



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.: 57
For Agenda Of: September 17, 2013
Placement: Departmental
Estimated Time: 45 minutes
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors
FROM: Herman Parker, Director, Community Services (805) 568-2467
Mark Paul, Deputy Director, Public Works (805) 568-3016
SUBJECT: Purchase and Loan Agreement for Pescadero Lofts Affordable
Housing Project; Third Supervisorial District.

County Counsel Concurrence:

As to form: Yes

Auditor-Controller Concurrence:

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- A. Contingent upon approval of Recommended Action (D), below, approve and authorize the Chair to execute the original and duplicate original Purchase Agreement (Attachment A) and original Grant Deed, between the County, as Seller, and Pescadero Lofts Isla Vista, L.P., as Buyer, for the County-owned real property located at 761 Camino Pescadero in Isla Vista located in District 3, to be financed by, and subject to approval of, the \$2,900,000 residual receipts County Land Loan Agreement set forth in Recommended Action (B); and
- B. Contingent upon approval of Recommended Action (D), below, approve and authorize the Chair to execute the original and duplicate original County Land Loan Agreement (Attachment B) with Pescadero Lofts Isla Vista, L.P., in the amount of \$2,900,000, with a three percent simple interest rate and residual receipts payments that are deferred until after completion of construction of the Pescadero Lofts affordable housing project and to execute the original and duplicate original County Land Loan Regulatory Agreement and Declaration of Restrictive Covenants (Attachment C), which exclusively restricts the use of the property to affordable rental housing for a period of 55 years; and
- C. Contingent upon approval of Recommended Action (D), below, approve the County Land Loan Promissory Note (Attachment D), the County Land Loan Permanent Deed of Trust, Assignment

of Rents, and Security Agreement (Attachment E), and the County Land Loan Notice of Affordability Restrictions on Transfer of Property (Attachment F); and

- D. Contingent upon approval of the Purchase Agreement (Recommended Action (A) above), the County Land Loan Agreement and the County Land Loan Regulatory Agreement (Recommended Action (B) above) and the County Land Loan Promissory Note and the County Land Loan Permanent Deed of Trust (Recommended Action (C) above) with Pescadero Lofts Isla Vista, L.P., accept the Quitclaim Deed (Attachment G) referenced in the letter from the Housing Authority of the County of Santa Barbara (Attachment H), by authorizing the Clerk of the Board to execute the Certificate of Acceptance (Attachment I), thereby terminating the Option Agreement between the County and the Housing Authority of the County of Santa Barbara, that was approved and executed on March 5, 2013, for the purchase of that real property located at 761 Camino Pescadero, in Isla Vista; and
- E. Approve and authorize the Chair to execute the original and duplicate original First Amended, Restated and Renamed County HOME Loan Agreement (Attachment J) and the original and duplicate original County HOME Loan Regulatory Agreement and Declaration of Restrictive Covenants (Attachment K); and
- F. Approve the First Amended, Restated and Renamed County HOME Loan Promissory Note (Attachment L), the County HOME Loan Permanent Deed of Trust, Assignment of Rents, and Security Agreement (Attachment M), and the County HOME Loan Notice of Affordability Restrictions on Transfer of Property (Attachment N); and
- G. Approve and execute the attached Budget Revision in the amount of \$2,700,000 which reflects the inventory value of the purchase of the property (Attachment O); and
- H. After considering the previously certified Environmental Impact Report (EIR) for the Isla Vista Master Plan (03-EIR-08), determine pursuant to Public Resources Code sections 21090(b) and 21166 and CEQA Guideline sections 15162 and 15168 that, as reflected in the CEQA findings in Attachment P to this Board Letter, no subsequent EIR or Negative Declaration shall be prepared for this project.

In order to avoid the County simultaneously having obligations to different parties concerning the same parcel of land, Recommended Actions A through H should be approved in their entirety or disapproved in their entirety.

Summary Text:

The Housing Authority of the County of Santa Barbara (Housing Authority) was granted an option to purchase the County-owned real property located at 761 Camino Pescadero, in Isla Vista, pursuant to the Option Agreement approved by the Board of Supervisors on March 5, 2013. As approved by the Board, the purpose of the transaction is for the development of affordable housing.

