COUNCIL AGENDA: 1/10/12 ITEM: 4



Memorandum

TO: HONORABLE MAYOR AND

CITY COUNCIL

FROM: Leslye Corsiglia

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SUBJECT: SEE BELOW

DATE: December 6, 2011

Approved

Date

12/14/11

SUBJECT: SECOND AMENDMENT TO THE AGREEMENT WITH THE HOUSING

TRUST OF SANTA CLARA COUNTY UNDER THE AMERICAN

RECOVERY AND REINVESTMENT ACT OF 2009 - NEIGHBORHOOD

STABILIZATION PROGRAM 2

RECOMMENDATION

Adopt a resolution authorizing the City Manager or designee to negotiate and execute the Second Amendment to the Consortium Funding Agreement with The Housing Trust of Santa Clara County (HTSCC or Housing Trust) under the Neighborhood Stabilization Program 2 (NSP2) to redirect Program Income from the San José Dream Home Program directly to the Housing Trust instead of the City of San José.

OUTCOME

As the Lead Consortium Member, the Housing Trust is responsible for managing NSP2 funds. This action will improve the ability of the Housing Trust to manage income generated from NSP2 activities (Program Income) and will simplify Program Income tracking and reporting. This document also provides Council with an update on the status of NSP2 implementation.

BACKGROUND

In May 2009, a Notice of Funding Availability for \$1.93 billion was issued for NSP2 funds authorized under the 2009 American Recovery and Reinvestment Act (ARRA). These funds were allocated on a competitive basis to states, local governments, and nonprofit organizations. In July 2009, the City, the Housing Trust, and Neighborhood Housing Services Silicon Valley (NHSSV), entered into a consortium agreement and submitted a \$25 million request for NSP2 funds under the San José NSP2 Consortium (Consortium) with HTSCC as the Lead Member.

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On January 14, 2010, the US Department of Housing and Urban Development (HUD) announced that San José was one of 56 recipients of NSP2 funding. The Consortium was awarded \$25 million to implement various NSP2 activities including providing secondary financing for income-eligible purchasers of foreclosed homes, and the acquisition, rehabilitation and re-sale of foreclosed properties. The Housing Trust was the named grantee for the award, and as such was required by HUD to enter into a consortium funding agreement with the City to authorize the City to pursue eligible activities and to allocate the grant funds to the City for such activities. On April 6, 2010, the Council accepted the grant funds and authorized the Director of Housing to negotiate and enter into the Consortium Funding Agreement with HTSCC to provide the City with funding in the amount of \$19,139,324.

On October 4, 2011, the Council adopted the Housing Department's recommendation to negotiate and execute the First Amendment to the Consortium Funding Agreement to authorize the capitalization of interest on NSP2 construction loans made for multifamily rental projects. The Council also authorized the City Manager to negotiate and execute any future amendment to the Consortium Funding Agreement for City staffing changes or for reallocation of funds between the various Consortium Funding Agreement activities.

San José Dream Home Program Update

One of the activities funded under the Consortium Funding Agreement is the San José Dream Home Program. This Program finances the acquisition, rehabilitation, and assisted re-sale of foreclosed single family homes in high foreclosure areas to low- and moderate- income buyers. Under the NSP2 requirements, 50% of the initial funding allocation must be expended by February 12, 2012, and 100% of NSP2 funds must be spent by February 11, 2013. The Program's goal is to rehabilitate and resell 64 foreclosed single family homes before February 11, 2013.

On August 2, 2010, the Consortium published a Request for Proposal (RFP) for the selection of developers that would be charged with searching for NSP2 eligible foreclosed homes in the various impacted areas, acquiring such homes at NSP2 required reduced prices, rehabilitating the homes to Consortium and NSP2 Program standards, and selling the homes to eligible buyers consistent with the NSP2 deadlines. In the interest of operating this Program in a streamlined manner consistent with federal prevailing wage (Davis-Bacon) requirements, the Consortium RFP stated that the City's prevailing wage would apply where a developer was concurrently acquiring or rehabilitating eight or more homes. (The City prevailing wage policy has an exemption for "City housing projects, both new construction and rehabilitation, involving less than eight dwelling units".) The RFQ's approach was selected because it was simple to administer for a program involving single homes in scattered locations, and aligned with the federal prevailing wage exemption for residential properties with less than eight units.

