



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:** February 11, 2014  
**Placement:** Administrative  
**Estimated Tme:** N/A  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Herman Parker, Community Services Director (805) 568-2467  
Director(s):  
Contact Info: Laurie Baker, Senior Housing Program Specialist (805) 568-3521  
**SUBJECT:** HOME Loan for Casas de las Flores Affordable Housing Project Located in District 1 (Project)

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**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 originals and duplicate originals of the County HOME Loan Agreement (Attachment A) and HOME Regulatory Agreement (Attachment B) with Casas de las Flores L.P. for development of the Casas de las Flores affordable housing project at 4096 Via Real, Carpinteria located in District 1;
- B. 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, \$1,209,957, is not increased;
- C. Approve the County HOME Loan Promissory Note (Attachment C) and Deed of Trust, Assignment of Rents, and Security Agreement (Attachment D);
- D. Approve and authorize the Chair of the Board to execute the original and duplicate original Subordination Agreement, in a format substantially similar to the version attached (Attachment E) pending review by County Counsel and the Auditor, 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 a deed of trust

securing a loan from JPMorgan Chase Bank, N.A. for development of the Casas de las Flores affordable housing project;

- E. Approve and authorize the Chair of the Board to execute the original and duplicate original Subordination Agreement (Attachment F) 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 a deed of trust securing a loan from the Housing Trust Fund of Santa Barbara County for development of the Casas de las Flores affordable housing project: and
- F. 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 Casas de las Flores Affordable Housing Project are within the scope of the project covered by Final Mitigated Negative Declaration for the Casa de las Flores (Project No. 10-1543-DP/CDP) approved on December 6, 2010 by the City of Carpinteria Planning Commission, and that therefore no new environmental document is required. A link to the location of the Final Mitigated Negative Declaration is provided in the Attachments listed at the end of this document. A hard copy of the document is available for review at the County Administration building, 105 E. Anapamu St., Room 105 and by request. A hard copy also will be available at the February 11 Board meeting.

**Summary Text:**

The recommended action is for the Board to approve a County loan of \$1,209,957 in federal HOME Investment Partnership (HOME) funds to Casas de las Flores L.P., for the development of a 43-unit rental housing project (including 42 units restricted to low and very low income households plus one unrestricted manager's unit) located in Carpinteria.

The County HOME Loan for Casas de las Flores is one of three items included in the FY 2012-2013 Annual Action Plan Substantial Amendment that was approved by the Board on June 18, 2013. The recommended action in this Board Letter administers the approval made by the Board last June.

**Background:**

The County receives 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.

**Casas de las Flores Project Description**

The Casas de las Flores project involves new construction of affordable rental housing on 2.8 acres on the site of a former mobile home park in Carpinteria. The new project consists of seven buildings with a total of 48,763 square feet. There will be 42 affordable units (including seven 1-bedroom units, fourteen 2-bedroom units, and twenty one 3-bedroom units) plus one 3-bedroom manager's unit and community space. The project will provide permanent housing targeted to farmworkers and farmworker families.

Of the project's 42 affordable units, seven (7) will be designated as HOME-assisted units. Rents for these seven units shall not exceed the Low HOME Rent levels established annually by HUD. Tenant income shall not exceed 50% of Area Median Income that is in effect at the time of project completion

(currently \$39,800 for a household of four). The County's HOME Regulatory Agreement will require the HOME-assisted units meet HOME rent and income standards and other regulatory requirements for 20 years. All units in the project will be restricted pursuant to regulations governing federal Low Income Housing Tax Credits (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.

Casas de las Flores, L.P., will bear overall responsibility for developing, managing, and operating the project. The Partnership's Managing General Partner is People's Self-Help Housing Corporation (PSHHC), a non-profit affordable housing developer based in San Luis Obispo, with offices in Santa Barbara. The Partnership's Limited Partner is the National Equity Fund, a firm that has collaborated with PSHHC on several previous tax credit projects. The construction and permanent lender is Chase Bank. The Duncan Group, a nonprofit management firm affiliated with PSHHC, will be the property manager.

