



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: May 10, 2018

Approved

Date

5-11-18

COUNCIL DISTRICT: 7

**SUBJECT: FORGIVENESS OF HEALTHY NEIGHBORHOODS VENTURE FUND
LOAN TO CENTER FOR TRAINING AND CAREERS, INC.**

RECOMMENDATION

Approve the forgiveness of a \$1,000,000 Healthy Neighborhoods Venture Loan (HNVF) to Center for Training and Careers, Inc. (CTC), used for the acquisition and rehabilitation of the property at 749 Story Road, for fulfilling the conditions of its contract.

OUTCOME

If this action is approved, the HNVF loan would be forgiven consistent with original business terms as of the date of the City Council action.

BACKGROUND

History of Awards for Site Acquisition and Rehabilitation for Training Center

The City Council took several actions starting in 1999 to support the purchase and renovation of a building to be used as a multi-service center that would house community, health, and economic development activities for low-income San José residents ("Project"). Four different sites were involved in the long history of making this Project come to fruition.

The City Council awarded Community Development Block Grant (CDBG) funds to two agencies - the East San José Community Law Center (ESJCLC) and the Society of St. Vincent de Paul. First, the City awarded ESJCLC \$300,000 in CDBG funds in FY 1999-00.

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Because ESJCLC was unable to obtain a 15-year lease for the first identified site located at 1891 Alum Rock Avenue ("Latin Village"), ESJCLC joined a consortium known as the Kelly Park Community Resource Center ("Consortium") to purchase a building that would house the Project.

In FY 2000-01, the City Council awarded \$250,000 in CDBG funds to St. Vincent de Paul. This entity was a Consortium member and the Consortium's acting fiscal agent to purchase a building for the Project. At that time, St. Vincent de Paul identified the second possible location at 1747-1795 Alum Rock Avenue.

The City Council awarded three tranches of Healthy Neighborhoods Venture Fund (HNVF) funds totaling \$1 million to St. Vincent de Paul for acquisition and rehabilitation of the Project. The HNVF funds were awarded in the following three amounts: \$500,000 in FY 2000-01, \$250,000 in FY 2001-02, and \$250,000 in FY 2002-03. The source of the City's HNVF funds was San José's national tobacco lawsuit settlement award. Subsequently, on April 8, 2003, the City Council awarded an additional \$550,000 in CDBG funding to St. Vincent de Paul for the acquisition and rehabilitation of the Project.

With the awarded HNVF and CDBG funds, St. Vincent de Paul purchased the 28,400-square foot property at 1747-1795 Alum Rock Avenue in April 2001 for \$2.6 million. Of the \$1 million in HNVF funds, \$514,500 were used for site acquisition, leaving a balance of \$485,500 in HNVF for rehabilitation.

Construction and rehabilitation of the Alum Rock site was scheduled to begin in August 2002. However, because of unresolved land use issues, it was not feasible to provide services at that location. As a result, the Consortium sold the Alum Rock site and, using sales proceeds, purchased an alternate third site at 960 Remillard Court.

The Consortium faced financial difficulties due to the loss of some tenants at the Remillard Court property and made several attempts to liquidate or transfer the property and its associated debt. Because of its role as fiscal agent in the purchase of this property, St. Vincent de Paul experienced a hardship from the property's liabilities and sought to detach itself from this obligation.

Relocation of CTC and Assumption of Loans

The Center for Training and Careers, Inc. (CTC) is a community-based nonprofit that provides educational and vocational training along with employment services to hundreds of youths and adults each year. Since 1977, CTC has been an active partner in the community and has developed and enhanced employment opportunities for the educationally and economically disadvantaged.

For several years, CTC provided services in a space at 1600 Las Plumas rented from the San José Family Shelter. The Shelter anticipated relocating its facility and selling the Las Plumas

property, including the portion that was rented to CTC. For this reason, CTC negotiated to purchase the 32,000-square foot multi-service facility located at the Remillard Court site.

