



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: September 16, 2014
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Renée E. Bahl, Interim Community Services Director (805) 568-2467
Director(s)
Contact Info: Margo Wagner, Sr. Housing Program Specialist (805) 568-3529
SUBJECT: Sandpiper Apartments – Subordination of County Regulatory Agreement and Declaration of Restrictive Covenants to U.S. Bank and California Community Reinvestment Corporation, 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. Approve and authorize the Chair of the Board of Supervisors to execute a Subordination Agreement (Attachment A) that subordinates the following County documents currently recorded against the Sandpiper Apartments in Goleta (the Project) to a deed of trust and other senior loan documents securing a construction loan from U.S. Bank and a subsequent permanent loan with California Community Reinvestment Corporation (CCRC):
 1. County Regulatory Agreement and Declaration of Restrictive Covenants;
 2. Agreement to Grant Mitigation Funds to the Housing Authority; and

- B. Determine that approval of the Subordination Agreement is not the approval of 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 project is 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 physical impact on the environment, and direct staff to file a Notice of Exemption (NOE) (Attachment B).

Summary Text:

Sandpiper Apartments (Project) consists of three properties located at 3709-390 Mathilda Drive and 355-375 Ellwood Beach Drive in Goleta. The L.C.Grossman Homes consists of seven buildings located at 5575-5595 Armitos Avenue in Goleta. This request is being made by the Housing Authority of the County of Santa Barbara (Housing Authority). The Projects are presently owned by the Housing Authority, which has formulated a limited partnership with its affiliate Surf Development Company. The name of the limited partnership is Leland Grossman Sandpiper, L.P. a California limited partnership (Limited Partnership). The Housing Authority and Surf Development Company will be the general partners on this Project. Surf Affordable Housing Enterprises, Inc., A California corporation, is the Limited Partner. It is the intent of the Limited Partnership to acquire the property from the current owner and rehabilitate 82 multi-family affordable housing rental units. This transaction will also facilitate the Housing Authority's participation in HUD's Rental Assistance Demonstration Program (RAD).

Under the RAD program housing authorities would be able to convert public housing rental subsidies to Section 8 Project based rental subsidies on an individual development basis, which in turn assists public housing authorities borrow funds for renovations, accumulate reserves and otherwise preserve and reinvest in their public housing stock. RAD seeks to give public housing authorities more flexibility to access private and public funding sources, including low income housing tax credits (LIHTCs), for needed improvements to its public housing stock. The program also aims to improve public housing authorities' long-term financial outlook by easing their reliance on less stable appropriations from the Federal government. In early 2012 the U. S. Department of Housing and Urban Development (HUD) invited housing authorities throughout the country to participate in a demonstration program entitled the Rental Assistance Demonstration Program (RAD).

The Housing Authority applied to the RAD program and in December 2012 was approved to transition the Sandpiper Apartments and L.C. Grossman Homes to this program. In May, 2014, the Housing Authority applied to the State of California for 4% Federal tax credits and tax exempt bonds for the property. In July 2014, the tax credits and bonds were approved by the California Tax Credit Allocation Committee.

In order for the interest on these bonds to be tax-exempt (i.e. be excluded from the gross incomes of the owner of the bonds), TEFRA and the Internal Revenue Service (IRS) required that a public hearing be held two weeks prior to approval of bond financing by the Housing Authority's Board of Directors. The public hearing was held in the City of Goleta because it has jurisdiction of the project area. The City of Goleta adopted Resolution No. 14-03 in January, 2014, approving the issuance of bonds for purpose of financing the acquisition of the Project.

The formation of the Limited Partnership was required to obtain the low income housing tax credits. These tax credits and tax exempt bonds will enable the Limited Partnership to purchase and renovate the Project. U.S. Bank intends to provide approximately \$7,378,917 in construction loan proceeds to facilitate this effort. After the construction period ends and certain tax exempt bonds are sold, the remaining construction loan balance in an amount of approximately \$3,620,000 will be converted into a permanent loan made by the California Community Reinvestment Corporation (CCRC). The Housing Authority is requesting that the County subordinate the following documents to the construction and permanent loans in order to induce these lenders to invest in the Project:

1. County Regulatory Agreement and Declaration of Restrictive Covenants; and
2. Agreement to Grant Mitigation Funds to the Housing Authority.

During the rehabilitation period, the current residents will be provided full relocation assistance which could include Section 8 vouchers or other adequate assistance based on their needs and income levels. The Housing Authority's intent is to preserve the income restrictions on the units in perpetuity; the project will be subject to a 55-year affordability housing covenant. The proposed rehabilitation of these low income units preserves a critical affordable housing resource on the south coast.

