



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: November 13, 2018

Approved

Date

11/16/18

COUNCIL DISTRICT: 3

SUBJECT: PUBLIC HEARING TO ACCEPT THE SUMMARY 33433 REPORT PURSUANT TO THE CALIFORNIA HEALTH AND SAFETY CODE SECTION 33433 FOR THE GROUND LEASING OF 934-949 LOCUST STREET TO COUNTY OF SANTA CLARA FOR AFFORDABLE HOUSING PURPOSES AND RELATED ACTIONS AND APPROVAL OF THE PROPOSED REHABILITATION OF THE EXISTING FACILITIES

RECOMMENDATION

Hold a Public Hearing, accept the staff report, and adopt a resolution:

1. Accepting the summary of costs and findings of the Summary Report Pursuant to Section 33433 of the California Health and Safety Code for the disposition of a property located at 934-949 Locust Street with existing affordable housing to the County of Santa Clara under the terms and conditions of the proposed Ground Lease for a term of up to 15 years and approving the Ground Lease in substantially final form;
2. Authorizing the Director of Housing or her designee, to set the specific business terms and negotiate and execute documents and amendments related to the Ground Lease, the County of Santa Clara project, and the City CDBG-funded \$1,200,000 rehabilitation of the existing housing.

OUTCOME

Approval of the recommended actions will allow the Housing Department to execute a long-term lease with the County of Santa Clara for property located at 934-949 Locust Street, known as the Haven, to operate short term transitional housing for adults experiencing homelessness with a focus on the needs of the Lesbian, Gay, Bisexual, Transgender or Queer/Questioning (LGBTQ) community. Approval of recommended actions will also enable the City to proceed with a

\$1,200,000 Community Development Block Grant (CDBG) funded rehabilitation of the existing facilities, including the transitional facility (the Haven) and an income restricted triplex located on the property, collectively (Property).

BACKGROUND

In 2002, the City opened the Haven, a single room occupancy building, as a yearlong disaster and emergency relief shelter for families displaced by disasters such as fire or flood. The Haven consists of five rental units with private bedrooms and bathrooms along with a shared common space and kitchen with the capacity to house 22 individuals at a time. Since its inception, the Haven has provided low income families or individuals who have experienced a natural disaster with temporary housing. However, over the recent years, the Haven has gone underutilized.

On June 13, 2018, the Rules and Open Government Committee approved a memorandum, authored by Councilmember Raul Peralez, directing the Director of Housing to explore three options and execute an agreement with the County of Santa Clara to convert the Haven from an emergency living facility to transitional housing.

1. Lease the Haven to the County of Santa Clara to operate as a transitional housing facility with supportive services;
 - a. Ensure the County secures housing for current temporary residents of the Haven and that the annual lease amount, determined by the Housing Department, is sufficient to cover the cost to house future displaced victims of fire, earthquakes, and other natural disasters.
2. Sell the Haven to the County of Santa Clara;
 - a. Provide up to ten percent of the sales proceeds fund streetscape and other improvements to the immediate neighborhood and upgrades to the back patio area used as a common space by the Haven and other City-owned facility next door.
 - b. County must secure housing for the current temporary residents of the Haven and identify an alternative location for future victims of fire, earthquakes, and other natural disasters.
3. Support the conversion by providing financial support to rehabilitate the building.

In late June 2018, Housing Department staff began reviewing the permitted uses and covenant restrictions of the Property to evaluate the City's ability to convert the Haven from its current emergency living facility use to the desired transitional housing facility as directed by the Rules and Open Government Committee.

On October 16, 2018, the County Board of Supervisors authorized the County Executive, or designee, to negotiate and execute a lease agreement with the City of San José relating to the use of the Haven Property as a temporary housing site. The Board of Supervisors also approved an agreement with LifeMoves to operate the facility and provide resident services.

ANALYSIS

According to the 2017 Santa Clara County Homeless Census and Survey, there are 7,394 homeless individuals in Santa Clara County on any given night. Twenty-nine percent or 2,145 of homeless survey respondents identified as LGBTQ. Individuals which identify as LGBTQ are generally more vulnerable of becoming homeless compared to other groups because of societal stigmas. As a result, the Housing Department and the County are actively seeking opportunities to address the needs of the LGBTQ community.

