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**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: 08/28/18
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department George Chapjian, Director
Director(s)
Contact Info: Dinah Lockhart, Deputy Director, 568-3523
Laurie Baker, Grants and Program Manager, 568-3521
SUBJECT: Execution of Loan documents for a \$3,173,437 loan in federal HOME and Inclusionary Housing Ordinance (IHO) In-Lieu funds to The Residences at Depot Street, L.P. for The Residences at Depot Street (Project) in Santa Maria (Supervisory District 5)

County Counsel Concurrence

As to form: Yes

Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- A. Approve and authorize the Chair of the Board of Supervisors to execute an original and duplicate originals of the following documents, which relate to a previously approved loan of Three Million One Hundred Seventy-Three Thousand Four Hundred Thirty-Seven Dollars (\$3,173,437), consisting of One Million Nine Hundred Ninety-Four Thousand Four Hundred Fifty-Nine Dollars (\$1,994,459) in HOME Funds and One Million One Hundred Seventy-Eight Thousand Nine Hundred Seventy-Eight Dollars (\$1,178,978) in Inclusionary Housing Ordinance (IHO) In-Lieu Funds, to The Residences at Depot Street, L.P. for development of the Residences at Depot Street affordable housing project at 201 and 205 N. Depot Street in the City of Santa Maria:
 - 1. County HOME Loan Agreement (Attachment A);
 - 2. County HOME Loan Promissory Note (Attachment B);
 - 3. County Deed of Trust, Assignment of Rents, and Security Agreement (Attachment C); and
 - 4. County HOME Regulatory Agreement (Attachment D) (together, the County HOME Loan Documents);

- B. Approve and authorize the Chair of the Board of Supervisors to execute a subordination agreement in a form substantially similar to Attachment E subordinating the County's HOME Loan Documents to construction and permanent loans being provided to the project by Wells Fargo Bank, in an amount not to exceed \$22,500,000; and
- C. Consider the environmental effects of the project as shown in the Mitigated Negative Declaration adopted by the City of Santa Maria for the Project on December 19, 2016 (Attachment G) and find that pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162, no substantial changes are proposed, and there are no substantial changes in circumstances or new information of substantial importance regarding significant impacts or feasibility of mitigation measures and alternatives, and therefore approval of the Recommended Actions are within the scope of the Mitigated Negative Declaration adopted by the City of Santa Maria for the Project on December 19, 2016.

Summary Text:

On August 14, 2018, the Board of Supervisors (Board) approved a \$3,173,437 loan in federal HOME and Inclusionary Housing Ordinance (IHO) In-Lieu funds to The Residences at Depot Street, L.P. for The Residences at Depot Street (Project) in Santa Maria. The Board also approved a Substantial Amendment to the FY 2017-18 Action Plan, which allowed for the use of the federal HOME funding for the project.

As directed by the Board on August 14, staff is returning to the Board for execution of the County HOME Loan Documents.

Note that Exhibit A (Legal Description) to the documents listed under Recommendation A will be replaced with an updated legal description after County Assessors' recordation of the parcel map. The revised legal description will not differ substantially from the legal description now attached. The revised legal description will fully encompass the property to be developed and will adequately secure the County's loan. The revised legal description will be in place prior to closing of the County loan.

Note also that the Wells Fargo subordination agreement, as described in Recommendation B, is not signed by Wells Fargo. Also, Wells Fargo has delayed finalizing certain details in the subordination agreement that relate to the senior loans. These details will not impact the County's subordination; the County loan will be subordinated to a senior loan from Wells Fargo of no more than \$22,500,000.

Background:

The Residences at Depot Street is a rental housing complex located at 201 and 205 N. Depot Street in the City of Santa Maria, to be developed by HASBARCO, as the general partner in The Residences at Depot Street, L.P. The project will provide eighty (80) rental units divided between two separate buildings and will contain 6 studios, 32 1-bedroom units, 36 2-bedroom units and 6 3-bedroom units. Two of the 2-bedroom units will be managers' units without income or rent restrictions. Eleven (11) HOME-Assisted Unit(s) and seven (7) County-Assisted Unit(s) will be subject to the income eligibility terms described in the HOME Regulatory Agreement. The number of HOME-Assisted Units and County-Assisted Units was calculated using the HOME Maximum Per-Unit Subsidy Limits. All 78 units will be restricted by the low-income housing tax credit regulatory agreement on the property. The County's Deed of Trust and Regulatory Agreement will be subordinate to senior construction and permanent loans from Wells Fargo Bank.

