



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Corsiglia
Scott P. Johnson

SUBJECT: SEE BELOW

DATE: November 23, 2010

11/26/10

COUNCIL DISTRICT: 5
SNI AREA: Mayfair

SUBJECT: CONDUCTING A TAX EQUITY AND FISCAL RESPONSIBILITY ACT ("TEFRA") HEARING FOR THE ISSUANCE OF TAX-EXEMPT BONDS BY THE CALIFORNIA STATEWIDE COMMUNITY DEVELOPMENT AUTHORITY ("CSCDA") FOR THE BENEFIT OF THE McCREERY COURTYARDS PROJECT LOCATED AT 1884 ALUM ROCK AVENUE AND 71, 73 AND 75 McCREERY AVENUE, AND ADOPT A RESOLUTION APPROVING THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS BY CSCDA

RECOMMENDATION

It is recommended that the City Council take the following actions regarding the McCreery Courtyard Apartments Project to be located at 1884 Alum Rock Avenue and 71, 73 and 75 McCreery Avenue in San José, CA:

- (a) Conduct a Tax Equity and Fiscal Responsibility Act ("TEFRA") Hearing for the issuance of up to \$25,000,000 of Tax-Exempt Multifamily Housing Revenue Bonds (the "Bonds") by the California Statewide Community Development Authority ("CSCDA") and issuance of any refunding bonds hereafter issued for the purpose of refinancing the Bonds which financed the Project (the "Refunding Bonds"), but only in such cases where federal tax laws would not require additional consideration or approval by the City Council for the benefit of the McCreery Courtyard Apartments Project.
- (b) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by CSCDA in an aggregate principal amount not to exceed \$25,000,000 to be used to provide

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construction and permanent financing for a 93-unit affordable housing project known as McCreery Courtyard Apartments.

OUTCOME

The City Council's approval of the recommended action will enhance the prospects for construction of 92 apartments affordable to households with incomes between approximately \$26,400 and \$93,650, depending on household size, and one unrestricted manager's unit. Approval of the issuance of the Bonds and Refunding Bonds does not constitute approval for any other purpose.

BACKGROUND

On September 30, 2008, the City Council approved a funding commitment of up to \$7,900,000 to Pacific West Communities ("PWC"), or its designated affiliate, for the acquisition, construction and permanent financing for the development of the 93-unit McCreery Courtyards, an affordable multifamily rental project ("Project") located on McCreery Avenue, south of Alum Rock Avenue, to be made available to households with incomes between approximately \$26,400 and \$93,650, depending on household size.

The proposed five-story structure will have one level of parking below four stories of residential units. The project will offer 46 apartments that will be affordable to extremely low-income families, 46 units affordable to very low-income families, and one unrestricted managers' unit. The unit mix will include 55 two-bedroom units and 38 three-bedroom units (including a three-bedroom manager's unit). Amenities will include a community room/lounge with a common kitchen, computer lab, laundry facilities, exercise room, TV room, and a children's play structure. Each unit will be wired for internet access.

PWC requested that the California Statewide Communities Development Authority ("CSCDA") be the issuer of tax-exempt bonds, which are the primary source of outside funding for the project, and has applied for a tax-exempt bond allocation from the California Debt Limit Allocation Committee ("CDLAC"). CSCDA has an allocation of tax-exempt bonds it can issue in 2011 pursuant to the New Issue Bond Program ("NIBP"), authority provided by the Housing and Economic Recovery Act of 2008, which provides low interest rates and long term tax-exempt bond financing.

CSCDA was established in 1988 under the California Government Code as a statewide Joint Powers Authority to provide local governments and private industry access to tax-exempt low-interest financing to achieve public benefit goals. The City is a member of CSCDA pursuant to the amended and restated joint exercise of powers agreement relating to CSCDA ("JPA Agreement"). Pursuant to the JPA Agreement, the City, as the jurisdiction in which the proposed project is located, must conduct the TEFRA hearing and provide its approval or disapproval of

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the proposed project. In order for CSCDA to issue bonds within the territorial limits of San José, pursuant to Section 147(f) of the Internal Revenue Code of 1986, the City must approve the issuance.

No later than thirty days prior to the CDLAC allocation meeting on January 26, 2011, CDLAC requires that the TEFRA hearing be conducted. A TEFRA hearing is required to give the public an opportunity to provide input on the potential bond issuance and can be held only after a 15-day public notice period. Public notice has been given that the City Council will hold the TEFRA hearing at its December 14, 2010 meeting.

ANALYSIS

The City Council has adopted a Policy for the Issuance of Multifamily Housing Revenue Bonds, ("Policy") which prescribes the policy guidelines for the issuance of bonds for affordable housing projects. In general, the Policy requires that the City be the bond issuer if there is City financing (loans/grants) as part of the financing plan. The Policy allows an exception to this general rule in cases where issuance by an outside entity results in substantially better project financing.

The City has recognized that special circumstances exist as described in the Policy in that the NIBP bonds provided pursuant to the Housing and Economic Recovery Act of 2008 offer favorable terms that are not otherwise available for the construction and permanent financing for this affordable housing project. PWC anticipates that issuance of bonds by CSCDA will, in this case, result in lower bond costs and will minimize the amount of the City financing ultimately needed for the project.

In the absence of additional funds from the City, which are not available at this time, the project is currently not financially feasible without NIBP financing. Given the level of existing City investment in this project, it is in the City's best interest to enable this project to commence construction. In addition, to providing much-needed housing, the project also generates economic benefits for the local economy.

According to a 2009 study on the economic benefits to local areas for multifamily construction by the National Association of Homebuilders (NAHB), 93 family apartments constructed using Low Income Housing Tax Credit equity are estimated to generate over \$7.5 million net in local revenues in the first year and approximately \$2.4 million each year thereafter. In addition, it is also anticipated that proceeding with and completing the development of this project will create 140 local jobs in San José in the first year, directly and indirectly through multiplier effects, and 35 local jobs each year thereafter.

The Housing Department and the Developer will execute a term sheet that ensures that the City's needs for notice, document review and cure rights related to the City loan are incorporated into the bond documents.

EVALUATION AND FOLLOW-UP

The Housing Department posts quarterly reports on the status of its subsidized construction projects to its website, www.sjhousing.org. When PWC is successful in assembling all needed sources of financing, updates on McCreery's construction progress would be included in these reports.

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 recommendation does not meet any of the above criteria, it will be posted to the City's website for the December 14, 2010 Council Agenda.

COORDINATION

This report has been coordinated with the Office of the City Attorney.

FISCAL/POLICY ALIGNMENT

This recommendation is consistent with the City's *2007-12 Five-Year Investment Plan* for increasing the supply of affordable housing, and with the City's *2010-15 Consolidated Plan* by supporting the creation of units affordable to very low- and extremely low-income households.

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CEQA

CEQA: Mitigated Negative Declaration, and addenda thereto, file number PDC04-088.

/s/
SCOTT P. JOHNSON
Director of Finance

/s/
LESLYE CORSIGLIA
Director of Housing

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