On November 9, 2010, the Council approved staff's recommendation to select The Cypress Group and Community Rehabilitation Partners (CRP), to implement the San José Dream Home Program. Both entities are local businesses that utilize subcontractors that are predominately

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located in the City of San José. Contracts with the two developers were executed in December 2010.

Since the Housing Department began implementing the San José Dream Home Program, a total of 33 homes have been purchased. Of these homes, 16 have completed rehabilitation, of which eight have been sold, seven are currently on the market, with one more being placed on the market shortly. The remaining 14 homes are in the process of rehabilitation or are awaiting the City's approval to start construction.

The Neighborhood Stabilization Program 2 Consortium has met the U.S. Department of Housing and Urban Development's interim goal of spending 50% of Program funds by February 12, 2012, and is on target to meet the February 11, 2013, deadline to complete the acquisition, rehabilitation, and resale of 64 homes in San José's most economically distressed neighborhoods.

ANALYSIS

The San José Dream Home Program will generate a near term return on the NSP2 funds expended due to the resale of the rehabilitated homes. Such a return of funds is considered to be NSP2 Program Income by HUD. As the Lead Member of the Consortium, the Housing Trust is responsible to HUD for ensuring that all of funds including Program Income are spent appropriately for NSP2 approved activities.

Under the current Consortium Funding Agreement, Program Income comes directly to the City. The City's Housing Department then accounts for the revenue and can spend the funds to purchase homes consistent with the San José Dream Home Program manual. The Housing Trust has asked that the Consortium Funding Agreement be modified so it can better meet its oversight responsibility for expenditure of funds. Once the Amendment has been approved by HUD and executed by the parties, the Housing Trust will hold the Program Income generated by the San José Dream Home Program and the City's Housing Department will make requests to the Housing Trust for Program Income to expend to purchase homes consistent with the San José Dream Home Program manual or for other NSP2 authorized uses.

The Housing Department has no objection to this request as it will help the Housing Trust fulfill its requirements and provide for a clearer separation between revenue oversight and expenditure responsibilities.

EVALUATION AND FOLLOW-UP

Performance of the Dream Home Program will be updated in the Consolidated Annual Performance Evaluation Report, which reports the outcome of all City HUD-funded programs to the Council at the end of each fiscal year. Additionally, performance will be reported on a quarterly basis through the ARRA-required FederalReporting.gov reporting system to account for job creation and retention, and to provide overall transparency on the Consortium's members

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and its subcontractors. Activity accomplishments, obligations, and drawdowns will be reported on HUD's Disaster Recovery Grant Reporting System on a quarterly basis and posted on the City's website as required.

POLICY ALTERNATIVES

Alternative #1: Do not authorize the Second Amendment to the Consortium Agreement.

Pros: The City would retain income generated from the sale of homes purchased and rehabilitated through San José Dream Home Program funds.

Cons: HTSCC is responsible for overseeing expenditure of NSP2 funds. Not approving this recommendation would impede their ability to perform this function.

Reason for not recommending: This action will improve the ability of the Housing Trust to manage NSP2 funds and will simplify Program Income tracking and reporting. Per the Consortium Agreement, all Program Income will be returned to the City to implement the San José Dream Home Program.

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)

These criteria are not applicable to the recommendations proposed in this memorandum. This memorandum will be posted on the City's website for the January 10, 2012 Council agenda.

COORDINATION

This memorandum was coordinated with the Housing Trust and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This expenditure is consistent with the most recent Council-adopted Five Year Housing Investment Plan for FY 2007/2008 through FY 2011/2012, which sets forth a goal of

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constructing 2,250 affordable rental units and providing at least 553 new low- and moderate-income homebuyers with down payment assistance during the five-year period. Utilization of this new, temporary funding source is also in alignment with the strategy of aggressively seeking funds from local, state, and federal sources as described in the FY 2009-10 Consolidated Annual Action Plan.

CEQA

Not a Project, File No. PP10-066, Agreements/Contracts.

/s/
LESLYE CORSIGLIA
Director, Housing Department

For questions, call Leslye Corsiglia, Director of Housing, at (408) 535-3851.