



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL AND
CITY OF SAN JOSE FINANCING
AUTHORITY BOARD

FROM: Leslye Corsiglia
Scott P. Johnson

SUBJECT: SEE BELOW

DATE: January 19, 2011

Approved

Date

1/19/11

COUNCIL DISTRICT: 2
SNI AREA: N/A

SUBJECT: APPROVAL OF FUNDING COMMITMENTS AND RELATED DOCUMENTS FOR THE FORD AND MONTEREY SPECIAL NEEDS APARTMENTS AND FAMILY APARTMENTS BEING DEVELOPED BY EDEN HOUSING, INC.

REASON

This memorandum is being brought to City Council on an expedited basis so that the project can continue to move forward in order to meet its NSP2 required deadline for occupancy of the completed project.

RECOMMENDATION

A) Adoption of a resolution of the City Council:

1. Authorizing the Director of Housing to negotiate and execute an amended consortium agreement with The Housing Trust of Santa Clara County ("HTSCC") under the Neighborhood Stabilization Program 2 ("NSP2") in an amount up to \$3,000,000 for construction of the 20-unit Ford and Monterey Special Needs Apartments ("Project" or "Phase I");
2. Approving a funding commitment to Eden Housing, Inc., or its designated affiliate ("Eden") for up to \$3,000,000 for a Project construction/permanent loan funded from NSP2 (Fund 448);

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3. Approving a pledge of a City owned 3.06 acre land parcel as collateral to secure a \$500,000 predevelopment from the Housing Trust of Santa Clara County (HTSCC) to Eden Housing, Inc. or its designated affiliate ("Eden") and authorizing the Director of Housing to negotiate and execute an intercreditor agreement with HTSCC;
4. Authorizing the Director of Housing to negotiate and execute an agreement with the City of San José Financing Authority related to the ground lease revenues of the Project and ultimate disposition of the Project improvements and the Project site (the "Site").

B) Adoption of a resolution of the City of San José Financing Authority Board:

1. Authorizing the Executive Director of the City of San José Financing Authority, (the "Authority"), or designee, to acquire the Site from the City and negotiate and execute a ground lease of the Site to the Borrower for a term of up to 75 years with an annual rent of \$1.00 for the first 55 years; and,
2. Authorizing the Executive Director of the Authority, or designee, to negotiate and execute an agreement with the City of San José related to the ground lease revenues from the Project and the ultimate disposition of the Project Improvements and the Site.

OUTCOME

City Council approval of the amended consortium funding agreement with HTSCC would allow up to \$3,000,000 in NSP2 funds, originally stipulated for acquisition and rehabilitation of foreclosed residences, to be used for construction and permanent financing of the Project.

The recommended action would assist the City in meeting the NSP2 requirement to set-aside \$6,250,000, or 25 percent of the \$25,000,000 grant awarded to the consortium, for housing targeted to Very Low-Income (VLI) households. Further, the recommended action would enable 19 units of affordable housing (and one manager's unit) to be built in the City that will be affordable to Extremely Low-Income (ELI) and Very Low-Income (VLI) special needs individuals and families with incomes between \$21,750 and \$41,400 per year, respectively.

City Council approval of the funding commitments to Eden would result in sufficient financing commitments for the Ford and Monterey Project to go forward at this time, take advantage of the project's awarded U.S. Department of Housing and Urban Development (HUD) financing, and meet the required NSP2 project completion and occupancy deadline.

BACKGROUND

In June 2006, the City Council authorized the Housing Department purchase of a 3.06-acre vacant site from the Santa Clara Valley Transportation Authority. This site, located on the north side of Ford Road approximately 550 feet east of Monterey Road (the "Ford and Monterey site"), is intended for development of an affordable housing project on an under utilized vacant property

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located between an existing shopping center on Monterey Road, and an existing single-family residential neighborhood to the east in South San Jose.

After completion of a competitive RFQ process in 2008, Eden was recommended as the preferred developer of the Ford and Monterey affordable housing development. On December 9, 2008, the City Council approved Eden to enter into exclusive negotiations for the site and to execute a ground lease option agreement with the City for development of 75 family affordable apartments and 20 units of special needs housing apartments. Eden has subsequently obtained Planned Development (PD) Zoning and PD Permit approval for this project.

The subject of this Memorandum, the Phase 1 site, is an approximately 28,681 square feet (approximately 0.66 acres) portion of the entire 3.06 acre Ford and Monterey site to be subdivided from the entire site that is currently owned by the City. The development of the 75 family apartments cannot proceed at this time due to lack of gap financing from the City.

