



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** May 18, 2020

Approved

Date

5/21/2020

**COUNCIL DISTRICT: 6**

**SUBJECT: ACTIONS RELATED TO INCREASING THE PREDEVELOPMENT  
LOAN FOR DEVELOPMENT OF THE CITY OWNED PROPERTY AT 0  
EVANS LANE**

## RECOMMENDATION

Adopt a resolution authorizing:

- (a) An increase of \$263,374 to the predevelopment loan made to Allied Housing, Inc. for a total of \$707,687 for predevelopment services including entitlement, utilities, and storm water design for the 5.9 acre City owned property located at 0 Evans Lane, San Jose (“the Project” or “Evans Lane”); and
- (b) The Director of Housing to negotiate and execute all related documents and amendments.

## OUTCOME

The City Council's approval of the Housing Department's recommendation in this memorandum will authorize the Director of Housing to increase the predevelopment loan agreement between Allied Housing, Inc. (“Allied Housing” or “Developer”) and the City of San José. This increase in the principal amount will enable the Developer to pay contractors that provided services to the City relating to development of Evans Lane. The balance of the predevelopment loan will increase from \$444,313 to \$707,687. The City will use the site planning documents including the subdivision of the 5.9 acre site, the design of on and offsite utilities and roads, and civil engineering for the storm water pond. The utility design documents are already being used for the development of emergency interim housing on the site.

## **BACKGROUND**

The City of San José owns a 5.94 acre site, made up of two parcels, located on the east side of Evans Lane between Curtner Avenue, Highway 87, and Almaden Expressway. In December 2002 and June 2005, the City purchased the two parcels using Low and Moderate Income Housing Funds. Both parcels are known collectively as 0 Evans Lane.

The Housing Department issued a Request for Proposals to develop affordable housing and amenities at Evans Lane and Allied Housing was selected as the developer in 2016. In December 2018, the Housing Department issued an up \$200,000 Notice of Intent letter to the Developer for design, engineering services and construction drawings for the Project. The Developer completed this work (totaling \$263,374), relying on the Notice of Intent for funding.

On February 21, 2019, a predevelopment loan to Allied Housing of \$400,000 was executed and subsequently disbursed for other predevelopment activities including, but not limited to, legal and soft costs, consultant costs, administrative costs, planning permits and fees, community outreach costs, architecture costs, engineering costs, and environment review costs that were completed at Evans Lane. Several months later, the Housing Department Director, under her delegation of authority, increased the predevelopment loan to \$444,313 to cover increase costs for predevelopment design work requested by the City.

Subsequently, the Developer was unable to secure financing for the construction and completion of the Evans Lane project, due to the novel design of the housing project. For a detailed timeline of events see Attachment A.

In the short-term, the City plans to use the Evans Lane site to provide emergency interim housing for up to 42 homeless families (up to 108 individuals) with a targeted project commencement date of July 2020. This development is one of three projects recently approved by the City Council that will provide emergency interim housing to help protect unhoused people from the disease, slow the spread of COVID-19, and expand the City's interim housing capacity after the emergency recedes. Predevelopment plans funded through this action were used to support the layout of the utilities and road for the emergency interim housing project.

The Housing Department is continuing its efforts to develop Evans Lane and plans to issue a new Request for Proposals. In preparation for the release of the Request for Proposals, the Department is ensuring that all outstanding funds owed, due to the prior development services, have been paid. All documents created in the predevelopment process have been provided to the Housing Department for use in developing the emergency interim housing development work and the future affordable development.

## **ANALYSIS**

The Housing Department and Allied Housing were working collaboratively to entitle the Project on a City owned site located at 0 Evans Lane for development since 2016. Development plans for the Project started and stopped over the past several years due to a variety of factors, including visioning for the site, community engagement, and financing.

Parallel to the predevelopment activity, Allied Housing continued to seek further funding for the Project. After numerous attempts, Allied Housing was unable to secure construction financing for the proposed modular construction development. Construction lenders expressed they would not invest in the development because of the risk related to financing modular construction, including use of repurposed shipping containers.

The Project was the first to use repurposed shipping containers for the development of multifamily affordable housing in the City of San José. The innovative design and proposal to repurpose shipping containers was deemed too high of a risk by lenders. In light of Allied Housing's inability to secure construction financing, coupled with various attempts to work with consultants to envision several versions of the project with higher density, predevelopment expenditures continued to grow.

These expenditures exceeded the City's approved predevelopment loan and the undisbursed \$200,000 Notice of Intent by \$63,374 necessitating the pending requested increase of \$263,374 to the predevelopment loan<sup>1</sup>. The primary reason for this additional cost was related to invoices from the General Contractor for predevelopment work on the Evans Lane site related to the plans and design for the proposed community garden and satellite public library project that had been approved negotiated with the neighborhood when the initial project was initiated. If the project had moved forward, the General Contractor would have been able to integrate their pre-construction services into their base fee. Allied Housing's construction agreement would have allowed the General Contractor to recoup their costs for all associated pre-construction services if a project stops work, as has occurred here.

## **CONCLUSION**

The Department of Housing is seeking approval to increase the predevelopment loan amount so that Allied Housing can pay contractors for predevelopment work performed for the Project. Following this action, staff will release a Request for Proposal to select a qualified development team to design, develop, and operate a mixed-use development.