In a letter dated August 2, 2013 (Attachment H), the Housing Authority requests that the County agree to replace the Housing Authority with Pescadero Lofts Isla Vista, L.P. (Limited Partnership), as Buyer of the property. By approving the attached Purchase Agreement and Grant Deed (Recommended Action

A), the County agrees to the requested substitution of Buyer. In the letter (Attachment H), the Housing Authority also requests that instead of a cash transaction, the purchase of the property be financed entirely by the County pursuant to a fifty-five year residual receipts loan. By approving the attached Land Loan Agreement (Recommended Action B), the County agrees to provide a loan to Pescadero Lofts Isla Vista, L.P., for its purchase of the property. The letter also states that if the County agrees to those requests, the Housing Authority will terminate the March 5, 2013 Option Agreement by execution of the Quitclaim Deed (Attachment G). By County's acceptance of the Quitclaim Deed (Recommended Action D), the Option Agreement will be terminated.

These actions will enable Pescadero Lofts Isla Vista, L.P., to purchase the property and commence development of the Pescadero Lofts affordable housing project, with 33 rental housing units with affordable rents to individuals and families who qualify under the County's guidelines for very low-income households at 50% or below of the area median income.

Background:

The former County of Santa Barbara Redevelopment Agency (Agency) acquired the real property located at 761 Camino Pescadero in Isla Vista (Property) for \$2,700,000 in 2010, using its affordable housing set aside funds. Following the dissolution of all Redevelopment Agencies state-wide, the Property was conveyed to the County in 2012. It is currently zoned SR-H-30, which requires all development on the site to be restricted exclusively to affordable housing. California Redevelopment Law also requires that the project be restricted to affordable housing. The Agency worked with the Housing Authority starting in 2011 to develop the site for affordable housing, and the Housing Authority proceeded to secure all entitlement approvals needed to develop the Property. Details of the above actions can be found in Board Agenda Letters dated March 20, 2012 and March 5, 2013.

Upon Board approval last March, the County executed a two-year real estate option agreement (Option Agreement) with the Housing Authority for the Housing Authority's purchase of the Property for \$2,900,000 in cash, in accordance with the value established in a February 2013 appraisal. The Option Agreement enabled the Housing Authority to demonstrate site control, which was needed for the application to the highly competitive tax credit financing program (Tax Credits) with the State's Tax Credit Allocation Committee (TCAC). Tax Credits are essential to the Project's financial feasibility.

Pescadero Lofts Isla Vista, L.P. (described below in a separate section of this Board Letter) was formed to apply for Tax Credits and develop the Project. As described in the attached letter from the Housing Authority (Attachment H), in order for the Project to proceed, Pescadero Lofts Isla Vista, L.P., must be the buyer of the Property since Tax Credits can only be awarded to a limited partnership.

On June 12, 2013, TCAC awarded Tax Credits to Pescadero Lofts Isla Vista, L.P. that will result in a cash infusion of approximately \$3.7 million to the Project. On July 2, 2013, the Board approved a County HOME Loan to Pescadero Lofts Isla Vista, L.P., in the amount of \$1,642,234. Pescadero Lofts Isla Vista, L.P., has also secured a first mortgage loan through Union Bank in the amount of \$4.9 million. Of the \$4.9 million, approximately \$1.5 million will convert to a permanent Union Bank loan, and the balance will be paid by a portion of the tax credit proceeds. By securing Tax Credits, the Union Bank loan, the County HOME Loan, and the County residual receipts loan requested in this Board Letter, Pescadero Lofts Isla Vista, L.P., has secured all funds needed to develop the Project.

Pescadero Lofts Project Description

The Pescadero Lofts project involves new construction of a 33-unit affordable rental housing project (Project). The 21,031 square foot structure will consist of twenty six studio units, six 1-bedroom units, and one 2-bedroom manager's unit. The Project will provide permanent housing for very-low income persons, and targeted to homeless persons. The provision of supportive services to Project residents is expected to be an important component of the Project.

