuance fee of approximately $83,975 and annual monitoring fees of $28,487 for two years and then $13,500 annually for 30 years or until the bonds are retired.

CEQA

CEQA: Mitigated Negative Declaration No. PDC07-015.

LESLYE KRUTKO
Director of Housing

For questions please contact LESLYE KRUTKO, DIRECTOR OF HOUSING, at 408-535-3855

Attachment

Attachment 1
Site Map