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<sup>1</sup> The predevelopment loan was originally authorized by City Council on August 16, 2016 as a grant for \$400,000.

## **EVALUATION AND FOLLOW-UP**

The Housing department is continuing work on the site:

1. The City is using the site for an emergency interim housing site for homeless families as a part of the City's COVID-19 response.
2. The Housing Department staff continue to work with the Planning, Building and Code Enforcement Department to propose a General Plan Amendment from Mixed Use Neighborhood (Density: up to 30 DU/AC; FAR 0.25 to 2.0) to Urban Residential (Density: 30-95 DU/AC; FAR 1.0 to 4.0 (3 to 12 stories)).
3. The Housing Department is planning to release a Request for Proposal to select a qualified development team to design, develop and operate a mixed-use development with a mixed-income, affordable housing development by the end of 2020. Space for a Bridge Library will be included as one of the design components for the site.
4. The Housing Department will continue to inform the Mayor and Council on the status of the project through communication including but not limited to information memos, Council reports and other updates.
5. The Housing Department will reengage c the community for feedback on how the site can strengthen the assets in the surrounding neighborhood and will explore implementing strategies to improve the overall quality of life for all residents in the project area.

## **CLIMATE SMART SAN JOSE**

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

## **PUBLIC OUTREACH**

This report will be made available to the public on May 22, 2020 through the Housing website, and on the City of San José website prior to the City Council meeting scheduled June 2, 2020.

## **COORDINATION**

Preparation of this report was coordinated with the City Attorney's Office and 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 Jose Municipal Code.

**COST SUMMARY/IMPLICATIONS**

The recommended action in this memorandum will increase the predevelopment loan for Allied Housing, Inc. by \$263,374 for predevelopment services including entitlement, utilities, and storm water design for Evans Lane. The increase will be funded by the Housing Predevelopment Activity appropriation in the Low and Moderate Income Housing Asset Fund.

**BUDGET REFERENCE**

The table below identifies the fund and appropriation proposed to fund the actions recommended as part of this memorandum.

Fund#	Appn#	Appn. Name	Total Appn.	Rec. Budget Action	2019-2020 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
346	3089	Housing Predevelopment Activity	\$1,000,000	\$263,374	X-56	02/11/20 Ord. 30361

**CEQA**

Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action.

/s/  
JACKY MORALES-FERRAND  
Director of Housing

For question, please contact Rachel VanderVeen, Deputy Director, (408) 535-8231

Attachment A

# Attachment A

## Exhibit A Timeline of Events

Over the years, ideas for Evans Lane and development plans for the Project have started and stopped due to multiple factors, including but not limited to, visioning for the site, community engagement and financing. The following is a timeline of several key dates and events:

- On June 9, 2015, the Mayor's June Budget Message for Fiscal Year 2015-2016 was approved by City Council, directing City Administration to pursue innovative approaches for rapidly housing unsheltered people living in the City;
- On September 22, 2015, the Housing Department presented City Council with a proposal for developing an affordable pilot transitional housing community using manufactured homes;
- On January 22, 2016, the Housing Department issued a Request for Proposal to identify a qualified developer/operator to develop, construct, and operate an interim housing community for the purposes of providing housing to homeless populations at Evans Lane;
- In March 2016, Allied Housing was successful in responding to the Request for Proposal to provide interim housing options for homeless individuals, with supportive services onsite, using manufactured housing;
- On June 28, 2016, City Council approved the General Plan Amendment for the Project allowing up to 30 units per acre. City Council further directed the Housing Department to explore the option of developing high-density permanent affordable housing on the site;
- On August 16, 2016, City Council authorized the Director of Housing to execute a ground lease that provided Allied Housing with site control. This lease allowed for Allied Housing to pursue other sources of funding, proceed with a development concept, obtain entitlements and complete other predevelopment activities for the proposed affordable interim housing community on the property. City Council also approved a predevelopment grant of up to \$400,000 for the Project (“predevelopment loan”). The approval contained a recommendation authorizing the Director of Housing, or her designee, to negotiate and execute all documents and amendments (including setting specific business terms) needed in connection with the loan and funding of predevelopment activities for the Project;
- In December of 2018, the City of San José provided a Notice of Intent to execute a \$200,000 predevelopment agreement with Allied Housing for the Evans Lane Bridge Library, Community Garden, and Traffic Improvement Project as part of the development;
- On January 8, 2019, City Council approved land use entitlements for the Project. The approved entitlements allow 61 affordable studios in eight buildings designed as modular construction using recycled shipping containers. The plans also included a community

garden, dog park, satellite library, community room with office space, loop road and bio-retention and hydromodification basin. Environmental clearance for the proposed development was obtained in parallel with the entitlement process;

- On February 4, 2019, a conditional funding commitment was awarded to Allied Housing, Inc. through the 2018 NOFA process in the amount of \$7,625,000;
- On February 21, 2019, a predevelopment loan and assignment of contract with Allied Housing was executed in the amount of \$400,000;
- On June 24, 2019, the Director of Housing approved the recommendation to amend the Predevelopment Promissory Note and Loan Agreement between Allied Housing, Inc. and the City of San Jose to increase the loan amount from \$400,000 to \$444,314;
- On June 28, 2019, the Housing Department issued an Information Memorandum to provide an update on the site and plans for the Project and noted that the Project would not proceed due to lack of financing.