The total development cost for the project is approximately \$17.3 Million:

Land Acquisition	\$2,295,000
Construction	10,072,101
Relocation	150,000
Architect, engineering, environmental, studies	478,000
Permit, fees, taxes	1,253,036
Appraisal	15,000
Financing fees	919,340
Legal	185,000
Contingency	71,323
Marketing	75,034
Developer fee	1,400,000
Reserves	<u>370,000</u>
	\$17,283,835

Permanent funding sources for the project are approximated below:

JPMorgan Chase Bank loan	\$2,590,900
Housing Trust Fund of Santa Barbara County	430,000
County HOME Loan	1,209,957
NeighborWorks Sponsor loan	125,000
General Partner (PSHHC) contribution	194,600
Limited Partner capital/tax credit equity	<u>12,733,378</u>
	\$17,283,835

The California Tax Credit Allocation Committee (TCAC) announced on September 25, 2013 that the project was awarded tax credits, which resulted in a cash infusion to the project of about \$12.7 million. Chase Bank has committed to providing a construction and permanent loan, which will be in first security position on title. The Housing Trust Fund of Santa Barbara County has also committed to providing a loan, which will be in second security position on title. The County HOME Loan will be in

third security position on title.

### **County HOME Loan and Related Documents**

On April 8, 2013, the Santa Barbara Capital Loan Committee reviewed the Casas de las Flores project and recommended that the Board of Supervisors approve an allocation of HOME funding for the project. The Board approved HOME funding for the project on June 18, 2013 as part of the FY 2012-2013 Annual Action Plan Substantial Amendment.

The County HOME Loan (Attachment A) will have a term of 55 years, a simple interest rate of 3%, 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 Project's income and expense estimates indicate that roughly \$265,000 will be paid to the County in residual receipts over the project's first 17 years, with a sizeable increase in payments coming upon repayment of the 15-year portion of the Chase Bank loan.

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 invested in the project than that necessary to fully fund the project. A cost allocation, pro rata share analysis, and subsidy layering review have been completed, which demonstrate that the appropriate amount of HOME funds is invested, pursuant to HOME regulations.

The County has certified that PSHHC is a Community Housing Development Organization (CHDO) and meets the qualifications established under the HOME regulations. HUD requires that the County spend at least 15% of its HOME allocations on affordable housing projects developed by CHDOs. County HOME funds committed to the Casas de las Flores project will meet this requirement.

The County HOME Loan funds will cover project predevelopment expenses and will be paid on a periodic 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, which will be paid out of residual receipts.

Two documents associated with the County HOME Loan will also be executed: (1) the County HOME Loan Regulatory Agreement (Attachment B); (2) the County HOME Loan Promissory Note (Attachment C) and (3) the County HOME Loan Deed of Trust (Attachment D).

### **County HOME Loan Regulatory Agreement**

Pursuant to federal requirements, seven of the housing units will be identified as HOME-assisted units, which will be income and rent-restricted for 20 years. As specified in the County HOME Loan Regulatory Agreement (Attachment B), unit rents and tenant incomes will be restricted to very low income households (50% of Area Median Income). Pursuant to the Tax Credit regulatory agreement that will be executed upon completion of construction, all 42 units in the project will have a longer affordability period that terminates in 55 years. The County HOME Loan will be subordinate to the Chase Bank Loan (described below) and the loan provided by the Housing Trust Fund of Santa Barbara County (described below).

### **Chase Bank Loan**

Chase Bank has committed to providing approximately \$12 million for the construction loan. Upon

completion of construction, the construction loan will convert to two permanent loans totaling \$2,590,900. The Chase Bank permanent loans are fully amortized – one over 20 years, the other over 15 years. As a condition to providing the loans, Chase Bank requires that the County subordinate its deed of trust and regulatory agreement to the bank's loan and execute the Chase Bank Subordination Agreement (Attachment E). The \$12 million Chase Bank construction loan amount is an estimate; the finalized amount will be determined after the project is bid.

#### **Housing Trust Fund of Santa Barbara County Loan**

The Housing Trust Fund of Santa Barbara County (Housing Trust Fund) has committed to lending \$430,000 for development of the project. The loan has a term of 17 years and an interest rate of 3.75%. Payments are deferred until completion of construction when interest-only payments of \$16,125 are due. A balloon payment of \$430,000 is then due in seventeen years, when the project is sold to PSHHC and is then refinanced. As a condition to providing the loan, the Housing Trust Fund requires that the County subordinate its deed of trust and regulatory agreement to the Housing Trust Fund loan by executing the Housing Trust Fund Subordination Agreement (Attachment F). As with the subordination of the Chase Bank Loan described above, the Housing Trust Fund Loan will be paid off prior to the County's HOME Loan.

