



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.: 057
For Agenda Of: October 14, 2014
Placement: Departmental
Estimated Time: N/A
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Renée E. Bahl, Interim Community Services Director (805) 568-2467
Director:
Contact Info: Laurie Baker, Grants and Program Manager (805) 568-3521
SUBJECT: Approval of the draft Amendment to the FY 2014-15 Action Plan and approval and execution of the HOME Loan Agreement for \$180,000 for the "Solvang Senior Apartments Project;" Third Supervisorial District.

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- A. Consider public comments relating to the "Solvang Senior Apartments Project" that were submitted during the thirty-day public comment period, which commenced on September 13, 2014 and concludes on October 14, 2014 at the close of the public hearing for the Project. All written comments received by HCD on or before 5:00 P.M., October 13, 2014 are included in the draft amendment to the FY 2014-15 Action Plan (Attachment F). Oral comments may be considered during the public hearing when the Project is considered by the Board for approval;
- B. Approve the amendment to the FY 2014-15 Action Plan (Attachment F) and direct staff to submit it to HUD;

The following Recommended Actions are being recommended if the Board approves the amendment to the FY 2014-15 Action Plan.

- C. Approve a County HOME loan, in the amount of \$180,000, to 1758 Laurel Ave., LP; and approve and authorize the Chair of the Board of Supervisors to execute originals and duplicate originals of the County HOME Loan Agreement (Attachment A), the County HOME Loan Promissory Note (Attachment B), the County Deed of Trust, Assignment of Rents, and Security Agreement (Attachment C); and the County HOME Regulatory Agreement (Attachment D) (together, the

Loan Documents) with 1758 Laurel Ave., LP for development of the Solvang Senior Apartments affordable housing project at 1758 Laurel Avenue in Solvang (Supervisorial District 3);

- D. Authorize the Community Services Department Director to approve subsequent line item changes to Exhibit B (Budget) of the County HOME Loan Agreement, as long as the total principal amount of the HOME Loan, \$180,000, is not increased;
- E. Approve the use of up to \$70,000 in HOME funds to cover costs incurred by the County for Project construction monitoring;
- F. Approve and authorize the Chair of the Board to execute the original and duplicate original Subordination Agreement (Attachment E) that subordinates the County HOME Loan Promissory Note, the County HOME Loan Permanent Deed of Trust, Assignment of Rents, and Security Agreement that secures the County HOME Loan Agreement, and the County HOME Loan Regulatory Agreement to a deed of trust securing a loan from Pacific Western Bank;
- G. Approve and authorize staff to replace the exhibits to the County Loan Documents that contains the Project's legal description following the recordation of a revised legal description to reflect the merger of two lots into one; and,
- H. Find that pursuant to CEQA Section 15162, no substantial changes are proposed, and no new information of substantial importance has come to light regarding environmental effects of the project or of the sufficiency or feasibility of mitigation measures, and therefore the recommended actions for the Solvang Senior Apartments Project is within the scope of the project covered by Final Mitigated Negative Declaration (Attachment G) for the Project approved on October 14, 2013 by the City of Solvang, and that therefore no new environmental document is required. A copy of the Mitigated Negative Declaration is available for review at the office of the Division Housing and Community Development, 123 E. Anapamu St., 2nd floor, and by request. A hard copy also will be available at the October 14, 2014 Board hearing.

Summary Text:

The recommended action is to approve the amendment to the FY 2014-15 Action Plan to include the "Solvang Senior Apartments Project" and direct staff to submit it to HUD and, if the Board so approves, then the recommended action also includes that the Board approve a County loan, in the amount of \$180,000 in federal HOME Investment Partnership (HOME) funds, to 1758 Laurel Ave., L.P., for the development of a 45-unit rental housing project (including 44 units restricted to low and very low income households plus one unrestricted manager's unit) located in the City of Solvang.

Background:

The County receives an annual allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD) to be used to expand the supply of affordable housing to low income households. On June 9, 2014 the Capital Loan Committee recommended and on July 8, 2014, the County Board of Supervisors approved a preliminary HOME *Reservation*, in the amount of \$180,000 to the Solvang Senior Apartments, contingent upon Corporation for Better Housing (CBH) obtaining firm funding commitments from all sources and tax credit investor. CBH has obtained the financing commitments and expects to close on the land acquisition, partnership agreement, and the construction and permanent loans on or before November 1, 2014.

The use of HOME funds must be included in the County’s annual Action Plan and, if not included, then the annual Action Plan must be amended to include County HOME-funded projects. The amendment to the FY 2014-15 Action Plan (Attachment F) has been prepared to include the “Solvang Senior Apartments Project”.

