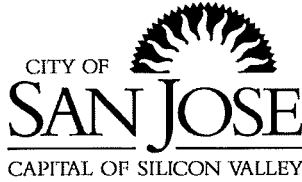


AUG 19 2009



Memorandum by City Manager's Office

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Krutko
Scott P. Johnson

SUBJECT: SEE BELOW

DATE: August 17, 2009

Approved

Date

8/18/09

COUNCIL DISTRICT: Citywide

INFORMATION

SUBJECT: REPORT ON ACTIVITIES UNDERTAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE UNDER THE CITY COUNCIL'S DELEGATION OF AUTHORITY FOR THE PERIOD OF APRIL 1, 2009 THROUGH JUNE 30, 2009

EXECUTIVE SUMMARY

This Memorandum details actions taken under the City Council's delegation of authority to the Director of Housing and the Director of Finance for the fourth quarter of Fiscal Year 2008-2009. During this quarter, the Director of Housing approved: Modifications to five existing loans, write-off of three First-Time Homebuyers loans, business terms to three loans, seventy (70) new rehabilitation loans and grants totaling \$969,630, Housing Trust Fund Grants totaling \$308,000, and one hundred forty-four (144) homebuyer loans totaling \$5,393,078 as updated at month-end. The Director of Finance also conducted Tax Equity and Fiscal Responsibility Act ("TEFRA") hearings on the issuance of tax-exempt multi-family housing revenue bonds for the Brookwood Terrace Family Apartments and North Fourth Street Family Apartments.

BACKGROUND

On September 4, 1990, the City Council adopted Ordinance No. 23589 which delegated to the Director of Housing certain specified authorities in the administration of the City's comprehensive affordable housing program (the "Delegation of Authority" or "DOA"). On May 23, 2000, the Delegation of Authority was amended by Ordinance No. 26127 to clarify certain sections and add several other provisions. On June 25, 2002, the Delegation of Authority was further amended by Ordinance No. 26657 to add several provisions delegating additional authority to the Director of Housing, the Director of Finance, and the City Manager. Subsequently, the City Manager delegated to the Director of Housing the contract authority granted to the City Manager. Effective July 26, 2007, the Delegation of Authority was further amended by Ordinance No. 28067 to modify certain provisions in order to streamline the

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Housing Department's process of making and adjusting loans and grants.

The Delegation of Authority is codified in Chapter 5.06 of the Municipal Code. This Memorandum reports on activities undertaken pursuant to the Administration's delegated authority for the period of April 1, 2009 through June 30, 2009.

ANALYSIS

The Delegation of Authority ordinance authorizes the Director of Housing: to develop and implement additional guidelines for housing programs; to adjust terms on housing loans and grants; to change the funding sources of a loan; to convert loans to grants; to loan or to grant Housing and Homeless funds, Predevelopment funds, and Housing Rehabilitation Program funds; to negotiate and to execute grant agreements necessary to implement Council-approved programs adopted in the Annual Action Plan of the Consolidated Plan; to provide management for, and/or dispose of, properties acquired through direct purchase, foreclosure or deed-in-lieu proceedings; to formalize the City Council's policies and procedures regarding housing loan defaults; to apply for federal or State funding; to determine, within defined parameters, various terms and conditions of loans and grants previously approved by the City Council; to make adjustments, within defined parameters, to loans and grants previously approved by the City Council; and to make other technical changes.

Further, the DOA Ordinance delegates jointly to the Director of Housing and Director of Finance certain authority related to the City's issuance of tax-exempt, private activity bonds to finance the development of affordable housing projects. The DOA Ordinance also delegates to the Director of Finance the authority to hold TEFRA hearings on the City's proposed issuance of tax-exempt bonds to finance affordable housing projects.

ACTIONS TAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE

Under the parameters of the Delegation of Authority, the Director of Housing and the Director of Finance have taken the following actions during the period of April 1, 2009 through June 30, 2009.

