



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand  
Jim Shannon

**SUBJECT:** SEE BELOW

**DATE:** May 13, 2022

Approved

Date

5/13/2022

**COUNCIL DISTRICT: 3**

**SUBJECT: AUTHORIZATION TO ACCEPT AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES ROUND 4 GRANT FOR THE ROOSEVELT PARK APARTMENTS AND THE ASSOCIATED TRANSPORTATION-RELATED CAPITAL IMPROVEMENTS, ACCEPT THE CALIFORNIA HOUSING ACCELERATOR AWARD, AND INCREASING THE LOAN VALUE**

**RECOMMENDATION**

- (a) Adopt a resolution authorizing the City Manager, or designee, to accept the grant of the California Strategic Growth Council and/or California Department of Housing and Community Development of \$4,014,238, awarded under Round 4 of the Affordable Housing and Sustainable Communities (AHSC) program for the Roosevelt Park Apartments.
- (b) Adopt a resolution authorizing the City Manager, or designee, to accept the forgivable loan of the California Department of Housing and Community Development of \$42,170,000 awarded under Round 1 of the California Housing Accelerator Program (Accelerator Program) for the Roosevelt Park Apartments; and enter into, execute, and deliver the Standard Agreement for the Accelerator Program loan in connection with Roosevelt Park Apartments, and all other documents required or deemed necessary or appropriate to comply with and implement Accelerator Program loan and Accelerator Program requirements, and to ratify the execution and submittal of the application for the Accelerator Program.
- (c) Adopt a resolution:
  - (1) Approving a funding loan increase of \$1,880,000 to the original \$9,415,000 for a total commitment of \$11,295,000; and
  - (2) Authorizing a change in City loan terms to allow an increase in the development's rents and income up to 60% Area Median Income (AMI) for new tenants in subsidized units in the event of expiration or termination of Project Based Vouchers and, for all tenants in the event of foreclosure, to the extent the City has

determined such increase is needed for feasibility of the development and allowed by other funds.

- (d) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Low- and Moderate-Income Housing Asset Fund:
- (1) Decrease the Housing Project Reserve appropriation by \$1,880,000;
  - (2) Decrease the Committed Projects Reserve appropriation by \$9,415,000; and
  - (3) Increase the Housing Loans and Grants appropriation to the Housing Department by \$11,295,000.

### **OUTCOME**

Approval of the recommended actions will authorize the City to work with 21 N 21<sup>st</sup> Street, LP (Developer) and will enable the Developer to secure all the financing necessary to begin construction on a new affordable housing development at 21 North 21<sup>st</sup> Street in San José. This development will provide housing for a total of 79 households in San José. The development will target several populations including 40 apartments that will be supportive housing for formerly homeless individuals and families; 10 apartments for youth transitioning out of foster care (i.e., TAY); 10 apartments for developmentally disabled individuals and families; and 19 three-bedroom apartments for large families.

### **EXECUTIVE SUMMARY**

The recommendations within this memorandum address the financial resources necessary and provide authority for the City Manager or designee(s) to enter into agreements with the State of California's Housing and Community Development (HCD) for acceptance of the Affordable Housing and Sustainable Communities grant and for ratification of the application for the HCD Accelerator forgivable loan awarded to the Roosevelt Park Apartments; acceptance of the award and authority for the City Manager or designee to execute the Accelerator standard agreement and associated documents. The AHSC grant and loan and the Accelerator forgivable permanent loan will provide the City's joint applicant(s), First Community Housing (FCH) and the Developer, with resources to complete the development. Execution of the Standard Agreements for the grants and loans and other necessary documents must be completed in time so that the housing project can close financing and proceed prior to the HCD Accelerator deadline.

Additionally, these recommendations provide for additional funding for the development, which saw an increase in costs due to delays and an authorization for a float up of rent restrictions as needed for feasibility in the event of foreclosure or, for voucher units, the termination of the project-based vouchers.

## **BACKGROUND**

### **Affordable Housing and Sustainable Communities Loan and Grant Secured**

The AHSC, or “Cap and Trade”, program was established with a passage of Senate Bill 182 to implement Assembly Bill 32; the California Global Warming Solutions Act 2006. The purpose of the AHSC program is to reduce Greenhouse Gas emissions through coordinated projects that implement land use, housing, transportation, and urban greening or land preservation practices supporting infill and compact development near transit. Projects awarded funding through this highly competitive grant program are only the most viable and impactful statewide and must support a broad array of coordinated public policy objectives.