If the Board of Supervisors approves the HOME loan in the amount of \$180,000 to the “Solvang Senior Apartments Project” and the inclusion of the Project in the FY 2014-15 Action Plan, then the loan documents must be executed prior to the closings of the partnership and first mortgage loans. The County loan documents must first be fully executed before the limited partner will execute the partnership agreement and before the first mortgage lender will execute its loan documents.

Solvang Senior Apartments Project Description

The Solvang Senior Apartments Project involves new construction of affordable rental housing on a vacant site located at 1758 Laurel Avenue in the City of Solvang. There will be two buildings consisting of 10,389 sq. ft. and 29,419 sq. ft. connected by a breezeway. The Project will include such amenities as on-site laundry, parking, community gardens and other passive recreation areas, community room with computer lab, kitchen and space for resident services programs and classes.

There will be forty-five (45) rental units, of which forty-four (44) will be made available to low-income seniors. One unit will be designated as a manager’s unit, not subject to income and rent restrictions. The following table shows the break-out of the units by area median income (AMI), bedroom size and rents.

No. Bdrms.	No. Bth	No. Units	Rent AMI	Level	Unit Sq. Ft.	Gross Rent
1	1	4	30%		600	\$426
1	1	6	45%		600	\$639
1	1	21	50%		600	\$710
1	1	10	60%		600	\$852
2	1	1	30%		803	\$511
2	1	1	45%		803	\$767
2	1	1	50%		803	\$852
2	1	1		Mgr unit	803	\$0
TOTAL		45				

Of the project’s 44 affordable units, one (1) unit will be designated as a HOME-assisted unit, which is the minimum number required by HUD for the amount of HOME funds invested. The rent for the HOME-assisted unit will not exceed the maximum Low-HOME Rent, or the rent deemed affordable to a household with income at or below 50% AMI, as established annually by HUD. The tenant’s household income will not exceed 50% of Area Median Income that is in effect for 2014 (currently \$26,500 for a one-person household and \$30,300 for a two-person household). The County’s HOME Regulatory Agreement will require that the HOME-assisted unit meets the HOME rent and income limits, and other regulatory requirements for a period of 20 years. All units in the project will be restricted pursuant to regulations governing federal Low Income Housing Tax Credits for a term of 55 years, with the exception of the one manager’s unit that will not have rent or income restrictions.

Corporation for Better Housing (CBH), a non-profit 501(c)(3) housing development corporation, will be the General Partner and bear the overall responsibility for developing, managing, and operating the project. The Limited Partner will be Alliant Capital, LTD. Corporation for Better Housing Property Management will be the property manager.

The total development costs for the project is approximately \$9.3 Million:

LINE ITEM	BUDGET
Land Acquisition	\$970,000.00
Construction Costs of Improvements	5,216,796.00
Hard Cost Contingency	260,840.00
Interest Reserve	377,705.00
Fees/Permits	392,336.00
Soils/Field Testing & Inspections/Survey	30,000.00
Architect and Engineering	303,500.00
Security	35,000.00
Title/Recording - Construction	30,000.00
Title/Recording - Deferred To Conversion	15,000.00
Insurance - Gen Liability/Bldrs Risk	95,000.00
Real Estate Taxes	5,000.00
Legal Costs - Partnership/Syndication	90,000.00
Professional Services Contingency	40,000.00
Bank Construction Loan Fee	55,050.00
Bank Construction Loan Legal	40,000.00
Appraisal	10,000.00
Capitalized RR	11,250.00
Bank Inspection Fees/Review	14,300.00
Financing Contingency	35,000.00
Audit/Cost Certification	15,000.00
Partnership Expenses/Market Study	40,000.00
Furnishings	35,000.00
Marketing & Lease-Up Costs	35,200.00
Operating Reserve - Deferred To Conversion	81,547.00
TCAC/CDLAC Fees	51,843.00
Developer Fee - During Construction	125,000.00
Developer Fee - Deferred to Conversion	875,000.00
Soft Cost Contingency	40,000.00
TOTAL COSTS	\$9,325,367

Permanent funding sources for the project are approximated below:

Pacific Western Bank	\$1,261,600
Deferred Developer Fee	699,138
County HOME Loan	180,000
Federal Home Loan Bank, Affordable Housing Fund Grant	900,000
City of Solvang Grant/Partnership loan	394,404
Limited Partner capital/tax credit equity	5,890,225
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	\$9,325,367

The California Tax Credit Allocation Committee (TCAC) awarded \$623,037 in annual low-income housing tax credits (tax credits) to the project, which will result in a cash contribution to the project by the investor of approximately \$5,890,225. Pacific Western Bank has committed to providing a construction loan, in the amount of \$7,340,000 to the project, which will be repaid, in part, by tax credit equity, with the balance converting to a permanent loan. Pacific Western Bank will have a first mortgage position on title, followed by the loan provided by CBH (deferred developer fee). The County's loan will be in third position, followed by the City of Solvang grant/CBH loan.

