



COUNCIL AGENDA: 6/13/17
ITEM: 4.2

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: May 22, 2017

Approved

D. D. SyL

Date

6/2/17

COUNCIL DISTRICT: 3

**SUBJECT: EXCLUSIVE NEGOTIATION AGREEMENT AND PREDEVELOPMENT
LOAN TO SATELLITE AFFORDABLE HOUSING ASSOCIATES FOR
THE FUTURE DEVELOPMENT OF 226 BALBACH AVENUE**

RECOMMENDATION

Adopt a resolution authorizing the Director of Housing to:

1. Negotiate and execute an Exclusive Negotiation Agreement (“ENA”) between the City and Satellite Affordable Housing Associates (“SAHA”) for potential development of the City-owned property located at 226 Balbach Avenue (“the Property”) for a future affordable housing development (“the Project”); and
2. Negotiate and execute documents for a predevelopment loan between the City and SAHA in an amount not to exceed \$200,000.

OUTCOME

With City Council authorization, the Director of Housing will enter into an ENA and predevelopment loan agreement between the City and SAHA. This will provide SAHA with site control and funding needed to proceed with a development concept for the Property.

BACKGROUND

In November 2014, the Housing Department initiated a competitive process to identify potential developers and operators with demonstrated experience creating supportive housing communities in urban areas. Through this effort, three development teams were deemed

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qualified to create housing solutions coupled with supportive services in the Downtown Core. One of the three development teams is currently pursuing a 100% supportive housing community at 278 North Second Street (Villas on the Park). Another is moving forward with the Plaza Hotel.

On September 22, 2015, the City Council authorized the Director of Housing to negotiate and execute a purchase and sale agreement to acquire the property located at 226 Balbach Avenue (“the Property”) from the Successor Agency to the Redevelopment Agency (“SARA”) of the City of San José for a future affordable housing development. On October 22, 2015, sale of the Property was unanimously approved by the Oversight Board for the appraised value of \$2,400,000. The Housing Department completed the acquisition of the Property from SARA in late-2016.

ANALYSIS

Proposed Approach

Recently, the City Council has taken several actions to create housing solutions for formerly homeless individuals. While the need for continued focus on homeless housing persists, some development opportunities may be more suitable for a mixed-income affordable housing development. In addition, three affordable housing communities with a 100% homeless housing component are already slated for the Downtown area. The Housing Department has concluded that this Property is more suited to serve occupants with a diverse range of incomes. The future occupants could include a limited number of homeless residents along with other target populations, such as seniors, families, and/or artists.

Exclusive Negotiation Agreement with SAHA

SAHA was selected through a competitive process that was conducted to identify developers and operators of supportive housing in the Downtown Core. SAHA specializes in providing affordable housing for low-income and special needs populations. It has developed more than 3,000 affordable apartments across seven counties in northern California, many of which are enriched with ongoing supportive services.

The Housing Department is recommending that the City enter into an ENA with SAHA to provide the developer with assurances that the City will negotiate solely with SAHA for the development of the site. The ENA will contain the provision for a long term ground lease of the Property which would allow for development of the site as an affordable housing project. The certainty offered by the ENA will allow SAHA to initiate the planning permit process and to obtain environmental review. In addition to securing future entitlements, the ENA will require that SAHA pursue the necessary funding to bring the future Project to fruition. In addition, the ENA will include the following terms:

- SAHA will submit a conceptual design plan that details how the Property will be developed;
- SAHA will submit a plan about the ideal target population, income levels, and research the potential of developing artist housing;
- SAHA will submit detailed sources of funding for the Project;
- SAHA will submit a detailed community outreach plan for the Project;
- SAHA will submit its plans to the Planning Department for review, as appropriate; and
- The term of the ENA will expire on June 30th, 2019.

The ENA will contain a detailed schedule of performance which outlines the milestones and submittals required by SAHA during the ENA period. It will also provide SAHA and their consultants with access to the Property for the purposes of conducting predevelopment activities.

Predevelopment Loan to SAHA

Without the certainty of predevelopment funding, projects are unable to move through the land use entitlement process. Entitlements are a necessary precursor to applying for other funding sources such as federal and state tax credits. The Housing Department has a Predevelopment Loan Program that provides nonprofit affordable housing developers with loans up to \$100,000 at favorable interest rates. These loans may be approved by the Director of Housing under the Director's Delegated Authority from the City Council. However, the \$100,000 available per the Director's authority is insufficient funding for SAHA to effectively position the development for tax credit funding in 2018. Therefore, the Housing Department is seeking Council approval for a predevelopment loan to SALA of up to \$200,000. The funding source for the loan will be the Low and Moderate Income Housing Asset Fund (LMIHAF), which consists of repayments from former 20% redevelopment-funded affordable housing loans.

