



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: May 22, 2017

Approved

J. D. Syl

Date

6/2/17

COUNCIL DISTRICT: 10

**SUBJECT: EXCLUSIVE NEGOTIATION AGREEMENT AND PREDEVELOPMENT
LOAN TO EDEN HOUSING FOR THE FUTURE DEVELOPMENT OF
THE PROPERTIES AT 5647 GALLUP DRIVE AND 1171 MESA DRIVE**

RECOMMENDATION

Adopt a resolution authorizing the Director of Housing to:

1. Negotiate and execute an Exclusive Negotiation Agreement (“ENA”) between the City and Eden Housing, Inc., (“Eden”) for potential development of the City-owned property located at 5647 Gallup Drive and 1171 Mesa Drive with an affordable housing development; and
2. Negotiate and execute documents for a predevelopment loan to Eden 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 Eden. This will provide the site control and funding Eden Housing needs to proceed with a development concept and plans for the Property.

BACKGROUND

On April 26, 2016, the City Council authorized the Director of Housing to negotiate and execute a purchase and sale agreement to acquire adjacent properties located at 5647 Gallup Drive and 1171 Mesa Drive (“the Property”) from the Successor Agency to the Redevelopment Agency

(“SARA”) of the City of San José for \$1,160,000 for a future affordable housing development. The Property is 0.38 acres in size. The proposed sale had been previously approved by the Oversight Board on March 24, 2016. The Housing Department completed the acquisition of the Property from SARA in June 2016.

ANALYSIS

On November 1, 2016, the Housing Department issued a Request for Proposals (RFP) to select an entity to develop and operate the Property (the “Project”). Following the January 20, 2017 deadline for submittal of proposals, a panel consisting of staff from the Housing Department and the County’s Office of Supportive Housing evaluated the submittals and held interviews with the most qualified respondents. As a result of this competitive process, Eden’s proposal was selected.

The RFP specified that the City wanted proposals for intergenerational affordable housing. Eden’s proposal for up to 41 units includes a mix of seniors, families with foster care youth, and transitional age youth, or “TAYs”. TAYs are at-risk young people between the ages of 16 and 24 who are in transition from state custody or foster care. Once they turn 18, they can no longer receive assistance from the systems of care that previously provided for many of their needs.

Like most young people, they face challenges transitioning to the workforce with limited resources and experience. Unlike others, they do not have the family support that many people take for granted. The Exclusive Negotiation Agreement and the predevelopment loan will provide Eden with the tools to finalize the project’s concept.

Exclusive Negotiation Agreement with Eden

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

- Eden will submit a conceptual design plan that details how the Property will be developed;
- Eden will submit a plan for the target population at specified income levels;
- Eden will submit detailed sources of funding for the Project;
- Eden will submit a detailed community outreach plan for the Project;
- Eden will submit its plans to the Planning Department for review; 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 Eden during the ENA period.

It will also provide Eden and any consultants with access to the Property for the purposes of conducting predevelopment activities.

Predevelopment Loan to Eden

Without the certainty of predevelopment funding, projects are unable to move through the 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 (Chapter 5.06 of Title 5 of the Municipal Code). However, the \$100,000 available per the Director's authority is insufficient funding for Eden to effectively position the development for tax credit funding.

Therefore, the Housing Department is seeking Council approval for a predevelopment loan of up to \$200,000 to assist Eden with entitling and obtaining the necessary financing to develop the Property. 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 Eden expects the total cost of predevelopment to be approximately \$500,000, of which the preponderance is related to architecture and engineering. In the event Eden 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 process, Eden will be charged with embarking on a comprehensive community outreach process and securing the necessary entitlements to effectuate the Project. Eden will also conduct extensive due diligence to determine project feasibility and 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. It should be noted that, because the City will retain ownership of the Property throughout the predevelopment process, the City's

predevelopment loan to Eden would be secured only by the plans and reports procured with the predevelopment loan proceeds.

EVALUATION AND FOLLOW-UP

Assuming Eden fulfills the terms of the ENA, the Housing Department will bring a recommendation to the City Council for approval of a construction and permanent loan for the Project.

POLICY ALTERNATIVES

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

Alternative #1: *Do not move forward with an ENA and predevelopment loan to Eden.*

Pros: The Property 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: The Property presents a viable opportunity to serve residents from a wide range of ages and income levels, potentially including individuals at risk of homelessness.

PUBLIC OUTREACH

The Housing Department hosted two community meetings with the neighborhood in 2016 and a third on April 27, 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, Eden 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 Office of the City Attorney 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.

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

HONORABLE MAYOR AND CITY COUNCIL

May 22, 2017

Subject: Exclusive Negotiation Agreement with and Predevelopment Loan to Eden Housing, Inc.

Page 6

CEQA

Exempt, File No. PP16-007.

/s/

JACKY MORALES-FERRAND

Director of Housing

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