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CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Leanna Bieganski

SUBJECT: **Early Council Packet**

DATE: May 1, 2012

Approved

Date 5-1-12

EARLY DISTRIBUTION COUNCIL PACKET FOR MAY 15, 2012

Please find attached the Early Distribution Council Packet for the May 15, 2012 Council Meeting.

4.x Actions Related to the County Children's Shelter.

Recommendation: Adopt a resolution authorizing the City Attorney to execute a settlement agreement with the County of Santa Clara releasing the City's claims and agreeing to remove the City's affordability restrictions from the County Children's Shelter property and authorizing the Director of Housing to negotiate and execute all agreements and documents needed to implement the settlement. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)

5.x Agreement with the Roman Catholic Welfare Association of San José (Archbishop Mitty High School) for the Renovation, Operation, Maintenance and Joint Use of John Mise Park.

Recommendation: Approve an agreement with the Roman Catholic Welfare Association of San José (Archbishop Mitty High School) for the funding, renovation, operation, maintenance, and joint use of John Mise Park with the following terms:

(a) Term of 13 years with an automatic extension of 12 years if Mitty complies with all terms of the agreement for a possible total term of 25 years;

(b) Financial contribution in the amount of up to $3,500,000 from City and up to $375,000 from Archbishop Mitty High School for renovation of the sports field;

(c) In-kind contribution from Archbishop Mitty High School for park maintenance in exchange for exclusive use of the sports field and parking spaces during certain hours;

(d) Financial contribution of up to $175,000 from Archbishop Mitty High School for replacement of the artificial turf for the sports field; and

(e) Exempt the agreement from the liquidated damages requirements of the City's Prevailing Wage Policy as set forth in Resolution No. 71584, adopted by the City Council on May 23, 2003.

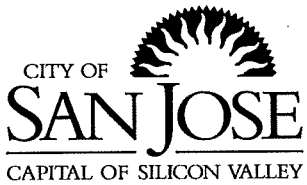
CEQA: Categorically Exempt, File No, PP12-021. Council District 1. (Parks, Recreation and Neighborhood Services)

TO BE DISTRIBUTED SEPARATELY

These items will also be included in the Council Agenda Packet with item numbers.

/s/
LEANNA BIEGANSKI
Council Liaison

COUNCIL AGENDA: 5-15-12
ITEM:



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: RICHARD DOYLE
City Attorney

SUBJECT: **Settlement Agreement Between City and County – County Children's Shelter**

DATE: May 1, 2012

RECOMMENDATION

Adopt a resolution authorizing the City Attorney to execute a settlement agreement with the County of Santa Clara releasing the City's claims and agreeing to remove the City's affordability restrictions from the County Children's Shelter property and authorizing the Director of Housing to negotiate and execute all agreements and documents needed to implement the settlement.

OUTCOME

Approval of the transaction will provide for the replacement of affordable units and allow the County to sell the County Children's Shelter property unencumbered by the City's affordability restriction.

BACKGROUND

In 1994, the City made a $1.5 million loan from 20% Set Aside funds to the County of Santa Clara ("County") to assist with the financing of a residential Children's Shelter ("Shelter") and recorded an affordability restriction against the Shelter property. In 1999, the City made an $800,000 grant to the County from 1993 Series B tax exempt bond proceeds that was used to pay down the outstanding loan principal. Since 2009, the County has ceased residential use of the Shelter, limiting its function to intake and stays of less than 24 hours. Since that time City and County staff have engaged in informal discussions regarding a settlement addressing the requirements of the City's affordability restrictions, note, and loan and grant agreement and the County's desire to sell the Shelter.

ANALYSIS

City staff and County staff discussed the various ways the Shelter might be brought into compliance with these requirements, but the County decided to offer the Shelter

property for sale in accordance with its surplus property procedures and the best offer was from a purchaser who did not intend to use the property for affordable housing.

Staff negotiated settlement terms that include that upon close of escrow for the sale of the Shelter:

(1) the County will make a payment of $5.1 million as directed by the City for new affordable housing that will replace the lost affordable units;

(2) the Shelter affordability restrictions will be removed from the County Children's Shelter property by the City;

(3) the City will forgive/release the obligations including repayment under the loan and grant;

(4) the County will provide a backstop loan of up to $1.35 million to the Donner Lofts project if certain anticipated State Mental Health Services funds are not awarded to that project;

(5) the County's agreement to invest a percentage of sales proceeds in a governmental use in compliance with recommendations of City's bond counsel within two years of the sale; and

(6) the County will pay half of City bond counsel fees up to $5,000.

This settlement will allow the City to ensure that the affordability restrictions currently recorded on the Shelter are transferred to a suitable new affordable project, and that the County is able to sell its property and fulfill its goal of moving away from a residential shelter model for foster care, and that the proposed change in use of the Shelter property is addressed as required by the IRS.

The Director of Housing will negotiate and execute any documents needed to comply with the terms of the settlement agreement.

PUBLIC OUTREACH/INTEREST

This memorandum has been included in the Early Distribution Council packet. This memorandum and the proposed settlement agreement have been posted on the City's website for the May 15, 2012 City Council agenda.

COORDINATION

The City Attorney's Office has coordinated the terms of the proposed settlement with the Housing Department and the City Manager.

CEQA

Not a Project; File No. PP10-066(h), Settlement Agreements.

RICHARD DOYLE, City Attorney

By _____
S. SHASTA GREENE
Deputy City Attorney

cc: Debra Figone, City Manager
Leslye Corsiglia, Director of Housing

For questions please contact S. Shasta Greene, Deputy City Attorney, at (408) 535-1900