It should be noted that SAHA expects the total cost of predevelopment to be approximately \$500,000, of which the preponderance is related to architecture and engineering. In the event SAHA cannot secure additional predevelopment funding from another lender, the Housing Department may seek City Council approval for additional predevelopment funding if and when the City Council approves additional funding to the Project.

During the predevelopment phase, SAHA will conduct extensive due diligence to determine the appropriate number of units for the future affordable housing development. This assessment will be based on numerous factors including:

- Conformance with the General Plan;
- Determination regarding the Property's zoning
- Analysis of the Property's density potential;
- Compliance with the California Environmental Quality Act (CEQA); and

- Potential for securing federal, state, and local funding sources to develop a future affordable housing community.

Specific business terms for the predevelopment loan will be approved by the Director of Housing pursuant to the Director's Delegation of Authority ordinance, located in Chapter 5.06 of Title 5 of the San José Municipal Code. The anticipated funding source for the predevelopment loan is the Low and Moderate Income Housing Asset Fund (346).

It should be noted that because the City will obtain ownership of the Property throughout the predevelopment process, the City's predevelopment loan to SAHA will be secured only by the plans and reports procured with the predevelopment loan proceeds.

At the conclusion of the predevelopment process, SAHA will be charged with embarking on a comprehensive community outreach process and securing the necessary entitlements to effectuate the Project. Assuming entitlements are approved, the Housing Department will return to Council in 2017 to seek a financial commitment for the Project.

EVALUATION AND FOLLOW-UP

Assuming SAHA fulfills the terms of the ENA for the Property, the Housing Department will bring a recommendation to the City Council for approval of a construction and permanent loan for the future affordable housing development.

POLICY ALTERNATIVES

The Housing Department considered the following alternative before making these recommendations for the Property:

Alternative #: ***Do not move forward with an ENA and predevelopment loan to SAHA.***

Pros: 226 Balbach could be held for a future affordable housing development.

Cons: The City is facing a tremendous need for affordable housing. Locating suitable sites near transit and services, at a reasonable price, is difficult, making it more challenging for the City to help create housing options for very-low and low-income individuals.

Reason for not recommending: 226 Balbach presents a viable opportunity to serve residents from a wide range of income levels including downtown workers and potentially including some homeless individuals.

PUBLIC OUTREACH

The Housing Department hosted a community meeting with the neighborhood on May 22, 2017. In addition, this memorandum will be posted on the City’s Council Agenda website for the June 20, 2017 Council Meeting. If the City Council approves the recommended actions outlined in this memorandum, SAHA will begin the process of engaging with the neighborhood around the Property to obtain public input on the future development concept for the Property.

COORDINATION

Preparation of this report has been coordinated with the City Attorney’s Office and the City Manager’s Budget Office.

COMMISSION RECOMMENDATION/INPUT

This item was not heard by the Housing and Community Development Commission, as approvals of affordable development financing do not fall under the functions, powers and duties of the Commission delineated in Section 2.08.2840 of the San José Municipal Code.

FISCAL/POLICY ALIGNMENT

This expenditure is consistent with the General Plan 2040 Goal H-2 Affordable Housing: “Preserve and improve San José existing affordable housing stock and increase its supply such that 15% or more of the newly developed housing stock is affordable to low-, very low-, and extremely low-income households.”

COST SUMMARY/IMPLICATIONS

1. ESTIMATED COSTS:

<u>USES</u>	<u>AMOUNT</u>
Predevelopment Loan	\$200,000
TOTAL ‘UP TO’ LOAN AMOUNT	\$200,000

2. SOURCE OF FUNDING: Low and Moderate Income Housing Asset Fund (346)

3. FISCAL IMPACT: No ongoing fiscal impact.

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BUDGET REFERENCE

The table below identifies the appropriation proposed to fund the predevelopment loan recommended as part of this Memorandum.

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2016-2017 Adopted Operating Budget	Last Budget Action (Date, Ord. No.)
346	3089	Housing Predevelopment Activity	\$560,000	\$200,000	X-53	6/21/16, Ord. No. 29762

CEQA

Determination of Consistency with the Downtown Strategy 2000 EIR, Resolution #72767.

/s/

JACKY MORALES-FERRAND
Director of Housing

For questions, please contact Patrick Heisinger, Acting Division Manager, at (408) 975-2647.