Background:

In August, 1985, the Housing Authority was awarded a grant of Countywide local funds in the amount of \$104,000 to assist the Housing Authority in developing fourteen residential low income rental units located at 5575-5595 Armitos Avenue in Goleta, California. The term of this grant was a 30 year term and is expected to expire in August, 2015. In relation to this grant, the County recorded an Agreement to Grant Mitigation Funds to the Housing Authority against this property, which requires the owner to provide low income housing. This property has been included in the Housing Authority's Project and will secure the loans necessary for acquisition and rehabilitation. In the event of foreclosure and sale of the property, the County's grant agreement may be extinguished in a foreclosure; however there will be no requirement of repayment to HUD since mitigation funds are non-federally related.

In November 2000, the Housing Authority received a \$600,000 loan of HOME funds (\$499,394) and Countywide local funds (\$100,606) to acquire the 68 unit apartment complex of 20 efficiency units (studios) and 48 one-bedroom units and townhomes located at 3709-390 Mathilda Drive and 355-375 Ellwood Beach Drive in Goleta. The HOME program requires that HOME-assisted units remain affordable for a *minimum* period of 15 years. This minimum affordability period ends on March 11, 2017. The County recorded the County's Regulatory Agreement and Declaration of Restrictive Covenants (Regulatory Agreement), which requires that the eight (8) units remain affordable for a period of 40 years. In April 2003, the Board approved the Subordination of the Regulatory Agreement to facilitate a new first trust deed in the amount of \$5,360,070.00 with a more favorable financing interest rate. At that time, the County's loan was repaid in full including interest for a total of \$642,460; as a result there is no outstanding County loan on this property.

Risk Analysis:

The Project has eight (8) units that are income and rent restricted by the County's HOME Regulatory Agreement. The subordination of the County HOME Regulatory Agreement to a new senior deed of trust securing a construction loan in the amount of approximately \$7,378,917 with U.S. Bank and subsequent permanent senior financing in an amount of approximately \$3,620,000 with CCRC bank will not alter those HOME program requirements. The current loan with Rabobank will be paid off through the construction financing. Although the affordability period to HUD expires on 3/11/2017, the County will continue to monitor the Project's financial statements annually, as well as financial statements from the Limited Partnership for the entire regulatory period which expires in 2040. The HOME units will continue to be monitored through the County's HOME program to ensure that the units are occupied by eligible tenants.

The subordination agreement will result in the County's rights under the County Regulatory Agreement and Agreement to Grant Mitigation Funds to the Housing Authority becoming subordinate to the construction financing and subsequent permanent financing. In the event of foreclosure and sale of the property, the County's Regulatory Agreement and Agreement to Grant Mitigation Funds may be

extinguished in a foreclosure. The Agreement to Grant Mitigation Funds to the Housing Authority is expected to expire in August, 2015, which will be prior to the permanent loan with CCRC being placed on the properties. If the Regulatory Agreement is extinguished, the County will lose the authority to enforce HUD's requirement that the HOME-assisted units remain affordable until 3/11/2017. Violation of this requirement could subject the County to remedial action by HUD, including the repayment of HOME funds.

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 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).

The Subordination Agreement makes reference to several documents currently in draft form. If the Subordination Agreement or the referenced documents are revised in a substantive manner that materially affects the County's risk, then HCD will bring this matter back to the Board for further consideration.

Fiscal Analysis:

Resources associated with processing the paperwork for the subordination agreement were absorbed by the existing 2 FTE inclusionary housing section, which is funded by the Affordable Housing Fund. On-going monitoring will continue through the monitoring position funded through the General Fund.

Staffing Impacts:

As referenced in the Budget Page D-188, there are no staffing impacts other than for on-going monitoring of the original Project.

Special Instructions:

- Execute three (3) original copies of Attachment A and contact Margo Wagner at ext. 3529 to pick up two (2) original signed copies.
- Provide a copy of the minute order reflecting Board Action

Attachments:

Attachment A – Subordination Agreement

Attachment B – CEQA NOE

Attachment C – County Regulatory Agreement and Declaration of Restrictive Covenants

Attachment D – Agreement to Grant Mitigation Funds to the Housing Authority

Authored by:

Margo Wagner, Senior Housing Program Specialist

cc:

Scott Greenwood, Deputy County Counsel

Bob Havlicek, Housing Authority of the County of Santa Barbara