

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

MEMORANDUM

TO: RULES AND OPEN GOVERNMENT COMMITTEE	FROM: HARRY S. MAVROGENES EXECUTIVE DIRECTOR
SUBJECT: SEE BELOW	DATE: SEPTEMBER 23, 2010

SUBJECT: REDEVELOPMENT AGENCY BOARD AGENDA ADDITION  
FOR OCTOBER 5, 2010

Request that the Rules and Open Government Committee approve the addition of the attached item to the October 5, 2010, Redevelopment Agency agenda. Agenda text follows:

**7.x Approval of an amendment to the Building Rehabilitation and Loan Agreement with Urban Markets, LLC, for the San Pedro Square Urban Market.**

**Recommendation:** Approval of the first amendment to the Building Rehabilitation and Loan Agreement with Urban Markets, LLC, modifying the "Off-Site Public Improvements" in the Scope of Development, accelerating the schedule for the new retail building on the southwest corner of North San Pedro and West Saint John Streets, revising the public art requirement and modifying the allocations for the Deeds of Trust.



HARRY S. MAVROGENES  
Executive Director

Attachment

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

MEMORANDUM

TO: REDEVELOPMENT AGENCY BOARD	FROM: HARRY S. MAVROGENES EXECUTIVE DIRECTOR
SUBJECT: SEE BELOW	DATE: SEPTEMBER 23, 2010

SUBJECT: FIRST AMENDMENT TO BUILDING REHABILITATION  
AND LOAN AGREEMENT WITH URBAN MARKETS, LLC,  
FOR IMPROVEMENTS RELATED TO THE SAN PEDRO  
SQUARE URBAN MARKET

RECOMMENDATION

It is recommended that the Redevelopment Agency Board approve the first amendment to the Building Rehabilitation and Loan Agreement with Urban Markets, LLC (Developer) which, among other things, modifies the "Off-Site Improvements" in the Scope of Development, accelerates the schedule for the new retail building on the southwest corner of North San Pedro and West Saint John Streets, revises the public art requirement, modifies the allocations for the Deeds of Trust and gives the Executive Director authority to amend the schedule of performance.

OUTCOME

Approval will provide the Agency increased flexibility to establish the priorities for off-site public improvements to enhance the initial project, speed up the construction of a new building, allow public art funds to be invested in and around the project, allow the Developer to more easily refinance the existing debt as it matures and allow the Executive Director to adjust the schedule of performance if any unforeseen issues come up.

BACKGROUND

On February 24, 2009, the Agency Board approved a Building Rehabilitation and Loan Agreement (Agreement) with Urban Markets, LLC, in an amount not to exceed \$5,000,000 for private improvements and \$1,000,000 for off-site public

improvements related to the San Pedro Square Urban Market, generally located in the vicinity of 87 North San Pedro and 196 West Saint John Street (See attachment.) The Executive Director was authorized to negotiate and execute all documents necessary to implement the transaction described in the agreement.

The agreement provides total Agency assistance of up to \$5,000,000 for the project. Of that, up to \$2.5 million is in the form of a grant for eligible improvements that include the structural upgrade and historic renovation of the existing vacant buildings at 87 North San Pedro Street and 196 W. Saint John Street, enhancements in and around the Peralta Adobe's plaza and the installation of a new retail building at the southwest corner of North San Pedro and West Saint John Streets.

The remainder of the Agency assistance is a loan of up to \$2.5 million for interior and exterior improvements to the two vacant buildings. The term of the loan is ten years at 3% simple interest. The loan term and interest-only monthly payments shall commence at the earlier of six months after certificates of occupancy for the two main buildings are issued or three years from the effective date of the agreement.

Additionally, a total of \$1,000,000 was budgeted for off-site public improvements, specifically widening the sidewalk along the west side of the Market Street Garage, which at the time was considered an important part of the initial development.

As of August 2010, the project was approximately 30 percent complete. The project is in compliance with the schedule of performance reflected in the agreement.