Modifications to Council-approved Loan Terms & Conditions

Tierra Encantada Development, LLC – District: 3 – SNI: Mayfair

On June 25, 2002, the City Council made a loan commitment of \$4,000,000 to Community Housing Developers ("CHD") to develop both an affordable rental project and a 12-unit for-sale townhome project. Under the terms of the original loan, \$3,600,000 was used to finance the development costs of the apartment project and \$400,000 was used to finance the land acquisition costs of the townhome project, of which eight units would be affordable to moderate-income homebuyers. Upon completion of the project, the City's \$400,000 acquisition loan was

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to be retired through a City Council approved rolled over into second mortgages commitment for low- or moderate-income first-time homebuyers.

In mid-2005, the City entered into a separate agreement with Tierra Encantada Development LLC for the \$400,000 land acquisition loan for the townhome project. Under the terms of the promissory note, the loan was due and payable on (i) the maturity date of June 1, 2006, or (ii) the date of recordation of the deed of trust securing the construction financing.

The project began construction in 2006 and was completed in early 2008. To-date, none of the 12 units have sold due to the overall soft for-sale housing market. The City's \$400,000 land acquisition note is still outstanding and the developer has been unable to retire the City's debt and payoff other construction lenders due to inability to attract buyers.

On June 16, 2009, the City Council approved the Housing Department's request to approve an Interim Affordability Restriction for the Tierra Encantada development that will enable the developer to begin renting out the units to lower-income households in order to generate rent revenue for a period of up to five years, or until the for-sale housing market improves. The proposal to rent has been approved by the other lenders. The net cash flow from monthly rental payments is still insufficient to repay the outstanding City loan. Staff recommended the City's loan maturity to be extended for a period of up to five years, to be consistent with the proposed terms of the interim affordability period. As consideration for extending the maturity date of the City loan, the developer has agreed to deepen the affordability levels of the current eight restricted units from moderate-income to much needed low- and very low-income households. Further, by extending the loan maturity date and allowing for an interim rental period, the overall period of affordability will increase from the current 45-year period by up to five additional years.

On June 23, 2009, the Director of Housing approved an extension of the maturity date from June 1, 2006, to June 1, 2011, under chapter 5.06.340(A)(1) of the Delegation of Authority for the Tierra Encantada For-Sale project.

All other terms and conditions remain unchanged

Approval of a Modification and Amendment to a Housing Rehabilitation Z-Loan to José and Rosalinda Hernandez:

On October 10, 2008, the Director of Housing approved a deferred 0% interest loan in the amount of \$30,000 to José and Rosalinda Hernandez for the rehabilitation of their single-family residence located at 702 River Falls Drive. Inadvertently, the loan was documented incorrectly and was prepared for \$15,000 instead of the approved \$30,000. The loan documents were signed and executed on November 10, 2008 and the Deed of Trust was recorded on November 20, 2008. As of June 2, 2009, the loan funds had not yet been disbursed.

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Staff confirmed the borrower's continued eligibility for City loan programs and recommended a modification and amendment to the Promissory Note, Deed of Trust, and the Regulation Z-Form to increase the loan amount from \$15,000 to \$30,000.

On June 9, 2009, the Director of Housing approved the modification and amendment of the loan documents for the loan Z-08-004 to José and Rosalinda Hernandez.

All other terms and conditions remain unchanged.

Approval of a Modification and Amendment of the Mobilehome Rehabilitation Loan to Steven Paul Lehnhoff:

On June 24, 1993, the City Council approved a 15-year deferred loan in the amount of \$11,616.00 at 3.0% interest rate compounded annually, to Steven Paul Lehnhoff and Mary Ann Lehnhoff for the rehabilitation of their mobilehome residence located at 262 El Bosque Drive. The loan became due and payable on July 1, 2008. Mr. Lehnhoff's coach value, which the City accepted as collateral for its loan, is approximately \$47,500.00, based on the MLS listing. Mr. Lehnhoff contacted the Housing Department and told staff that he was unable to pay off the City Loan and requested an extension of the maturity date.