#### **Low Income Housing Tax Credits**

Nearly \$13 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 5 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 Chase Bank construction loan. Upon completion of construction, TCAC, which issued the tax credits, will require the execution of a regulatory agreement. TCAC will also require that the County subordinate its deed of trust and regulatory agreement to the TCAC regulatory agreement by executing a subordination agreement. Staff will return to the Board in 2015 for approval of the execution of the TCAC subordination agreement.

#### **Relocation**

As required by HUD, when federal funds are invested in a project where there may be displacement of occupants, compliance with the Uniform Relocation Act is required. The Project site was previously used as a mobile home park. PSHHC has relocated the occupants of the mobile home park to clear the site for construction. The County Housing and Community Division (HCD) reviewed the relocation plan prepared by PSHHC and has consulted with HUD to assure compliance with the Uniform Relocation Act. If PSHHC fails to pay required relocation payments, such failure will constitute an event of default under the County's HOME Loan Agreement.

#### **Projected Schedule**

The Casas de las Flores project is expected to proceed according to the following schedule:

Closing:	March 2014
Construction Start:	March 2014
Construction End:	July 2015
Full Occupancy:	September 2015

The first two items of the schedule are critical. If construction does not start by March 24, 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 \$1,209,957 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, County staff time directly associated with 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 a monitoring fee of \$2,500 per year to offset staff costs in performing site visits and reviewing annual financial reports.

The proposed County HOME loan of \$1,209,957 and proposed Activity Delivery Costs of \$70,000 consist only of federal HOME funds and constitute one-time project costs.

<b><u>Funding Sources</u></b>	<b><u>Current FY Cost:</u></b>	<b><u>Annualized On-going Cost:</u></b>	<b><u>Total One-Time Project Cost</u></b>
General Fund			
State			
Federal			\$ 1,279,957.00
Fees			
Other:			
Total	\$ -	\$ -	\$ 1,279,957.00

**Risk Analysis:**

The two subordination agreements will result in the County's rights under the County HOME Loan becoming subordinate to the lien of the Chase Bank Loan deed of trust and the Housing Trust Fund deed of trust.

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 paid. The project's proforma indicates sufficient cash flow will be available to make payments on the County's loan, beginning in 2022 and continuing thereafter. However, there is risk that there may be insufficient net revenue to make payments on the County's loan. The County will annually review the Project's financial statements to assure that any excess receipts are used to repay the County loan.

In the past, PSHHC has not made annual payments on County residual receipt loans. According to PSHHC, County assistance for affordable housing projects was historically provided as functional grants, albeit in the form of loans. PSHHC had requested that the HOME funds be provided in the form of loans in order to increase the amount of tax credits awarded to projects. Accordingly, PSHHC

operated their affordable housing projects with little or no expectation of making annual payments on the County's residual receipt loans and there is no evidence in County records that the County pursued loan payments from PSHHC. PSHHC understands that a residual receipt payment on the County's HOME loan for this project will be expected, providing there are sufficient cash receipts after required operating and debt payments. HCD has reviewed the Project's long-term financial projections and approved the use of any residual receipts, including when the County could expect payments. Additionally, the entire 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 Chase Bank loan will be repaid prior to the Housing Trust Fund Loan and the County's HOME Loan. If there are sufficient funds after payment of senior liens, then the County's loan will be paid. The County's regulatory agreement may be extinguished in a foreclosure.

The project is subject to the federal Uniform Relocation Act (URA). If the project budget is insufficient to cover relocation costs, PSHHC will need to invest additional funds to comply with the URA. HOME funds may be used to reimburse eligible URA and relocation expenses. If PSHHC submits a request to the County for additional HOME funds to cover additional relocation costs, the request will be reviewed by HCD and brought to the Board for consideration. Per HOME regulations, additional HOME-restricted units may be required if additional HOME funds are later invested.

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, both lenders (Chase Bank and Housing Trust Fund) have fully vetted and underwritten the Project and have determined that the Project costs are within industry standards and that the Project will generate sufficient revenue to operate successfully.

**Attachments:**

Attachment A: County HOME Loan Agreement

Attachment B: County HOME Loan Regulatory Agreement

Attachment C: County HOME Loan Promissory Note

Attachment D: County HOME Loan Deed of Trust

Attachment E: Subordination Agreement (Chase Bank)

Attachment F: Subordination Agreement (Housing Trust Fund)

Attachment G: CEQA Mitigated Negative Declaration