Total development cost for the Project is approximately \$9.8 Million. Permanent funding sources are itemized below:

Low Income Housing Tax Credit Proceeds:	\$3,711,327
Union Bank Loan (permanent):	1,526,213
County Land Loan:	2,900,000
County HOME Loan:	<u>1,642,234</u>
Total:	\$9,779,774

Purchase Agreement

The Purchase Agreement and Escrow Instructions with Grant Deed (Attachment A) between the County and Pescadero Lofts Isla Vista, L.P., set forth the purchase price, the escrow process and the conditions that must be satisfied during escrow. Pescadero Lofts Isla Vista, L.P.'s purchase of the Property is entirely financed by the County Land Loan. Pescadero Lofts Isla Vista, L.P. will be obligated to pay the escrow holder's fee, all transfer taxes and fees, and the cost of a title insurance policy for the Property.

Upon final execution of the Purchase Agreement and the Grant Deed, the Purchase Agreement will be delivered to First American Title Company, as the Escrow Holder, to open escrow for the transaction. The Grant Deed will be deposited into escrow to be recorded at the close of escrow. The Purchase Agreement (Attachment A) authorizes the Director of the County General Services Department, or designee, to execute any additional escrow instructions required to complete escrow. As a condition to the close of escrow, Pescadero Lofts Isla Vista, L.P. will have the right to conduct tests on the property and to complete any desired studies related to the physical condition of the Property, as well as the condition of title to the Property.

County Land Loan Agreement

The County Land Loan Agreement (Attachment B) sets forth the terms of a loan from the County for a term of fifty-five (55) years, a simple interest rate of three percent (3%), with payments deferred until the first April 1st following recordation of a Notice of Completion for the Project, with annual payments made from residual receipts (i.e., to the extent the Project generates positive cash flow after senior debt service and County-approved expenses and reserves are subtracted). After execution of a subordination agreement with Union Bank, the County Land Loan Deed of Trust and County Land Loan Regulatory Agreement would be placed in a second security position on title. If the Board approves the County Land Loan, the County HOME Loan would be subordinate to the County Land Loan.

Tax Credits can be awarded only to a limited partnership, and the limited partnership must also be the property owner in Tax Credit projects. Therefore, as indicated in the letter from the Housing Authority

(Attachment H), the substitution of Pescadero Lofts Isla Vista, L.P., as the Buyer is necessary for the Project to proceed.

Regulatory Agreement and Other Documents

The attached County Land Loan Regulatory Agreement and Declaration of Restrictive Covenants (Attachment C) to be executed by the County and Pescadero Lofts Isla Vista, L.P., specifies the affordability restrictions that apply to the 33 residential units of the Project for a period of 55 years. Staff expects Pescadero Lofts Isla Vista, L.P., to request a revision to the existing project Conditions of Approval (COA's) in order to allow for the Manager's Unit rent level to be set up to 120% Area Median Income. The affordability restrictions limit the amount of rent that can be charged and set maximum income limits on the residents upon lease-up. The limits are based on Area Median Income figures established annually by the U.S. Department of Housing and Urban Development. The attached County Land Loan Regulatory Agreement will be consistent with the County HOME Loan Regulatory Agreement executed in connection with the HOME Loan previously approved by the Board. If the COA's are amended, staff will return to the Board at a future date to amend both Regulatory Agreements accordingly.

As part of the closing transaction, Pescadero Lofts Isla Vista, L.P., will also execute the following three documents:

1. County Land Loan Promissory Note (Attachment D); and
2. County Land Loan Permanent Deed of Trust, Assignment of Rents, and Security Agreement (Attachment E);
3. County Land Loan Notice of Affordability Restrictions on Transfer of Property (Attachment F)

Quitclaim Deed

In order to execute a revised Purchase Agreement between the County and Pescadero Lofts Isla Vista, L.P., the County and the Housing Authority will execute a Quitclaim Deed (Attachment G) which terminates the Option Agreement approved on March 5, 2013 between the County and the Housing Authority. The Option Agreement provided a required component of the Pescadero Lofts Isla Vista, L.P. funding application for the tax credit allocation to the Project. Execution of the Quitclaim Deed authorizes the Clerk of the Board to execute the Certificate of Acceptance (Attachment I) to accept the executed Quitclaim Deed.