In order to develop the Ford and Monterey site in phases, Eden has already obtained a PD amendment and a Planned Tentative Map so that the Special Needs Apartments can be constructed with Federal funds before development of the Phase II family apartments, which does not yet have its financing assembled.

At the Redevelopment Agency/City Council/Financing Authority Special meeting on January 19, 2011, the Housing Department requested approval to commit 20% Low and Moderate Housing Funds totaling \$1,430,000 to Eden for the Project as follows:

- A conditional financing commitment of \$190,000 for Affordable Housing Program (AHP), in case the AHP award is not obtained in time to meet HUD's financing deadlines;
- A conditional financing commitment for the \$500,000 HTSCC loan, in case HUD does not approve HTSCC as a private lender; and,
- A bridge loan of \$740,000 to cover Phase II infrastructure costs that must be completed during the Phase I construction, per the City's requirements.

Total project cost of the Special Needs Apartments is currently budgeted at \$7,463,017. Eden has obtained a financing commitment for a HUD 811 Capital Advance first mortgage construction and permanent loan of \$2,972,000 for special needs populations. The HUD 811 loan also carries a HUD Project Rental Assistance Contract ("PRAC") of \$109,300 per annum for three year, which is expected to be renewed after the three-year period. The project also has an award of \$500,000 in HTSCC loan funds. In addition to City financing, Eden is seeking an Affordable Housing Program forgivable loan from the Federal Home Loan Bank.

ANALYSIS

The proposed Project will serve special needs households as required under the HUD 811 loan commitment. The likely incomes of households will range between \$21,750 and \$41,400 per year. Of the Project's 20 units, 18 will be affordability-restricted to VLI households earning up

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to 50% of Area Median Income (AMI), with one non-special needs unit restricted to 50% AMI and one manager's unit restricted up to 120% AMI. In fact, the affordable units will be underwritten and operated at much deeper affordability levels to include 17 ELI units affordable to households at or below 25% AMI and two (2) VLI units affordable to households at or below 45% AMI. Sixteen (16) units will be one-bedroom units and four (4) units will be two-bedroom units. Deeper affordability restrictions than 50% of AMI are not being imposed because the HUD 811 program requires affordability restrictions be set no lower than 50% AMI.

Under terms approved by the City Council for the ground lease Option, the site will be conveyed from the City to the Authority and leased to Eden's development entity under a 75-year ground lease. For the first 55 years, the rent will be \$1.00 per year. Continued ownership of the land by the City or the Authority is preferable in order to better control long-term affordability of the Project and control over future developments at that location. The remainder of the Ford and Monterey site is anticipated to be leased to the Phase II Eden development entity when the Phase II construction funding is available.

There are several reasons that Eden's planned 20-unit special needs housing project is an ideal candidate to receive an NSP2 loan. First, the Project meets the criteria under which the Consortium received its NSP2 award in that it serves very low-income households. Second, NSP2 usage and occupancy deadlines are very strict, and it is expected that Eden can meet HUD's requirement to complete construction and achieve 100% occupancy by the February 11, 2013 deadline. If deadlines are not met, HUD can recapture the NSP2 award of up to the full amount of the award of \$25 million. Eden also conducted a NEPA study in anticipation of its federal financing through the HUD Loan, which is required under NSP2 and would have otherwise delayed the timeframe. Finally, the Project had already gone through the City's RFQ competitive selection process for this site, which process adheres to HUD's guidance under this program.

The requested approval for pledging the City owned 3.06 acre land parcel as collateral for the HTSCC predevelopment loan is necessary to enable Eden to obtain financing to pay costs of predevelopment prior to construction loan closing. The 3.06 acre land parcel will be subdivided. The City will execute an intercreditor agreement with HTSCC to provide for transfer of the collateral assignment to the Phase I site subsequent to the subdivision of the larger parcel and for HTSCC to subordinate to the City construction and permanent loan and other Project financing.

Due to the deep affordability of the Project, the appraisal being prepared for HUD is expected to result in a combined loan to value that will be significantly higher than the City's loan-to-value ("LTV") maximum guideline of 100%. However, this result is considered acceptable since debt service payments are not expected to be required, given the special needs nature of the residents, which will result in limited rent revenues. The presence of positive cash flow is considered a better measure of project financial viability by the lending industry than LTV for such low-income apartments.