On November 1, 2018, the State of California, Strategic Growth Council (SGC) and HCD, issued a Notice of Funding Availability, under the AHSC Program established under Division 44, Part 1 of the Public Resources Code, commencing with Section 75200.

[On February 5, 2019](#), City Council adopted resolutions approving the City’s application for the AHSC grant and loan and authorizing the execution by the City Manager or designee of the required standard agreements and other documents required in connection with the AHSC program.

On February 11, 2019, the Housing Department and the Department of Transportation submitted a joint application with the developer for AHSC funds in response to the AHSC Notice of Funding Availability for an amount of up to \$17,000,000 under Round 4 of AHSC program to provide funding for (a) construction and development of an affordable housing project at the development site; (b) sustainable transportation infrastructure and transportation-related amenities (the Infrastructure Development); and (c) the provision of program grant costs (the Transit Program). ***See Table 1 below for proposed details.***

On July 8, 2019, HCD and SGC awarded FCH and the City of San José an AHSC program award in the amount of \$12,637,770. The award consisted of an AHSC Loan of \$8,623,532 for housing funding and an AHSC grant of \$4,014,238 for infrastructure and transit development. ***See Table 1 below.***

**Table 1: AHSC Award Components and Greenhouse Gas Reductions**

<b>TOTAL AWARD AMOUNT:</b>	<b>\$12,637,770</b>
Affordable Housing Development:	<b>\$8,623,532</b>
Sustainable Transportation Infrastructure:	<b>\$3,180,142</b>
Transportation Related Infrastructure:	<b>\$820,846</b>
Program Costs:	<b>\$13,250</b>
<b>TOTAL PROJECT COST:</b>	<b>\$80,805,570</b>
<b>TOTAL CONSTRUCTION COST:</b>	<b>\$59,829,959</b>
<b>GREENHOUSE GAS REDUCTIONS</b>	<b>25,059 Metric Tons</b>
Or the equivalent of:	
Reducing nearly <b>62.6 million</b> vehicle miles traveled	
Taking <b>5,447</b> off the road for one year	

The sustainable transportation infrastructure work that will be completed through the AHSC Award are:

1. Three bicycle related enhancements within the AHSC project area reducing conflicts between cyclists and right turning vehicles through the installation of protected Class IV bike lanes along Las Plumas Avenue and Lenfest Road providing a vital east-to-west connection to San José's new BART stations.
2. Installation of a flashing beacon, curb extension and median refuge at the intersection of E Julian Street and 26th Street providing a safe mid-block connection to transit facilities.
3. Purchase two electric buses that will serve on Route 77 within the AHSC project area.

The transportation-related amenities being funded by the AHSC award will provide urban greening improvements along the San Antonio Street transportation corridor, enhancing the natural environment and providing connection to public transportation stops for both pedestrians and bicyclists on San Antonio Street. The AHSC program will also enable First Community Housing to provide Valley Transportation Authority (VTA) Smart Passes to all Roosevelt Park Apartment residents ages five and up.

**HCD Accelerator Award**

The 2021-22 state budget appropriated \$1.75 billion to fund a new HCD program, California Housing Accelerator. The California Housing Accelerator program is funded with monies received from the Coronavirus State Fiscal Recovery Fund established by the federal American Rescue Plan Act of 2021 (ARPA).

The intent of this program is to reduce the backlog of projects stuck in the funding pipeline to accelerate the development of housing for those most in need. These funds will be used to fill

funding gaps in shovel-ready projects that have received funding under other HCD programs and have been unable to access low-income housing tax credits like the Roosevelt Park Apartments. The City was required to apply for the California Housing Accelerator program with the Developer and First Community Housing in order to secure the funds since the application for the qualifying AHSC funds was a joint application. That application requires ratification by the Council and adoption of an authorizing resolution.

California Housing Accelerator assistance will be in the form of forgivable loans, with terms of zero percent interest for 20 years, with no residual receipts or periodic payment during the life of the loan.

First Community Housing submitted an Accelerator application jointly with the Housing Department on November 2, 2021, requesting \$42,170,000 and received an award on February 4, 2022. This was the final funding commitment necessary for the Roosevelt Park Apartments to begin construction. The Accelerator program had a tight timeline to apply, not allowing staff to bring forward a request to apply for this program prior to the application deadline.