Although Mr. Lehnhoff's last review qualified him for continued deferment, staff requested updated financial information from the borrower to confirm current eligibility for City's loan programs. .

Mr. Lehnhoff's loan was classified as a deferred payment since inception, and he is still unable to make fully amortized monthly payments. Mr. Lehnhoff has indicated he wants to begin making voluntary payments as his finances will allow. As of May 1, 2009, the proposed modified loan amount of principal and interest combined is \$18,552.87.

Staff recommended that the City modify and amend the loan to the new outstanding amount of \$18,552.87 at 0% interest for an extended term of 60 months. The borrower will reduce the balance by making affordable voluntary payments. The proposed modification will protect the City's loan and allow the borrower to continue residing in his home.

On May 21, 2009, the Director of Housing approved the modification and amendment to Mr. Lehnhoff's Mobilehome Rehabilitation Loan

All other terms and conditions remain unchanged.

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Approval of a Conversion of a Mobilehome Repair Loan to Nona Billmyre Brunetti to a Grant:

On January 7, 1988, the City of San José made a loan of \$1,715.00 to Nona Billmyre Brunetti for emergency repairs to her mobilehome located at 106 Quail Hollow Drive. The amount was a loan to Ms. Brunetti as the Mobilehome Repair Grant Program was not in existence at that time.

Ms. Brunetti's mobilehome was manufactured in 1973, and in 2016 the coach will be 43 years old and its useful life will have expired. Additionally, because of the small size of this loan, staff has determined it would not be cost effective to maintain this loan on an on-going basis over the next seven years.

On April 1, 2009, the Director of Housing approved the conversion of the Mobilehome Repairs Loan to a grant.

All other terms and conditions remain unchanged.

Approval of a Conversion of a Mobilehome Repair Loan to Ellen E. Hainer to a Grant:

On July 11, 1989, the City of San José made a loan in the amount of \$6,218.00 to Ellen E. Hainer for emergency repairs to her mobilehome located at 510 Saddlebrook Drive, #268. Following a \$500.00 return of contingency, the principal sum was reduced to \$5,718.00.

Completed in 1994, the last deferral review in file revealed that a deferral of loan payments was recommended until sale or transfer of the mobilehome, whichever occurs first; the estimated rehabilitated coach value was \$50,000.00 at that time. The City's lien was in second position behind California Federal Savings & Loan.

In June 2006, the Housing Department received a Notice of Sale of Abandoned Mobilehome. The notice required that the coach be removed from the premises within seven days of the sale date of June 29, 2006. The exact cost is unknown, but would involve the payoff of the first lender, all back payments, fines, and fees to the attorney Greystone Asset Management, court costs, and costs for removal and relocation. Since the coach had been abandoned for some time, staff was unable to locate the borrower.

Final action to write off this loan was not immediately taken. On April 7, 2009, the Director of Housing approved the conversion of a Mobilehome Repair Loan to Ellen E. Hainer to a grant.

All other terms and conditions remain unchanged.

Approval to Write Off First-Time Homebuyer Loans Due to Foreclosure:

On June 30, 2009, Loan Management/Loan Collection staff recommended the Director of Housing approve the write-off of a total of \$110,000 in loans made to three (3) individuals or

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households under the First-Time Homebuyers Program. A summary of each of these loans follows:

Borrower: Ramiro Ahumada and Margarita Uribe

On June 10, 2005, the City Made a \$10,000 deferred, fourth-lien priority loan from the Inclusionary Homebuyer Program to Ramiro Ahumada and Margarita Uribe for the acquisition of their home located at 791 Bonita Place, for the purchase price of \$355,000, CalHFA provided a 4.250% fixed rate, first lien priority loan in the amount of \$284,000 with monthly payments of principal and interest of \$1,397.11.