County HOME Loan and Related Documents

On June 9, 2014, the Capital Loan Committee recommended and on July 8, 2014, the County Board of Supervisors approved a preliminary HOME *Reservation*, in the amount of \$180,000 to the Solvang Senior Apartments, contingent upon Corporation for Better Housing (CBH) obtaining firm commitments from all funding sources. CBH has since submitted to HCD the necessary funding commitments, including a proposal from the tax credit investor, in order for the Project to proceed. Also, HCD staff has evaluated the Project in accordance with underwriting guidelines to determine that project costs are reasonable and consistent with industry standards and that no more HOME funds are being invested in the project than necessary to fully fund the project.

On September 18, 2014, the Santa Barbara Capital Loan Committee reviewed the Solvang Senior Apartments project and recommended that the Board of Supervisors approve an allocation of HOME funding for the project, in the amount of \$180,000.

The County HOME Loan (Attachment A) will have a term of 55 years, with a simple interest rate of 3%, and with payments deferred until occupancy and due on a residual receipts basis (i.e., to the extent the project generates positive cash flow after debt service and approved expenses and reserves are subtracted from project income).

The County HOME Loan funds will cover project construction expenses and will be paid on a reimbursement basis, as evidenced by invoices, cancelled checks, and documentation supporting the completed work signed by the project architect and verified by a County inspector. The County will charge an annual monitoring fee of \$2,500. County monitoring will include annual approval of the operating budget for the property and review of year-end financial statements to determine residual receipts, if any. In addition, the County will monitor the property every one to three years for compliance with HOME property standards and tenant eligibility.

In addition to the HOME Loan Agreement (Attachment A), the following associated documents also will be executed: HOME Loan Promissory Note (Attachment B); HOME Loan Deed of Trust (Attachment C); and HOME Loan Regulatory Agreement (Attachment D) – (collectively the County Documents); and Subordination Agreement to subordinate County Documents to the Pacific Western Bank, substantially in the form attached as Attachment E, subject to review and approval by County Counsel, which will be executed and recorded at the time of occupancy.

County HOME Loan Regulatory Agreement

Pursuant to federal requirements, one of the housing units will be identified as a HOME-assisted unit, which will be income and rent-restricted for 20 years. As specified in the County HOME Loan Regulatory

Agreement, the rent for the unit and income of the tenant will be restricted to very low income households (50% of Area Median Income). Pursuant to the State Tax Credit regulatory agreement that will be executed upon completion of construction, 44 units (45 units less one manager's unit) in the project will have an affordability period that terminates in 55 years.

Lot Merger

The developer is merging two land parcels, which will be completed prior to the start of construction of the Project. The revised legal description, reflecting the lot merger, will be recorded in the real estate records of the County of Santa Barbara on or about October 16, 2014. No changes to the lot lines of the site will be made. The revised legal description will be reflected in an ALTA Lender Policy, to be provided by Chicago Title Company. Further, the County will not make disbursements on the County HOME Loan until the revised legal description is properly recorded against the property.

County Subordination Agreement to Pacific Western Bank Loan

Pacific Western Bank has committed to providing approximately \$7,340,000 for the construction loan. Upon completion and occupancy of the project, the construction loan will be repaid with tax credit proceeds and other project funds, and the balance, approximately \$1,261,600, will convert to a permanent loan. The Pacific Western Bank permanent loan will be fully amortized over 30 years. As a condition to providing the loans, Pacific Western Bank requires that the County subordinate its deed of trust and regulatory agreement to the bank's loan. Recommended Action F is for the Board to approve and authorize the Chair of the Board to execute the original and duplicate original Subordination Agreement (Attachment E) that subordinates the County HOME Loan Permanent Deed of Trust, Assignment of Rents, and Security Agreement that secures the County HOME Loan Agreement and the County HOME Loan Regulatory Agreement to the Pacific Western Bank loan. The subordination agreement is in a near final form; any material changes made to the final document will be reviewed by County Counsel and brought before the Board for approval.

Low Income Housing Tax Credits

Nearly \$6 million will be invested in the development of the Project as a result of an award of Low-Income Housing Tax Credits. These funds will be invested as cash by investor(s) in return for tax credits; therefore there is no repayment required. The tax credit proceeds will be invested into the Project in three installments, commencing with the start of construction and concluding with the filing of the Project's first year of tax returns. The majority of the tax credit proceeds will be received upon completion of construction and will be used to repay the construction loan. Upon completion and occupancy of the Project, the California Tax Credit Allocation Committee (TCAC), which issued the tax credits, will record a regulatory agreement to run with the land that will restrict forty-four of the forty-five units to the income and rent restrictions imposed by TCAC for a period of fifty-five (55) years.