PROJECT STATUS:

- Lusardi Building: Interior hazmat abatement is complete. Interior soft demolition is complete. Structural upgrades are complete and have been inspected. Shell work is in progress including fire sprinkler system, saw cutting wall openings and interior slab/ramp replacement at entrances.
- El Dorado Building: Interior hazmat abatement and soft interior demolition is complete. The structural foundation and structural steel is complete, structural wood framing is complete and pending inspections. The roof demolition is 100% complete, the roof framing is complete, the

roof flashing is complete and the roofing is underway. Construction of warm shell scope of work is currently being bid out.

- The plans for the new urban market building on the southwest corner of North San Pedro and West Saint John Streets have been approved by the Building Department. This building will be prefabricated steel construction. The building has been ordered and foundation work is set to begin.
- The grading permit for the Peralta Plaza has been issued and site demolition and tree removal are 100% complete. Rough grading is complete, seat walls are in progress, pavers are in progress, site electrical is in progress, relocation of fountain is in progress, and fabrication of gates and footings is in progress. The plans for the sidewalk widening (public improvements) on North San Pedro and Saint John Streets have been submitted to Public Works.
- As of August 2010, the Agency has funded six disbursement requests under the grant for a total of \$1,453,156. No disbursements have been made under the loan because the promissory note has not been executed and the deeds of trust have not been recorded against the properties.
- According to the Developer, marketing of the project is going very well. As of September, the Developer had 30 leases out for signature. It is anticipated that the project will need between 30 and 35 tenants to be fully leased (variance based on tenant size). The grand opening of the market is tentatively planned for Spring 2011.

#### CITY PROJECT ELEMENTS:

- The City Attorney's Office, the Office of Economic Development, Public Works and the Agency are currently drafting a Master Vendor Ordinance that will provide a master permittee the ability to control all vending in a specific area. Under the current timeline, the ordinance will be brought before the Council in the Fall of 2010.
- On June 22, the Council authorized the City Manager to negotiate and execute a property use and maintenance agreement for the Developer's use of the Peralta Plaza. The agreement was executed on July 15, 2010.

- On June 22, the Council authorized the City Manager to negotiate and execute no-build easements in the Peralta Plaza. The no-build easements are required for the building openings and awnings on/over the plaza. The easements were executed and recorded on July 20, 2010.
- The renaming of the Market Street Garage to reflect the new project is not yet underway.

### ANALYSIS

Since the agreement was approved in February 2009, Agency and City staffs have been working with the Developer to implement all the project components. In the original design the Developer proposed adding permanent retail kiosk space to the west side of the Market Street Garage to enliven the area and increase revenue sources. Working through the details of the proposed permanent retail kiosk space, a host of issues were identified by the City Attorney's Office, the Fire Department and the Building Department. As a result, the originally proposed kiosk space on the west side of the Market Street Garage has proven to be more complicated and less economical than initially envisioned.

The revised plans for the Urban Market Project have postponed any construction of retail kiosk space along the west side of the Market Street Garage and instead focus on an expanded plaza for outdoor dining area at the southwest corner of North San Pedro and West Saint John Streets. Based on the decision to postpone the retail kiosk space along the Market Street Garage, the need to eliminate the existing parking lane and widen the sidewalk along the entire length of the garage has also diminished. Under the existing Scope of Development, the Developer is required to use the \$1,000,000 public improvement monies to widen the sidewalk along the west side of Market Street Garage from Saint John Street to a point 100 feet south of the garage.

Instead, the Developer is now proposing to widen the sidewalk on the south side of West Saint John Street from North San Pedro Street to Almaden Avenue, particularly the southwest corner of Saint John and North San Pedro Streets. This new widening is of critical importance to tenants interested in the new corner building. The "Off-Site Improvement" section of the Scope of Development has been revised in the proposed amendment to reflect this new priority and it separates the public improvements into required and discretionary categories.