In early 2008, the City received a copy of a letter from CalHFA approving Borrower's request for a short sale of the property in the amount of \$250,000. On September 15, 2008, the City received a Notice of Trustee's Sale filed by CalHFA. After several postponements, CalHFA finally completed the foreclosure sale on May 6, 2009, wiping out the City loan and the Restrictions.

Borrower: Nhan T. Tran

On December 2, 2004, Nhan Tran assumed a \$60,000 deferred, second-lien priority City Loan from 20% funds for the acquisition of his home located at 2061 E. San Antonio Street, for the purchase price of \$325,000. Long Beach Mortgage Company provided a 6.050% adjustable first-lien priority loan in the amount of \$365,000 with initial-interest only monthly payments of \$1,336.04. In 2008, staff discovered that the Borrower transferred the property to his uncle, Roger Vo, and obtained equity loans from Bank of America and Washington Mutual totaling \$475,000 without City's consent.

On May 8, 2009, Long Beach Mortgage foreclosed on the property, wiping out the City Loan and the Restrictions.

Borrower: Jacqueline Barrantes

On October 22, 2003, the City made a \$40,000 deferred, second-lien priority loan from 20% funds under the Teacher Homebuyer Program to Jacqueline Barrantes for the acquisition of her home located at 1000 Weepinggate Lane, with a purchase price of \$330,000. CalHFA provided a 4.750% fixed first-lien priority loan in the amount of \$247,200 with monthly payments of \$1,289.

In 2007, Borrower filed for bankruptcy. On June 23, 2009, CalHFA foreclosed on the property wiping out the City Loan and the Restrictions.

On June 30, 2009, the Director of Housing approved the write-off of the loans made to Ramiro Ahumada and Margarita Uribe in the amount of \$10,000, to Nhan T. Tran in the amount of \$60,000, and to Jacqueline Barrantes in the amount of \$40,000. Staff determined that these City loans that were wiped out in the foreclosure proceedings are uncollectible debt.

Loans/Grants Terms and Conditions

Casa Feliz, L.P., a California limited partnership – District: 3 – SNI: University

On August 15, 2006, the City Council approved up to \$1,000,000 for construction and permanent financing for the development of Casa Feliz, a 60-unit three- and four-story affordable housing project.

On February 22, 2007, the Director of Housing approved the business terms for the construction and permanent loan. The loan provided for a 26-month term maturing June 15, 2009 with simple interest at the rate of 3% per annum. First Community Housing (FCH) was unable to meet the projected conversion to permanent loan date of June 15, 2009.

The conversion is being driven by requirements of the State Multifamily Housing Program (MHP) and the tax credit investor, Enterprise Community Capital. The MHP funds have been fully obligated and are reportedly available for disbursement. The Borrower is now in the process of submitting its request for MHP, tax credit funding, and the supporting package of required submittals.

On June 23, 2009, the Director of Housing approved the request to extend the maturity date for the \$1,000,000 construction loan to Casa Feliz, L.P. from June 15, 2009 to December 1, 2009. As consideration for the loan maturity extension, five years of additional affordability restriction will be added to the 55-year affordability currently required, bringing the total years of affordability restriction to 60 years.

Innvision the Way Home – District: 3 – SNI: N/A

On December 16, 2008, the City Council approved a funding commitment of up to \$600,000 in the form of a Conditional Grant to Innvision the Way Home to refinance and take out the existing loan from United Securities Bank for the Villas, a 26-unit Single Room occupancy (SRO) housing project targeted to very low-income households and located at 184 South Eleventh Street.

Innvision purchased the site in June 1999 for use as an SRO serving women with children at high risk of becoming homeless or making the transition from homelessness to self-sufficiency. The Housing Department provided Innvision with a 30-year, 3% simple interest loan in the amount of \$757,000 from 20% funds and a grant from the Redevelopment Agency funds in the amount of \$710,000 to partly finance the acquisition and rehabilitation of the property.