Limited Partnership

As described in the Board Letters and staff presentations before the Board on March 5, 2013, and July 9, 2013, Pescadero Lofts Isla Vista, L.P., was formed in order to be eligible to apply for and receive Tax Credits. Pescadero Lofts Isla Vista, L.P., will be the entity that executes all financing documents and Tax Credit agreements, and will bear overall responsibility for developing, managing, owning, and operating the Project.

Pescadero Lofts Isla Vista, L.P., consists of three separate entities: 1) Surf Development Company, a California nonprofit organization, as the Managing General Partner, 2) the Housing Authority as the Administrative General Partner, and 3) Surf Affordable Housing Enterprises, Inc. as a Limited Partner. At the time of closing, Union Bank, which has already agreed to provide a permanent first mortgage loan to

Pescadero Lofts Isla Vista, L.P., will replace Surf Affordable Housing Enterprises, Inc. as the Limited Partner.

Revisions to HOME Loan Documents

In order to meet a July 31, 2013 deadline to commit approximately \$2.1 million in HOME funds, on July 2, 2013, the County approved \$1,642,234 in federal HOME funds and executed County HOME Loan Documents for the Project. In order to ensure consistency between the County Land Loan Documents and the County HOME Loan Documents, definitions of terms used in the County HOME Loan Documents were reviewed, and revisions were made to the County HOME Loan Agreement (Attachment J), the County HOME Loan Regulatory Agreement (Attachment K), the County HOME Loan Promissory Note (Attachment L), the County HOME Loan Deed of Trust, Assignment of Rents, and Security Agreement (Attachment M) and the County HOME Loan Notice of Affordability Restrictions on Transfer of Property (Attachment N). Revisions made to the County HOME Loan Documents do not affect the County's compliance with regulations under the HOME Program. A necessary phase of project development includes incurring project 'soft costs,' which include design, architectural and engineering fees among other costs. These soft development costs are an eligible use of HOME Program funds. The County's HOME Loan Documents refer to the use of HOME funds for 'construction' related purposes. Staff will return to the Board at a later date to amend the County HOME Loan Documents to authorize the use of a portion of the County's HOME funds to be used for project soft costs.

Future Actions

The Project Conditions of Approval (COA's) for Pescadero Lofts include a condition that all 33 units are rented to very low income households earning 50% or less of Area Median Income (AMI). The Housing Authority has requested the two bedroom unit be made available to a household earning up to 120% of AMI, in order to use that unit for an onsite property manager. County Planning and Development (P&D) staff has indicated amending the COA's to allow one (1) of the 33 units be rented to a household earning 120% AMI for a property manager can be accomplished through an administrative process (i.e. Substantial Conformity Determination and follow-up Coastal Development Permit). The Housing Authority has submitted an application to P&D to administratively amend this condition of approval. If the amendment to the COA is approved by P&D, staff will return to the Board at a later date to request the County Land Loan Regulatory Agreement and HOME Loan Regulatory Agreement both be amended to incorporate the revision.

After completion of the project, Pescadero Lofts Isla Vista, L.P., is expected to request that the County Land Loan Regulatory Agreement and the County HOME Loan Regulatory Agreement and Declaration of Restrictive Covenants be subordinated to a California Tax Credit Allocation Committee (TCAC) Tax Credit Regulatory Agreement. The recordation of the Tax Credit Regulatory Agreement is a requirement for the provision of tax credits to this project. This request by Pescadero Lofts Isla Vista, L.P., will be brought to the Board for consideration at a later meeting date.

A required component of the funding of this project is the \$4,981,068 Union Bank loan for the development of this project. The subordination of the County Land Loan and County HOME Loan to the Union Bank loan was discussed between County staff, Pescadero Lofts Isla Vista, L.P., and Union Bank representatives, with final approval of the bank loan contingent on the County's execution of a subordination agreement. Staff will return at a future date for the Board's consideration of the subordination agreement.