The Haven Use

The County of Santa Clara is seeking to operate its first LGBTQ - focused transitional housing facility at the Haven. Providing a LGBTQ-friendly shelter staffed by LGBTQ sensitive and knowledgeable case managers is a major step in assisting LGBTQ persons with immediate, short- and long-term needs to achieve self-sufficiency. Eligible families and individuals will be housed at the Haven regardless of LGBTQ status, and persons referred to the site are not mandated to be identified or self-identify as a member of the LGBTQ community. However, the Haven will be designed and equipped to meet the needs of that community. Specifically, the sleeping spaces, service delivery, and supportive services will focus on alleviating housing and economic instability, stigma, discrimination, victim needs, and safety concerns. This use is consistent with the General Plan Policy LU-9.14. Therefore, no planning action will be required for this change of use.

In addition to providing a safe and supportive environment at the Haven, the County's Office of Supportive Housing has committed to funding ongoing on-site services for the duration of the initial lease term. The County has contracted with LifeMoves for approximately \$380,000 annually to operate the Property and provide service at the Haven through June 2023. Each participants' length of stay will average 120 days, but their stays shall be tailored to address their stable housing needs. Approximately 80% of the program participants will exit to a permanent housing destination.

Ground Lease Agreement

The City will lease the property located at 934-949 Locust Street, which includes the Haven and triplex building located on the same property, to the County through a Ground Lease for an initial term of approximately five years at \$63,000 per lease year, with options to continue for successive one year terms for an additional 10 years. The Ground Lease also provides the City with the right to reassess the goals and priorities of the property at the end of the initial term to determine whether the use remains to be the best use of the Property. The document states that it is the responsibility of the County to provide an operating subsidy and case management services to residents. The Ground Lease also contains the City's standard provisions, which include the following obligations:

- Operate the Property for affordable housing purposes;
- Comply with the affordability covenants that will restrict occupancy for the Property;

- Provide on-going property management services and services appropriate for the population;
- Pay all taxes, operating expenses, insurance costs, utility expenses, charges, and impositions associated with the Property during the term of the Lease Agreement;
- Maintain the Property in good repair and tenantable condition; and
- Indemnify the City from all claims, loss, damage, injury, actions, and liability of every kind arising from the Developer's use of the Property.

As a means for the City of San José to continue supporting the shelter needs of victims of natural disasters, the annual rent under the Ground Lease will be used to fund hotel vouchers for residents who's housing is impacted by fire, earthquake, or other natural disasters. The initial rent payment will be effective immediately and will be due in full to the City within 30 days from execution of the Lease. The annual rent payment will be due to the City on the anniversary of the execution date each year.

CDBG Funded Rehabilitation

In addition to leasing the Property to the County, Housing Department staff is recommending the use of \$1,200,000 through the City's annual allocation of CDBG funding to make improvement to the Haven required to support the needs of prospective LGBTQ residents, address deferred maintenance of the Haven, and rehabilitate the income restricted triplex. The \$1,200,000 estimate includes:

- The cost to procure professional services, such as an architect and engineer, to complete the design of the Haven improvements and work with the City staff to develop project plans and specifications.
- Cost associated with the rehabilitation of the Haven and triplex.
- Relocation assistance for the current residents of the triplex.

The City's rehabilitation investment in the Property is long overdue and required to ensure continued safe and healthy use. The rehabilitation was planned prior to discussions with the County, to address deferred maintenance on both buildings and would proceed regardless of the new use. The City is willing to fund the upgrades to the Haven to maximize utilization of this new facility use, which will predominantly serve San José's homeless population. In return, the County has committed to funding ongoing property management and operations as well as providing onsite services and service coordination for the Haven; totaling close to \$2,000,000 over the next five years.

Triplex – The Housing Department's inspection/construction management staff completed a full Physical Needs Assessment of the triplex and have estimated the cost of rehabilitation at approximately \$600,000. This cost estimate includes pre-development, rehabilitation, relocation, and a small project contingency. Other than minor repairs and improvements, the triplex has not been rehabilitated in over 20 years. With several years of deferred maintenance, all three units have exceeded their normal service life and will require significant rehabilitation to reset the

service life and bring the apartments up to current health and safety standards. The current renters will receive temporary relocation assistance during construction and will be allowed to move back to their homes after the rehabilitation is complete.

The Haven – The Haven was fully renovated in 2002 to accommodate the emergency housing use. However, the facility needs some general repairs such as flooring, paint, and fixture replacement. In addition, Housing Department staff will work with the County, their selected operator, and the project architect to re-design interior spaces to better accommodate the needs of LGBTQ residents. Upgrades will include, reconfiguration of some existing interior space to provide non-conforming sleeping areas, therapy rooms, private transition treatment rooms, and single stall gender neutral bathing facilities. Housing Department staff has worked with the County and their operator on preliminary re-design concepts to provide a general scope of work and cost estimates. Based on the preliminary designs, Housing Department staff estimates that the cost to improve the Haven will be approximately \$600,000. This cost includes architecture and engineering expenses, deferred maintenance repairs, and transitional housing upgrades.