Performance Measure:

The Residences at Depot Street will be monitored for HOME program compliance for the twenty-year period of affordability, and the HOME loan and required repayments will be monitored for the duration of the fifty-five year term of the HOME loan. HOME program monitoring will include an annual review of the property's financial statements and roster of HOME and County units indicating the number and location of the HOME and County units, and the rents charged. At least every three years, or more frequently if warranted, a site visit will be conducted by HCD staff to inspect a sampling of the HOME and County units against certain housing quality standards and a sampling of tenant files will be reviewed for income, lease and rent requirements.

Fiscal and Facilities Impacts:

Not Applicable

Fiscal Analysis:

The County has available HOME and In Lieu funds in an amount sufficient to fund this project. The County will charge the owner of the Project an annual monitoring fee, currently set at \$2,500, to offset staff costs to monitor the housing units for the 20-year affordability term.

Key Contract Risks:

The Project will produce 80 units of rental housing, eighteen (18) of which will be subject to federal and County affordability restrictions (eleven (11) HOME units and seven (7) County units) for a period of 20 years; HCD staff will monitor the Project for affordability compliance. HUD could require the County to repay the amount of the HOME loan if the Project is not operated in accordance with the affordability restrictions during the 20-year term. A Regulatory Agreement will be recorded against the property and will provide the County with the means of enforcing the affordability restrictions

The terms of the County Promissory Note will bear simple interest at the rate of three percent (3%) per annum from the date of the first disbursement. The loan will be due and payable on the earlier of: (a) fifty-five (55) years from the date of the recordation of a notice of completion issued for the Project, or (b) the date the Property is sold or otherwise transferred.

The County's loan is being provided in the form of a residual receipts loan, whereby the County will receive annual loan repayments from residual project income after debt payments and approved operating expenses are paid. The County will annually review the Project's financial statements to ensure that a portion of any excess receipts are used to repay the County loan. The County loan is secured by the property, and all outstanding principal and interest will be due upon the expiration of the loan term.

The County's Deed of Trust and Regulatory Agreement will be subordinate to senior construction and permanent loans from Wells Fargo Bank. In the event of foreclosure by a senior lender and sale of the property, the senior loan will be repaid prior to the County's HOME/In-Lieu Loan. If there are sufficient funds after payment of the senior lien(s), then the County's loan will be paid. The County's Regulatory Agreement and Deed of Trust would be extinguished in a foreclosure of the senior loan. The form of subordination agreement is attached as Attachment E.

HCD has evaluated the risks associated with the Project and determined that such risks are reasonable and 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 has been fully vetted and underwritten by the tax credit investor(s).

In addition, the senior lenders have fully vetted and underwritten the Project and determined that the Project costs are reasonable and within industry standards and that the Project will generate sufficient revenue to operate successfully.

Staffing Impacts:

The commitment of the HOME/In-Lieu funds to the Project will necessitate regulatory monitoring by County staff at current staffing levels for a minimum of 20 years and fiscal monitoring for the 55-year term of the loan. The terms of the County's loan require the developer to pay an annual Affordable Housing Monitoring fee to the County, currently set at \$2,500.

Special Instructions:

1. Please return one set of the executed original documents (except that there is only 1 original Promissory Note and HCD will accept a copy) and a copy of the Minute Order to Laurie Baker. Please email or call when ready for pick up: lbaker@co.santa-barbara.ca.us Ext. 3521.
2. Please retain one set of the executed original documents (including the Promissory Note) listed below for COB records.

This is a time-sensitive item with a scheduled closing date with Wells Fargo Bank. Please expedite the execution and delivery of the documents. Please call with questions or if additional information is needed.

Attachments:

- A. County HOME Loan Agreement
- B. County HOME Loan Promissory Note
- C. County Deed of Trust, Assignment of Rents, and Security Agreement
- D. County HOME Regulatory Agreement
- E. Wells Fargo Subordination Agreement
- F. August 14, 2018 Board Letter
- G. Mitigated Negative Declaration