In September 2004, Innvision obtained a \$700,000 loan at 5.5% interest rate from United Securities Bank (formerly Legacy Bank) to refinance a private mortgage loan that had a higher interest rate. The loan, which as of December 2008 had a balance of approximately \$590,000 had a balloon payment of \$509,000 due in October 2011.

The Conditional Grant does not require payments, provided that the property is operated in compliance with the City's affordability restrictions. In addition, the existing affordability restrictions were extended to year 2109 and the affordability mix was deepened to include 20 ELI and 6 VLI households.

On May 21, 2009, the Director of Housing approved specific business terms of the City conditional grant in the amount of up to \$600,000. The loan terms are as follows:

Terms/Conditional Grant	
Grant Amount:	\$600,000
Interest Rate:	0.00%
Grant Term:	95 years from the recordation of the Amended Restrictions
Repayment:	N/A
Total Affordable Units:	26 Units. 6 Units at 50% AMI and 20 Units at 30% AMI
Affordability Term:	95 Years

First Community Housing – District: 3 – SNI: N/A

On March 6, 2007, the City Council approved a PD rezoning for the 100-unit North Fourth Street Apartments project, located at 1460 North Fourth Street. On March 20, 2007, the City Council approved a funding commitment of \$9,875,000 to First Community Housing (FCH) for the project, of which \$1,095,000 could finance property acquisition. A \$100,000 predevelopment loan was approved on April 10, 2008, and \$400,000 of predevelopment funding was approved subsequently on June 24, 2008, to partially finance soft costs and allow the project to move forward.

On May 12, 2009, the City Council approved the release of a \$4,000,000 portion of the City's construction funding for the reimbursement of expended predevelopment costs and to take out the other predevelopment sources used to acquire the property. This moved the City into first lien position, as the only acquisition/predevelopment lender, allowing the City to take possession of the land and prepare for a lease-back to FCH.

Approximately \$4.0 million of the total \$9,875,000 was disbursed from the construction commitment for the following uses:

- Repay the Opportunity Fund's land acquisition loan of \$1,500,000
- Repay the Housing Trust Fund predevelopment loan of \$500,000
- Repay the Sobrato Foundation's predevelopment loan of \$500,000
- Reimburse FCH in an amount of up to \$1,500,000 in already-incurred early development costs based on submission of invoices.

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On June 19, 2009, the Director of Housing approved specific business terms for the \$4.0 million construction loan to FCH in connection with the North Fourth property. The loan terms are as follows:

Loan Terms Construction Funding	
Loan Amount:	\$9,875,000
Interest Rate:	4.00% Simple Interest
Loan Term:	36 Months
Repayment:	Principal and Interest due at Maturity
Total Affordable Units:	100 one-, two-, and three-bedroom rental units. 35 @ 25% AMI, 40 @ 50% AMI, 24 @ 60% AMI, and 1 unrestricted.
Affordability Term:	55 Years

Housing Trust Fund Grants

During the period of April 1, 2009 through June 30, 2008, the Director of Housing approved the following grants:

Agency Name	Project Name	Funded Amount	Approval Date	Project Description
Emergency Housing Consortium	BRC Service Equipment Repair Project	\$45,000	4/10/2009	Funds will be used to purchase one tilt skillet, two sets of washer/dryers, and one ice machine for the Boccardo Reception Center.
Family Supportive Housing	San José Family Shelter Rent	\$46,000	4/20/2009	Family Supportive Housing has received \$9,200/Month in rent from Center for Training and Careers (CTC). CTC recently purchased a new location and moved out this Summer. HTF will be used to cover lost rent from the impending move of CTC from August to December 2009.
Santa Clara County Office of Affordable Housing	UPLIFT Transit Pass Program	\$40,000	6/22/2009	The Universal Pass for Life Improvement and Transportation (UPLIFT) Program distributes "Special" VTA passes for homeless persons through the County's social services providers.
Community Technology Alliance	HMIS	\$50,000	6/22/2009	HMIS is the primary client data collection and management tool for Santa Clara County. Each participating agency captures information on clients served, types and units of services received, changes on client income and destination when they exit from the services. HMIS is a required data tool for receipt of HUD homeless dollars.