Finally, use of the City's limited resources is quite justified for a project such as this one. Housing special needs residents requires extremely low rents, making the need for subsidy

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significant. The City's funds are being leveraged by the other sources, including scarce rental subsidies such as those being provided in conjunction with the HUD 811 loan.

Economic Development Benefits

Taking actions to further this project will benefit San José economically in three ways. First, the developer expects to pay City fees of \$600,000 in order to proceed with the development process. Second, total local impacts for communities in the area are defined as benefits of the direct construction activity itself as well as the impact of local residents who earn money from the construction activity and spend part of it within the area. According to a 2009 study by the National Association of Homebuilders (NAHB) on the economic benefits to local areas for multifamily low-income housing tax credit-funded construction, 20 units of family housing are estimated to generate over \$1.6 million of local benefits in the first year and approximately \$0.6 million each year thereafter. Third, according to the NAHB metrics, it is also anticipated that proceeding with and completing the development of the Project will create 30 local jobs in San José in the first year, directly and indirectly, and 8 local jobs each year thereafter.

EVALUATION AND FOLLOW-UP

The Housing Department posts quarterly reports on the status of its subsidized construction projects to its website, www.sjhousing.org. If approved, the Ford and Monterey Special Needs Apartments would be included in these reports.

POLICY ALTERNATIVES

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

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

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

Cons: The subject project is the only multifamily project that is able to meet the NSP2 guideline requiring project construction completion and occupancy by the program deadline of February 11, 2013. Delaying funding of the project may result in a missed opportunity for NSP2 funding resources for multifamily housing. Additionally, the City has already entered into a lease option agreement with Eden Housing to lease the land under a long-term lease and is expected to proceed with a second phase 75-unit family affordable apartment project, at such time as the City is able to provide gap financing.

Reason for not recommending: The proposed project will help to meet the demand for deeply affordable special needs housing that is affordable to ELI and VLI households and will help the City to fulfill its affordable housing goals. Approval of this project financing will ensure that this very important affordable housing project will

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move ahead in a timely manner and will leverage NSP2 and HUD funds.

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. A copy of the City Council memo will be posted to the City's website.

Consistent with the City Council Public Outreach Policy, a sign was posted on-site by the developer, Eden Housing, Inc. to notify neighbors of the proposed development and planned community meetings to be held by the developer. Meeting notices were also published via email to the neighborhood association, Silver Leaf Neighborhood Coalition. A preliminary community neighborhood meeting was held February 3, 2009, followed by five additional community meetings April 18, June 24, July 15, September 1, and September 16, 2009. The meetings presented preliminary design concepts to the community and gathered feedback. The main concerns expressed related to affordable housing's impact on surrounding property management issues and impact on neighborhood property values. Residents living in homes adjacent to the site also expressed concerns about privacy, as the original site plan had placed buildings adjacent to the property line. Eden revised the site plan before submitting a PD zoning application to move the buildings away from this property line to respond to community concerns. This memorandum will be posted on the City's website for the January 25, 2011 City Council agenda.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

This expenditure 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, 2005-10* in providing units for very low- and extremely low-income households and for large renter households.

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COST SUMMARY/IMPLICATIONS

1. ESTIMATED COSTS OF COMMITMENT:

<u>USES</u>	<u>AMOUNT</u>
Land (ground lease)	\$10,100
Hard Costs	2,190,105
Soft Costs	799,795
TOTAL	\$3,000,000

2. SOURCES OF FUNDING: Fund 448 – Multi-Source Housing Fund

3. FISCAL IMPACT: No ongoing fiscal impact.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract	2010-11 Adopted Operating Budget	Last Budget Action (Date, Ord. No.)
448	3790	Recovery Act – Neighborhood Stabilization Program 2	\$8,973,940	\$3,000,000	N/A	10/19/2010 Ord. #28829

CEQA

Mitigated Negative Declaration, PDC09-022

/s/
LESLYE CORSIGLIA
Director of Housing

/s/
SCOTT P. JOHNSON
Director of Finance

For questions, please contact LESLYE CORSIGLIA, Director of Housing, at 408-535-3851.

attachments

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ATTACHMENT 1

Anticipated Project Timeline Ford and Monterey Special Needs Housing

City Council Approval of Funding Commitment	February 2011
Federal Home Loan Bank Application for Affordable Housing Program Award	March 2011
HUD 811 Firm Commitment Application	August 2011
HUD 811 Receipt of Funds and Start of Construction	January 2012
Completion of Construction and Full Occupancy	January 2013

ATTACHMENT 2

MAP
Ford and Monterey Site