### **Loan Increase**

The Roosevelt Park Apartments were entitled in February of 2019, and the Developer secured the AHSC award in July of 2019. The Developer then partnered with the City of San José Housing Department to submit a California Debt Limit Allocation Committee (CDLAC) application in both January and May of 2021 and was not able to secure a CDLAC Allocation. Due to the difficulty for many projects throughout California to secure CDLAC funds, the HCD Accelerator program was created to help these projects secure funding through an alternative process. Because the proposed development had to wait in the funding application queues for several years and through global supply chain issues due to the pandemic, the construction costs for the project have increased by approximately 23%, creating a significant financing gap. To help close this gap, the Developer leveraged an additional \$1,000,000 from the Federal Home Loan Bank of San Francisco Affordable Housing Program, and the developer requested additional funds from the Housing Department in the fall of 2021. Staff requested that the developer provide deeper affordability on the units by replacing the ten 80% AMI units with ten 60% AMI units before bringing the funding loan increase request to Council. In addition to these two strategies, the funding request for the HCD Accelerator program was also able to absorb the remaining cost increases and ensured that the project was fully funded.

### **Float Up Language**

Subject to City Council approval, development rents and income restrictions are subject to increase (but not more than 60% AMI) for new tenants in subsidized units in the event of expiration or termination of subsidy contracts, and for all tenants in the event of foreclosure, to the extent the City has determined the increase to ensure the development's continued financial feasibility.

## **ANALYSIS**

### **Description of the Project**

Roosevelt Park Apartments will consist of 80 units of multifamily housing with a mix of studios (28), 1-bedroom (11), 2-bedroom (27), and 3-bedroom (14) apartments. Fifteen of the apartments will be set aside for transition-age youth; 20 of the units will be set aside for the developmentally disabled population; 40 units will be designated as rapid rehousing units for homeless individuals and families; and the remaining five apartments will be workforce housing. The apartments will serve residents at 60% AMI (19 apartments), 50% AMI (20 apartments), 30% of AMI (40 apartments) and one apartment will be an unrestricted manager's unit. Given the range of unit sizes and target populations, Roosevelt Park Apartments will be a diverse community of individuals and families who are working towards independence and stability.

The plan also calls for First Community Housing to move its main office to the commercial office space, which will be located in the top level of the building. Common resident serving areas, which are not considered commercial, will include the property manager and Social Service Coordinator's offices; private rooms for case managers; large and small meeting spaces; a computer lab; open lounge/seating areas; a central laundry facility; and a large outdoor space on top of the garage podium that can accommodate a children's play area, community garden plots, and seating. Roosevelt Park, Roosevelt Community Center, and indoor batting cages surround the property, and the Rapid Bus 522 corridor is only steps away providing access to high quality public transportation.

The AHSC grant provides funds to design and construct several transportation improvements within a one-mile radius of each of the three AHSC project locations. Proposed improvements focus on providing bikeways and safe and accessible walkways as well as promoting transit ridership. These improvements will enhance safety for the community and provide greater access to key destinations. The scope of work includes, but is not limited to, enhanced crosswalks, upgraded accessible curb ramps, rectangular rapid flash beacons, traffic signals, Class IV bikeways, Class II bike lanes, Class III bike boulevards, bike racks, and streetlight improvements. The AHSC program will also enable VTA to acquire two electric buses which will serve route 77.

The AHSC loan will be directly disbursed to the sponsor. However, the AHSC grant funds will be disbursed as reimbursement progress payments that will be set forth in the Disbursement Agreement. These reimbursement payments will be made based on progress milestones outlined in the standard agreement. The milestones that have expired will be addressed as the SGC will propose amendments to the Rounds 3, 4, and 5 AHSC guidelines to extend project delivery milestones by one year.

## **Commercial Space**

The commercial space costs will not be funded by the City loan, and, among other things, the lessee of the commercial space, First Community Housing, will be required to provide insurance and pay its share of all project construction and operating costs.

## **Collective Responsibility for Compliance with AHSC and Accelerator Program Requirements**

The AHSC and Accelerator programs required the City to be a joint applicant. Under those programs the joint applicants, including the City, are held “joint and several” liable - bound to compliance with the program solicitations, completion of all elements in applications, and to ensure that the full scope of the project is realized on time and on budget. The liability associated with the AHSC obligations was discussed in the original approval memo submitted to Council on February 5, 2019. After completing research, staff concluded that much of the risk can be mitigated if the grant is phased so that the City begins its capital projects after the developer’s construction loan has closed. In affordable housing development, much of the risk dissipates after the construction loan closes as almost all affordable housing developments in California are completed once construction commences. In addition to phasing, staff will require the Developer and FCH to execute agreements to further specify the deliverables and responsibilities of each party under the grant and loan documents and provide indemnification. Under the indemnification agreements, the City would be responsible for completing the AHSC capital projects and programs assigned to the City; the developer and FCH would be responsible for completing the affordable housing development and supporting programs for residents of the site.