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Agency Name	Project Name	Funded Amount	Approval Date	Project Description
Loaves and Fishes	Food and Nutrition Project	\$50,000	6/22/2009	The project provides hot nutritious meals three days a week to homeless individuals and families with children and the elderly. Grocery bags are distributed three times a month at the two dining rooms and food baskets are given out to needy families twice a month.
Martha's Kitchen	Emergency Meals for Walk-ins	\$77,000	6/22/2009	Funds provide hot meals to homeless, low-income individuals and families, especially those with small children, and elderly on fixed income.
TOTAL:		\$308,000		

Housing Rehabilitation and Improvement Loans and Grants:

During this quarter, the Director of Housing approved the following Loans and Grants:

<u>ACTIVITY</u>	<u>NUMBER</u>	<u>AMOUNT</u>
REHABILITATION LOANS	6	\$191,030
REHABILITATION GRANTS	64	\$778,600
ENERGY GRANTS (stand-alone)	0	\$0.00
TOTAL:	70	\$969,630

Total Homebuyer Loans made this period:

During this quarter, the following loans closed through the homebuyer program:

<u>ACTIVITY</u>	<u>NUMBER</u>	<u>AMOUNT</u>
Teacher Housing Program	11	\$610,000
SJ State University Faculty and Staff Homebuyer Program	4	\$240,000
Inclusionary Loans	21	\$509,440
Other Project Loans (Including NOFA)	45	\$1,907,900
a) Other—including In-Lieu	0	\$0.00
b) Other—including HOME	0	\$293,000
BEGIN Loan Program	33	\$1,020,000
Welcome Home Loan Program	27	\$692,738
American Dream Downpayment Initiative Loan Program	0	\$0.00
Developer Discount Loans	0	\$0.00
HOME—HOME Venture (NHSSV)	3	\$120,000
TOTAL:	144	\$5,393,078

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Predevelopment Loans

None to report

TEFRA Hearings

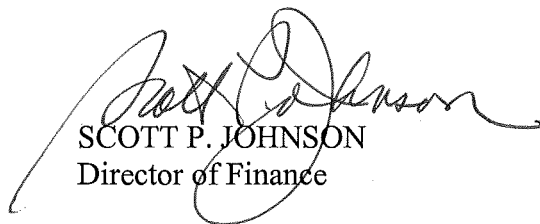
The Director of Finance held a TEFRA Hearing for the Brookwood Terrace Family Apartments on May 7, 2009 to notify the public of the City of San José's ("City") intent to issue tax-exempt multifamily housing revenue bonds in an amount not to exceed \$10,893,000. This amount was incorrect, therefore, the Director of Finance held a second TEFRA hearing for the Brookwood Terrace Family Apartments on June 11, 2009, in a revised amount not to exceed \$14,000,000. The Director of Finance held a TEFRA Hearing for the North Fourth Street Family Apartments on June 4, 2009, to notify the public of the City's intent to issue tax-exempt multifamily housing revenue bonds in an amount not to exceed \$30,000,000. The bonds for each project will finance the costs of acquisition and construction of the developments.


Project Name	Units	Location	Bond Amount	Mayor's Certificate No.
Brookwood Terrace Family Apartments	84 Units	1338-1350 East San Antonio St., San José, CA 95116	\$14,000,000	Certificate No. 2009-3 and Certificate No. 2009-5 Adopted.
North Fourth Street Family Apartments	100 Units	1460 North Fourth Street, San José, CA 95112-4715	\$30,000,000	Certificate No. 2009-4 Adopted.

The public had the opportunity to comment on the projects during the TEFRA hearings. Notice for these meetings were published at least fifteen (15) days prior to the hearing dates.

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office.


SCOTT P. JOHNSON
Director of Finance


LESLYE KRUTKO
Director of Housing

For more information, contact Leslye Krutko, Director of Housing, at (408) 535-3851.