The required improvements consist of widening the sidewalk on the south side of West Saint John Street and improvements to the Peralta Plaza. The discretionary

improvements consist of widening the sidewalk along the east side of North San Pedro Street and the east side of Almaden Avenue. Prior to construction of any off-site Improvements, the Executive Director shall review and approve the plans for the Off-Site Improvements and the Off-Site Improvement budget. Subject to the availability of the Off-Site Improvement Funds, the Executive Director will determine which of the discretionary public improvements will be constructed. The Agency believes the revised public improvements will continue to enhance the public realm and overall urban design of the district.

In the agreement the new retail shop space proposed for the southwest corner of North San Pedro and West Saint John Streets will now be required to be constructed in the first phase of the project instead of the second phase. In addition, the building that will now be constructed on this site is more substantial than was originally proposed to occur in the second phase. As revised, the second phase now consists only of the individual retail kiosk space that will be integrated throughout the project including in the public right of way surrounding the project.

The public art obligation as currently written in the agreement requires the developer to pay \$20,000 into the general public art fund. The amended public art obligation allows the developer to negotiate and execute an agreement with the City's Office of Cultural Affairs to keep the \$20,000 public art obligation in or near the project.

As currently required in the agreement, deeds of trust are to be recorded against both the El Dorado and Lusardi Buildings to secure the entire \$2.5 million Agency loan. The Method of Finance section of the agreement has been modified in the proposed amendment to split the \$2.5 million loan into two separate notes and deeds of trust. A deed of trust securing a \$2,195,000 promissory note will be recorded against the El Dorado Building and a deed of trust securing a \$305,000 promissory note will be recorded against the Lusardi Building for a total of \$2.5 million in security. The Developer provided updated appraisals to the Agency prior to the allocation of the deeds of trust between the two buildings. The El Dorado Building has a stabilized value of \$3,600,000 with \$1,405,000 of existing debt and an owner's equity of \$2,195,000. The Lusardi Building has a stabilized value of \$2,900,000 with \$1,100,000 of existing debt and an owner's equity of \$1,800,000.

The modification to the security language will allow the Developer to refinance the existing debt on the buildings as it reaches maturity. The existing debt on the Lusardi Building has matured and must be refinanced by the end of 2010. Under the First Amendment, and upon approval by the Agency's Executive Director, the

Developer will be permitted to subordinate the Notes and the Agency Deeds of Trust to any future refinancing of any existing debt on the Properties, provided that the principal amount of debt encumbering a Property as of the date of the First Amendment shall not increase.

Restructuring the Loan into two separate promissory notes and deeds of trust rather than a single promissory note secured by both properties does create slightly more risk to the Agency. If the value of one property falls and the Agency is unable to recover the full amount of the loan secured by that property, the Agency would not be able to proceed against the other property for the difference even if there is sufficient equity in the other property. In that case, the Agency would need to go after the borrower personally under a court process that can be more cumbersome and time consuming.

#### EVALUATION AND FOLLOW- UP

No special follow-up action required.

#### PUBLIC OUTREACH/INTEREST

The proposed action does not meet any of the criteria noted below for added outreach efforts. This staff report was posted on the Agency's website and made available for public review in the Agency's public lobby area.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- 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.
- Criterion 3:** Consideration of proposed changes to service delivery, programs, or staffing that may have impacts to community services and have been identified by staff, the Board or Council, or a community group that requires special outreach.

#### COORDINATION

This memorandum has been coordinated with the Office of Economic Development and the Agency's General Counsel.

FISCAL IMPACT

There is no direct fiscal impact or funding requirement associated with this action.

CEQA

Addendum to the Downtown Strategy 2000 Final EIR, Resolution No. 72767,  
adopted June 21, 2005, File No. CP09-054.



HARRY S. MAVROGENES  
Executive Director

Attachment

Fallon House

St John

Lusardi

Perazzo

Peralta  
Adobe

El Dorado

Almaden

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