Since the AHSC funding and the project were delayed, many of the original deadlines in the AHSC application have passed and must be updated. Staff is currently in discussions with HCD to ensure that the deadlines for completion of the capital projects in the AHSC documents are achievable.

The new Accelerator loan guidelines require compliance with all of the terms of the AHSC loan and grant, which means a failure to comply with the AHSC responsibilities may result in a default under this loan. Additionally, the Accelerator program guidelines prohibit application for tax credits and certain sales of project ownership until the end of the 20-year term of the loan; the program also includes several new documentation and reporting requirements and requires the development to provide a larger number of accessible units including a minimum of 15% of the restricted units with accessible mobility features, and a minimum of 10% of the restricted units with accessible communications features. Staff will require the Developer and FCH to execute an agreement to further specify and allocate the deliverables and responsibilities of each party under the Accelerator loan documents and provide indemnification. The Developer would be responsible for ensuring compliance with most of the new requirements, and will be added to the

City loan documents to ensure that compliance with all of the requirements can be more readily monitored by staff.

### **CONCLUSION**

Staff recommends the acceptance of the \$42,170,000 HCD Accelerator forgivable loan as well as the \$12,637,770 of AHSC program funding and recommends the approval of the \$1,880,000 funding increase for the construction and permanent loan. This provides the Roosevelt Park Apartments with the funds necessary to create 79 new affordable apartments and improvements such as urban greening; bike and pedestrian pathways; and electric buses to reduce greenhouse gas emissions. These improvements not only provide desperately needed affordable housing, but also provide benefits to the surrounding neighborhood and all riders who will be able to commute on the two new electric buses for route 77.

### **EVALUATION AND FOLLOW-UP**

The Housing Department produces periodic information memoranda regarding the use of the Director of Housing's Delegation of Authority under the Municipal Code; therefore, any additional actions would be summarized in those memos. In addition, the Housing Department posts periodic reports on the status of its affordable properties undergoing rehabilitation or construction to its website, [www.sjhousing.org](http://www.sjhousing.org).

### **CLIMATE SMART SAN JOSE**

The AHSC program funds will provide VTA Smart Passes to all Roosevelt Park Apartment residents, provide bicycle lane improvements, increased safety features at crosswalks, and will enable VTA to acquire two electric buses. Therefore, the recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals.

### **POLICY ALTERNATIVES**

The Housing Department considered the following alternatives before making these recommendations for this affordable housing development.



**Alternative #1:**     *The City Council could deny acceptance of the AHSC and Accelerator funds and the requested additional funding commitment.*

**Pros:**             The City would avoid the financial risk associated with the AHSC and Accelerator joint and several liability requirements. The additional funds could be used for other affordable housing developments.

**Cons:**             The City would lose the opportunity to apply state funds for new affordable housing, transportation infrastructure, services, and other amenities. 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:**     Staff expects to limit the risk derived from the joint and several liability requirements through project phasing, indemnification agreements, a workplan, and ongoing coordination. Furthermore, the risks associated with construction of the affordable housing development are minimal and can be mitigated through a variety of measures.

**Alternative #2:**     *The City Council could deny the request for additional funding to the Developer for the Development.*

**Pros:**             The funds could be used for other affordable housing developments.

**Cons:**             The City would lose the opportunity to provide housing for individuals and families experiencing homelessness via the Rapid Rehousing component of the proposed development as well as provide affordable housing opportunities for youth transitioning out of foster care, persons with disabilities, and large families currently residing in San José.

**Reason for not recommending:**     The proposed development will help to meet the demand for affordable housing that is affordable to the most vulnerable homeless individuals and families, persons with disabilities, and large families. The development will help the City fulfill its affordable housing goals.

**PUBLIC OUTREACH**

FCH has engaged in a comprehensive effort to learn about the needs of residents and businesses in the Roosevelt community and that provided the community with information about the proposed development. Since the Roosevelt Park Urban Village Plan itself is the product of extensive community input, it was reviewed carefully at the outset with a matrix showing how the Roosevelt Development met the myriad of policies (e.g., land use, building height, architectural, street frontage, etc.) outlined in the Roosevelt Urban Village Plan.