Document Recording

The County HOME Loan documents will be executed following the October 14, 2014 Board Hearing; however, the County Deed of Trust and the HOME Regulatory Agreement will be recorded when the construction is complete. No HOME funds will be disbursed prior to the recording of the documents. The Pacific Western Bank loan, the security instruments for the Deferred Developer Fee and the security instruments for the CBH loan will be recorded against the property during construction as those funds

will be disbursed during construction. This will ensure that the Project is subject only to liens by the entities providing funding during construction. Following construction, and before disbursement of County HOME funds, the three County documents will be recorded and CBH will execute a subordination agreement to subordinate its loan to the County loan. County HOME funds then will be disbursed for final constructions costs.

Upon conversion of the construction loan to the permanent loan, the Project loans and regulatory instruments will show on title in the following order:

1. Pacific Western Bank Construction to Permanent Deed of Trust
2. Assignment of Leases and Rents to Pacific Western Bank
3. Corporation for Better Housing Deed of Trust (deferred Developer Fee)
4. County of Santa Barbara HOME Regulatory Agreement
5. County of Santa Barbara HOME Deed of Trust
6. Corporation for Better Housing Deed of Trust (City Grant/CBH loan)
7. Affordable Housing Program Deed of Trust
8. TCAC Regulatory Agreement

Projected Schedule

The developer expects to close on the acquisition of the land, the construction and permanent loans, and the partnership agreement on or before November 30, 2014. Construction is expected to start by December 31, 2014 and be completed in about a year. Full occupancy of the Project is expected to be complete by spring of 2016.

The closing dates and construction start dates are critical. If construction does not start by December 31, 2014, then the project will likely lose the tax credit financing in its entirety.

Fiscal and Facilities Impacts:

The County has been awarded sufficient HOME funds for the \$180,000 County HOME Loan. The County HOME Loan Agreement contains the provision that in the event federal HOME funds are not made available to the County for any reason, then the County will not be held liable for providing funds to Borrower.

The County is awarded an allocation of HOME funds annually. Up to ten percent (10%) of the County's annual allocation of HOME funds may be used for administrative expenses. In addition, once the HOME Loan Agreement and associated documents are fully executed, County staff time directly attributable to the Project may be charged to HOME funds as "Activity Delivery Costs." Staff has proposed budgeting \$70,000 for Activity Delivery Costs to cover County expenses, such as inspections during the course of construction. The County also will charge the Project an annual monitoring fee of \$2,500 per year to offset staff costs in performing annual monitoring, including periodic site visits, and annual review of operating budgets and financial reports.

The proposed County HOME loan of \$180,000 and proposed Activity Delivery Costs of \$70,000 consist only of federal HOME funds and constitute one-time project costs.

Funding Sources	Current FY Cost:	Annualized On-going Cost:	Total One-Time Project Cost
General Fund			
State			
Federal			\$ 180,000.00
Fees			
Other:			
Total	\$ -	\$ -	\$ 180,000.00

Risk Analysis

Execution of the subordination agreement will result in the County’s rights under the County HOME Loan to become subordinate to the lien of the Pacific Western Bank loan deed of trust and the Corporation for Better Housing for its deferred developer fee.

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 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 interest payments beginning in year 14, 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 the event of foreclosure and sale of the property, the Pacific Western Bank loan will be repaid prior to the CBH loan and the County’s HOME 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 has been fully vetted and underwritten by the tax credit investor(s).

In addition Pacific Western Bank has fully vetted and underwritten the Project and has determined that the Project costs are within industry standards and that the Project will generate sufficient revenue to operate successfully.

\$180,000 HOME Loan for Solvang Senior Apartments; Third Supervisorial District.

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Attachments:

Attachment A: HOME Loan Agreement

Attachment B: HOME Loan Promissory Note

Attachment C: HOME Loan Deed of Trust

Attachment D: HOME Loan Regulatory Agreement

Attachment E: Form of Subordination Agreement Pacific Western Bank

Attachment F: Draft Amendment to the FY 2014-15 Annual Action Plan

Attachment G: Proposed Revised Legal Description

Attachment H: CEQA Mitigated Negative Declaration:

A hard copy of the Mitigated Negative Declaration is available for review at the County Administration building, 123 E. Anapamu St., 2nd Floor and by request. A hard copy also will be available at the October 14 Board meeting.