



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Community Services
Department No.: 055
For Agenda Of: August 22, 2017
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department George Chapjian, Director, Community Services
Director(s) Dinah Lockhart, Deputy Director, Housing and Community Services
Contact Info: Laurie Baker, Grants and Program Manager
SUBJECT: Approval of a subordination agreement to a permanent loan to Solvang Senior Apts.
D3

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

- A. Approve and authorize the Chair of the Board to execute the original and duplicate original Subordination Agreement (Attachment A) that subordinates, a) the County HOME Loan Promissory Note, b) the County HOME Loan Deed of Trust, Assignment of Rents, and Security Agreement that secures the County HOME Loan Agreement, and c) the County HOME Loan Regulatory Agreement and Declaration of Restrictive Covenants (together the "loan documents"), to a deed of trust securing a loan from Bonneville Mortgage Company.
- B. Determine that the approval and execution of the Subordination Agreement is not a project that is subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(4), finding that the actions are not a project as they are the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant impact on the environment, and direct staff to file a Notice of Exemption (Attachment B).

Summary Text:

On October 14, 2014, the Board approved the execution of a HOME Loan Agreement and associated documents (loan documents) to provide a \$180,000 loan in federal HOME Investment and Partnerships Program (HOME) funds to 1758 Laurel Ave., LP to construct the Solvang Seniors Apartments project (Project). The County subordinated its loan documents to a construction loan in the estimated amount of

\$7.3 million provided by Pacific Western Bank, which was anticipated to convert to a permanent loan in the estimated amount of \$1.3 million.

The development was completed and occupied in July 2016. The construction period took longer than expected pushing out the overall conversion timeline and the project incurred construction cost increases which we not originally anticipated. However, the developer and general partner, Corporation for Better Housing, found more favorable rates with Bonneville Mortgage Company, which participates in the USDA RHS 538 Loan Guarantee Program. The more favorable rates will not be detrimental to, or delay the start of payments on the County loan. Therefore, Pacific Western Bank will be paid off and Bonneville will be the permanent lender. Their permanent loan will be for an amount not to exceed \$1,800,000 fully amortized over 40 years.

Bonneville requires that the County subordinate its loan documents to the permanent mortgage, which is customary. The County's loan will be repaid from residual receipts after payment of the project's ongoing operating expenses, the Bonneville loan payment and Corporation for Better Housing's deferred developer fee. It is expected that Corporation for Better Housing will begin repaying the County loan beginning in year 2031.

Background:

The Solvang Senior Apartments Project involved new construction of affordable rental housing on a site located at 1758 Laurel Avenue in the City of Solvang. There are forty-five (45) rental units, of which forty-four (44) are occupied by low-income seniors. One unit is a manager's unit, not subject to income and rent restrictions. One unit is a County HOME-Assisted unit, restricted to occupancy by a household at or below 50% of the AMI for a period of twenty years. The federal and state low-income housing tax credit programs will restrict all but the manager's unit for a period of fifty-five (55) years.

Corporation for Better Housing (CBH), a non-profit 501(c)(3) housing development corporation, is the General Partner and bears the overall responsibility for managing and operating the project. Corporation for Better Housing Property Management is the property manager.

Performance Measure:

The County conducts an on-site monitoring visit at least every three years to assure that the County's HOME-Assisted unit is occupied by an eligible tenant and the unit complies with HUD's Housing Quality Standards (HQS). Solvang Senior Apartments was monitored in May of 2017 and found to be in compliance with HQS. The County also monitors the HOME loan assuring that loan repayments are made when there are sufficient residual receipts.

Contract Renewals and Performance Outcomes:

N/A

Fiscal and Facilities Impacts:

There is no new fiscal or facility impact

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

Narrative: No additional funds are being provided to the project.

Key Contract Risks:

Execution of the subordination agreement will result in the County's rights under the County HOME Loan becoming subordinate to the lien of the Bonneville Mortgage Company's loan deed of trust in addition to the Corporation for Better Housing's (CBH) deferred developer fee.

The County's loan was provided in the form of a residual receipts loan, whereby the County will receive annual loan repayments from residual project income after senior debt payments and approved operating expenses are paid. The County annually reviews the Project's financial statements to assure that any excess receipts are used to repay the County loan. The Project's projected operating proforma indicates that the County will begin receiving an annual interest payment beginning in year 2031 (14 years from the close of the permanent loan), after full repayment of the deferred developer fee. The County loan is secured by the property and all outstanding principal and interest will be due upon the expiration of the loan term.

In addition to the deferred developer fee, CBH provided a loan to the property, in the amount of \$394,404, which is subordinate to the County's HOME loan. In the event of foreclosure and sale of the property, the Bonneville Mortgage Company loan will be repaid first, followed by the County's HOME loan and CBH loan. If there are sufficient funds after payment of the senior liens, then the County's loan will be paid. The County's regulatory agreement may be extinguished in a foreclosure.

HCD has evaluated the risks associated with the Project and determined that such risks are within industry standards and that there are safeguards in place to prevent or mitigate risks. Projects that receive low-income housing tax credits are subject to ongoing financial and property compliance monitoring to meet the requirements of the federal Internal Revenue Service (IRS) tax codes. Investors risk losing tax credits for non-compliance; therefore, the Project was fully vetted and underwritten by the tax credit investor(s).

In addition Bonneville Mortgage Company has fully vetted and underwritten the Project and has determined that the Project will generate sufficient revenue to operate successfully.

Staffing Impacts:

Existing HCD staff will perform annual loan and property monitoring.

Special Instructions:

Please provide the following:

1. Fully executed original of the Bonneville Mortgage Company Subordination Agreement (Attachment A). Please contact Matt Kropke ext. 3533, mkropke@co.santa-barbara.ca.us when ready for pick up.
2. Copy of minute order to mkropke@co.santa-barbara.ca.us

Attachments:

Attachment A: Bonneville Mortgage Company Subordination Agreement

Attachment B: CEQA NOE