During summer 2017, FCH met one-on-one with a series of community stakeholders. FCH also met with the past and current Presidents of the Roosevelt Park Neighborhood Association, longtime resident and activist David Viera; Professor Emeritus of San José State University and community activist Terry Christensen; and Recreation Supervisor at the Roosevelt Community Center, Phil Solis. At these meetings, FCH presented the development plans, answered questions, and solicited feedback. Following the meetings made modifications to the Roosevelt project design to respond to community feedback. In August 2017, FCH held a community meeting at the Roosevelt Community Center that was attended by approximately twenty-five community members. The meeting covered a range of topics including the updated project design, timeline, target population (e.g., rent and income levels), parking, security, social services, community branding, property management, project financing and the impact of construction activities on the neighborhood. In December 2018, representatives from FCH, the Housing and Transportation Departments, VTA, City Council, community groups and other stakeholders met and performed a comprehensive walk-audit of the site evaluating community needs and proposed improvements.

In addition, this Development has been presented publicly to City Council on January 25, 2019, for the AHSC Application Authorization and the original loan commitment and was presented to the Planning Commission on February 5, 2019, for entitlement approvals.

This memorandum will be posted on City Council's Agenda website prior to the May 24, 2022, City Council meeting.

### **COORDINATION**

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

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action. 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**

The development is consistent with the City's Envision 2040 General Plan, the 2014-23 Adopted Housing Element, by helping the City meet its Regional Housing Needs Allocation; the City's current Housing Investment Plan by increasing the supply of affordable housing; the Community Plan to End Homelessness approved by the City Council in February 2015 by providing

supportive housing for residents experiencing homelessness; and the City's Vision Zero traffic safety program.

This action is consistent with the City's Consolidated Plan 2020-2025, adopted by City Council on September 28, 2020, to provide homes for very low- and extremely low-income households; and with Goal H-2 of the City's Housing Element 2014-2023, adopted by City Council on January 27, 2015, to "increase, preserve, and improve San José's affordable housing stock."

### **COST SUMMARY/IMPLICATIONS**

This action will provide the authority to accept a \$12,637,770 AHSC grant/loan and a \$42,170,000 Accelerator forgivable loan to fund the Roosevelt Park Apartments affordable housing development. The grants and the low-interest permanent loan will provide the City's joint applicant, First Community Housing, with the necessary resources to complete the affordable housing development. Execution of the grant agreement and other necessary documents must be completed in time for the housing project to close financing and proceed.

Of the total grant amount, \$4,014,238 will fund capital improvements to improve pedestrian and bicycle access as described within the Climate Smart San José section above. These funds were included in the development of the Traffic Capital Program as part of the 2021-2022 Adopted Capital Budget and 2022-2026 Adopted Capital Improvement Program, and are anticipated to continue in the 2022-2023 Proposed Capital Budget and 2023-2027 Proposed Capital Improvement Program. The project is anticipated to be completed in winter 2023, and funds will be received on a reimbursement basis over the course of construction.

If approved, the requested \$1,880,000 increase to the Construction and Permanent loan will enable the Developer to close their funding gap and will ensure deeper affordability in the proposed unit mix.

Funding in the amount of \$11,295,000 is available in the Low- and Moderate-Income Housing Asset Fund for the recommended actions. There is no ongoing fiscal impact to the General Fund as a result of this action.

**BUDGET REFERENCE**


The table below identifies the fund and appropriations proposed to fund the construction and permanent loan commitment recommended as part of this memorandum.

Fund #	Appn #	Appn. Name	Total Appn	Recommended Budget Action	2021-2022 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
346	8437	Housing Project Reserve	\$73,113,775	(\$1,880,000)	984	02/08/2022, 30717
346	8520	Committed Projects Reserve	\$14,400,000	(\$9,415,000)	984	06/22/2021, 30621
346	0070	Housing Loans and Grants	\$74,688,057	\$11,295,000	983	10/19/2021, 30682

**CEQA**

Mitigated Negative Declaration for the Roosevelt Park Apartments Mixed-Use Development, File No. SP17-027.

/s/  
 JACKY MORALES-FERRAND  
 Director, Housing Department



JIM SHANNON  
 Budget Director

The principal author of this memorandum is Stephan Jackson, Senior Development Officer. For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.