As discussed earlier in this staff report, Staff will return at a later meeting date to ask that the Board approve the use of a portion of the current HOME funds already allocated to this Project for project soft costs.

Impacts:

Budgeted: Yes

Fiscal Analysis:

This Property is held by the County as inventory for resale and is restricted as affordable housing by provisions of redevelopment law. There is no County General Fund contribution to this Project. Residual receipt income from this Project, or income from a potential cash sale of the real property, will be deposited into a restricted affordable housing development fund. Future use of these funds will be limited to the development of affordable housing.

The one-time Project cost figure stated below reflects the inventory value of the 2010 purchase of the Property by the Agency. It does not reflect the \$2,900,000 purchase price of the Property by Pescadero Lofts Isla Vista, L.P. The Budget Revision (Attachment O) for \$2.7 million reflects the inventory value of the purchase of the property.

<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			
Inventory Value:			\$ 2,700,000.00
Total	\$ -	\$ -	\$ 2,700,000.00

Risk Analysis:

Both the County HOME Loan and the County Land Loans are non-recourse loans. Pescadero Lofts Isla Vista L.P. will not be personally liable for repayment of the County's HOME Loan and the County Land Loan. In the event of default by Pescadero Lofts Isla Vista, L.P., the County's sole recourse for repayment of the County HOME Loan and the County Land Loan will be limited to the Property.

Special Instructions:

After Board action, please distribute as follows:

- | | |
|---|-------------------------------|
| 1. Original and Duplicate Original Purchase Agreement | Community Services Department |
| 2. Executed copy of Grant Deed and Minute Order | Community Services Department |
| 3. Copy of Purchase Agreement and Grant Deed | Clerk of the Board |
| 4. Original and Duplicate Original County Land Loan Agreement | Community Services Department |
| 5. Copy of County Land Loan Agreement | Clerk of the Board |

6. Original and Duplicate Original County Land Loan Regulatory Agreement
Community Services Department
7. Copy of County Land Loan Regulatory Agreement Clerk of the Board
8. Certificate of Acceptance Community Services Department
9. Copy of Quitclaim Deed and Certificate of Acceptance Clerk of the Board
10. Original and Duplicate Original First Amended, Restated and Renamed County HOME Loan Agreement
Community Services Department
11. Original and Duplicate Original County HOME Regulatory Agreement
Community Services Department

NOTE: Once the final documents have been recorded at the Close of Escrow, copies of the following recorded documents will be returned to the Clerk for its file and reference:

Quitclaim Deed with Certificate of Acceptance
Grant Deed
County Land Loan Deed of Trust
County Land Loan Regulatory Agreement
County Land Loan Notice of Affordability Restrictions
County HOME Loan Deed of Trust
County HOME Loan Regulatory Agreement
County HOME Loan Notice of Affordability Restrictions

- Provide a copy of the minute order reflecting Board Action

Attachments:

Attachment A: Purchase Agreement and Escrow Instructions with Grant Deed attached
Attachment B: County Land Loan Agreement
Attachment C: County Land Loan Regulatory Agreement and Declaration of Restrictive Covenants
Attachment D: County Land Loan Promissory Note
Attachment E: County Land Loan Permanent Deed of Trust, Assignment of Rents, and Security Agreement
Attachment F: County Land Loan Notice of Affordability Restrictions on Transfer of Property
Attachment G: Quitclaim Deed
Attachment H: Letter from Housing Authority
Attachment I: Certificate of Acceptance
Attachment J: First Amended, Restated and Renamed County HOME Loan Agreement
Attachment K: County HOME Loan Regulatory Agreement and Declaration of Restrictive Covenants
Attachment L: First Amended, Restated and Renamed County HOME Loan Promissory Note
Attachment M: County HOME Loan Permanent Deed of Trust, Assignment of Rents, and Security Agreement
Attachment N: County HOME Loan Notice of Affordability Restrictions
Attachment O: Budget Revision
Attachment P: CEQA Findings