



Memorandum

TO: CITY OF SAN JOSE FINANCING
AUTHORITY BOARD

FROM: Julia H. Cooper
Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: July 16, 2012

Approved

Date

7/27/12

COUNCIL DISTRICT: 7

**SUBJECT: CONSENT OF THE SAN JOSE FINANCING AUTHORITY TO THE
RECORDING OF A SUBORDINATE LEASEHOLD DEED OF TRUST
AGAINST THE GROUND LEASE FOR THE ORVIETO FAMILY
APARTMENTS**

RECOMMENDATION

It is recommended that the San José Financing Authority Board (the "Authority Board") adopt a resolution authorizing:

- a) Approval of the recording of a subordinate leasehold deed of trust in the amount of \$910,000 against the Ground Lease between the San José Financing Authority ("Authority") and Orvieto Family Apartments, L.P. for the Orvieto Family Apartments.
- b) The Executive Director of the Authority Board to execute all documents pertaining to this approval.

OUTCOME

Approval of the recommended actions will allow the previously approved loan for the 92-unit Orvieto Family Apartments (the "Project") to be converted to permanent loan status, ensuring that the Project is fully financed for the term of the development.

BACKGROUND

The Project's borrower, Orvieto Family Apartments, L.P., is a California limited partnership (the "Borrower"). The Borrower consists of: (1) Pacific Housing Inc., a California non-profit public

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benefit corporation, as the Managing General Partner; (2) ROEM Development Corporation, or an affiliate thereof; and (3) Aegon USA Realty Advisors, or an affiliate thereof.

On December 16, 2008, Council approved an acquisition loan in the amount of \$3,680,000 to acquire the subject site located at the southwest corner of Montecito Vista Drive and Goble Lane (the "Site"). In March 2009, the Borrower purchased the site for \$3,680,000. On May 19, 2009, Council took the final action needed to enable the Project to obtain other financing by approving a construction/permanent loan of up to \$11,228,000.

On June 15, 2010, Council approved the issuance of multifamily housing revenue bonds in the amount of \$14,200,000 for the Project. In addition, the Authority Board adopted a resolution authorizing that Authority take ownership of the Site from the Borrower and lease it to the Borrower. This structure was proposed because of the potential long-term benefits of a ground lease. Such benefits include the potential for long-term control of the Site; including ownership of both the land and the building at the end of the lease term, provided there is no foreclosure by the senior lender. The ground lease includes a provision stating if the Borrower receives an Affordable Housing Program ("AHP") Loan, then a Residual Receipt payment obligation shall be waived.

ANALYSIS

Per the terms of the loan with the Borrower, the City's construction loan must convert to permanent status by October 1, 2012. If this does not occur, the Project is in technical default on its senior loan.

It was previously anticipated that the City would consent to a subordinate leasehold deed of trust in the amount of \$910,000 against the Ground Lease. However, this specific authority was not specifically granted by the Authority Board in any previous memorandums. Per the terms of the Borrower's senior construction loan, the conversion must occur by October 1, 2012. The City's construction loan must convert to a permanent loan at the same time as the senior construction loan.

To facilitate the conversion of the senior loan, staff is requesting that the Authority Board approve the recording of a subordinate leasehold deed of trust in the amount of \$910,000 against the Borrower's interest in the Ground Lease. There is no additional risk to the City as this encumbrance is subordinate to the City construction loan.

EVALUATION AND FOLLOW UP

The Housing Department posts quarterly reports on the status of its construction projects to its website, www.sjhousing.org. The Orvieto Family Apartments will be included in these reports.

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PUBLIC OUTREACH

- 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 request does not meet any of the above criteria. The TEFRA Hearing was held on June 1, 2010 by the Director of Finance. The public hearing notice was published in the *San José Mercury News* on May 10, 2010.

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 action is consistent with the City's *2007-2012 Five-Year Housing Investment Plan*, adopted by City Council on June 12, 2007, to increase the supply of affordable housing, and with the City's *Consolidated Plan 2005-2010* to provide housing units for very low- and extremely low-income households.

CEQA

EIR Resolution, File # PP09-086.

/s/
JULIA H. COOPER
Acting Director of Finance

/s/
LESLYE CORSIGLIA
Director, Housing Department

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