Rehabilitation will be funded through the City's allocation of federal CDBG funding requiring compliance with federal standards including competitive bidding, Davis Bacon wage rates, and Section 3 hiring requirements. Housing Department staff will oversee the rehabilitation process including design, specification development, competitive bidding, and construction of both the triplex and Haven to ensure compliance with local and federal requirements. Staff will return to City Council to award the winning bids and take appropriate budget actions.

33433 Summary Report

Although San José's redevelopment agency was dissolved in 2012, redevelopment law still applies to Successor Housing Agencies (such as the Housing Department) as they develop or rehabilitate affordable housing, utilizing repayments derived from redevelopment funds. This includes loan proceeds or repayments from affordable housing developments funded by redevelopment. Prior to the disposition of any property acquired with tax increment funds for development, Section 33433 requires that a summary report disclosing the financial aspects of the transaction be prepared and made available for public inspection at least two weeks prior to the date of the public hearing. Accordingly, Housing Department staff worked with a consultant to prepare a Summary Report Pursuant to Section 33433 of the California Health and Safety Code (33433 Report) analyzing the costs and benefits related to the disposition of the Locust Street Property to the County under the Ground Lease. Notices of public hearing for the 33433 Report will be published in the Post Record prior to the City Council's consideration of this action as required under Code.

Section 33433 also requires that the City make a finding that the consideration be received by the City, as Housing Successor that owns the Property, is not less than the fair market value or the fair reuse value of the Property. The 33433 Report concludes that the Property has a nominal reuse value until expiration of its recorded affordability restrictions. The City will also receive full consideration for the Property upon expiration of the Ground Lease. Given these facts, the 33433 Report concludes that "the consideration to the City is not less than the fair reuse value of

the land based on the current use and with the affordability and other covenants provided under the Ground Lease." The Property will also be used to provide restricted affordable housing and will eliminate blight. Therefore, the terms under which the Property will transfer satisfy the requirements of Section 33433.

Appraisal

Pursuant to the Deposition Process, the City selected Valbridge Property Advisors (Valbridge) to prepare and complete an appraisal. Valbridge was instructed to appraise the Property at its highest and best use at fair market value in accordance with the Disposition Process. In July 2018, the Housing Department received the Appraisal from Valbridge. The fair market value of the Haven and triplex was determined to be \$2,430,000.

EVALUATION AND FOLLOW-UP

The Housing Department posts periodic reports on the status of City-facilitated affordable housing developments in its Production Report at www.sihousing.org, on the "Reports & Data" webpage. If recommended actions are approved, the Property rehabilitation will be included in these reports.

POLICY ALTERNATIVES

To arrive at this proposal, staff considered the following option:

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| Alternative #: | Look for opportunities other than 934-949 Locust Street, San José, California 95112 as a future Property to provide transition housing. |
| Pros: | The Property would be sold through a solicitation process to the highest bidder which would potentially allow for private development of the Property. |
| Cons: | Finding suitable properties to address families and individual facing homelessness at reasonable prices is extremely difficult. |
| Reason for not recommending: | The Property presents a viable opportunity for the City to increase the supply of affordable housing and homeless housing in San José. |

PUBLIC OUTREACH

This Memorandum, the Ground Lease, and the 33433 Report were posted on-line for the City Council meeting on November 27, 2018. In addition, a public notice was published in the

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Post-Record on November 12, 2018 and November 19, 2018 to make the public aware that the City Council would hear this item on November 27, 2018 and that the Ground Lease and the 33433 Report were available for review in paper form at City Hall for the two weeks prior to the City Council meeting.

COORDINATION

This memorandum has been coordinated with the City Manager's Budget Office and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

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

COST SUMMARY/IMPLICATIONS

Approval of these actions will enable the Housing Department to ground lease the Haven property for a period of 15 years. The CDBG funding for this project was identified in the FY 2018-2019 Annual Action Plan. Staff will return to City Council to request approval of an agreement and any necessary appropriation actions following completion of the Request for Bids to rehabilitate the property. There are no impacts to the General Fund as a result of the proposed actions.

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the project recommended as part of this memo including associated project costs and relocation services.

Fund #	Appn #	Appn. Name	Total Appn	Amt. Recommended	2018-2019 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
441	0063	Housing Rehabilitation Loans and Grants	\$2,214,580	\$1,200,000	X-16	6/19/2018 Ord. No. 30124

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CEQA

Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP18-074.

/s/

JACKY MORALES-FERRAND

Director of Housing

For questions, please contact James Stagi, Acting Division Manager, at (408) 535-8238.