On October 28, 2008, the City Council approved a \$600,000 CDBG loan to CTC to acquire the Remillard Court site and approved CTC's assumption of St. Vincent de Paul's existing \$550,000 CDBG and \$1 million HNVF loans. In assuming the CDBG and HNVF loans and executing a new CDBG loan, CTC agreed to new 15-year loan use restrictions required for all three loans. These use restrictions are discussed further below. At the end of the 15-year period, if no default had occurred, the loans would convert into grants and CTC would be freed from all repayment obligations. At the time of the execution of the new loans, the Remillard Court site address was changed to the adjacent address of 749 Story Road, which incorporates the same building, area parcel number, and parcel description. In early 2018, CTC requested that City staff acknowledge forgiveness of the \$1 million HNVF Loan.

Following is a summary of the loans described herein:

Summary of City Loans to Multi-Service Center

FY Awarded	Amount	Source	Borrower	Status of Loan
1999-00	\$ 300,000	CDBG	ESJCLC	Assumed by CTC in 2008
2000-01	\$ 250,000	CDBG	St. Vincent de Paul	Assumed by CTC in 2008
2000-01	\$ 500,000	HNVF	St. Vincent de Paul	Assumed by CTC in 2008
2001-02	\$ 250,000	HNVF	St. Vincent de Paul	Assumed by CTC in 2008
2002-03	\$ 250,000	HNVF	St. Vincent de Paul	Assumed by CTC in 2008
2008-09	\$ 600,000	CDBG	CTC	Closed in 2008
Total	\$ 2,150,000			

ANALYSIS

The \$1 million HNVF Promissory Note and Deed of Trust between CTC and the City were executed on December 23, 2008, at the time that CTC acquired the Remillard Court property. The Promissory Note refers to a restricted use period of 15 years beginning at the date of execution of the Deed of Trust, as composed of two parts: the 10-year City compliance period; and, an additional five-year period required for federally-funded loans.

The original Grant Agreement and Promissory Note for the \$1 million in HNVF between the City and St. Vincent de Paul were executed on March 27, 2003. They were later assumed by CTC on December 23, 2008. Therefore, the City's original 10-year compliance period was completed by March 27, 2013, and an additional five-year period would have completed in March 27, 2018. At the time of CTC's assumption of the loan, however, the loan was redocumented to include a new 15-year use restriction; therefore, a new 15-year period began. The current Loan Documents with CTC are dated December 23, 2008; therefore, the current expiration of a ten-year period is December 23, 2018 while expiration of a 15-year period is December 23, 2023.

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However, research by Housing Department staff and review by the City Attorney's Office confirmed that disbursements for the December 23, 2008 loan to CTC totaling \$1 million in HNVF funding contained no federal funds. Staff's conclusion is that the \$1 million Promissory Note incorrectly referenced a 15-year restriction period for required for federal funds. Further, staff found internal references that the CTC loan assumption of the March 27, 2003 loan from HNVF was done without changing original business terms.

While it is the City's right to enforce its documents and to delay forgiveness of this loan until 2023, staff recommends that the City Council approve conversion of the \$1 million HNVF loan into a grant at this time. As the HNVF loan did not include any federal funding, the federally-required additional five-year restriction is not necessary. Further, as new loan documents were executed rather than the old documents simply being assigned through preparation of a separate Assignment and Assumption, staff concurs that the City's 10-year use restrictions have already been fulfilled.

For these reasons, staff recommends approval of the request to forgive the \$1 million HNVF loan as consistent with original business terms. If approved, the effective date of the loan forgiveness would be the date of the City Council action.

EVALUATION AND FOLLOW-UP

If approved, the HNVF loan would be forgiven and there will be no follow-up City Council involvement regarding this item.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the May 22, 2018, City Council meeting.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

This item was not heard by the Housing and Community Development Commission, as business terms of loans and grants do not fall under the functions, powers, and duties of the Commission delineated in Section 2.08.2840 of the San José Municipal Code.

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COST SUMMARY/IMPLICATIONS

The forgiveness of the \$1 million HNVF loan has no cost implications. As CTC continues to operate its facilities in accordance with use restrictions, no repayment to the City was anticipated.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/
JACKY MORALES FERRAND
Director of Housing

For questions, please contact Jacky Morales-Ferrand, Director of Housing, at (408) 535-3855.