



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand
Jim Shannon

SUBJECT: SEE BELOW

DATE: August 16, 2021

Approved

Date

8/20/21

COUNCIL DISTRICT: 3

SUBJECT: APPROVAL OF A LOAN COMMITMENT TO FIRST COMMUNITY HOUSING FOR THE DEVELOPMENT OF MCEVOY APARTMENTS, A NEW AFFORDABLE APARTMENT COMMUNITY

RECOMMENDATION

- (a) Adopt a resolution approving a total commitment of up to \$20,000,000 in Measure E funding reserved in the General Fund for a Construction-Permanent Loan to First Community Housing, or an affiliated entity ("FCH" or "Developer"), for the McEvoy Apartments, a new affordable development to be located at 280 McEvoy Street ("Site"), which is being developed to offer 222 rent-and income-restricted apartments for extremely low-income, very low-income, low-income at 80% of Area Median Income households, and two unrestricted manager's unit ("Development").
 - (1) Authorizing the Director of Housing to negotiate and execute loan documents, amendments and all other documents, including any amendments thereto, related to the City financing for the Development; and
 - (2) Approving a loan-to-value ratio of greater than 100% for this loan.

- (b) Adopt the following Appropriation Ordinance Amendments in the General Fund:
 - (1) Decrease the Measure E – 45% Extremely Low Income Reserve appropriation by \$15,625,000;
 - (2) Decrease the Measure E – 35% Low Income Reserve appropriation by \$4,375,000;
 - (3) Establish a Measure E – 45% Extremely Low Income appropriation to the Housing Department in the amount of \$15,625,000; and,
 - (4) Establish a Measure E – 35% Low Income appropriation to the Housing Department in the amount of \$4,375,000.

OUTCOME

Approval of the recommended actions will enable the Developer, FCH, to assemble financing to build a new affordable development at 280 McEvoy Street in San José. This development will provide affordable housing for 222 households, including 90 apartments for formerly homeless individuals. As funding sources are secured, the expected start date for construction to begin is May 2022. **Attachment A** provides an overview and site map for the Development.

EXECUTIVE SUMMARY

In response to the \$75 million Notice of Funding Availability, FCH submitted a Development proposal with a request for a commitment of funding in the amount of up to \$20,000,000 to provide 222 affordable apartments, which will include a set-aside of 90 units as permanent supportive housing. This Development plans to use funds from the City's Measure E Real Property Transfer Tax, County of Santa Clara (County) Measure A, Low Income Housing Tax Credits and Tax-Exempt Multi-Family Housing Revenue Bonds. Approval of this funding commitment will allow the developer to submit an application to the California Debt Limit Allocation Committee.

BACKGROUND

On June 28, 2021, following the City Council's direction, the Housing Department issued a \$75,000,000 Notice of Funding Availability for the development of affordable housing for extremely low-income, very low-income, and low-income individuals and families. The NOFA prioritized projects that provided housing for homeless households, that achieved cost effectiveness, and that leveraged additional non-City sources of financing.

In response to the NOFA, the Developer submitted a project proposal with a request for a commitment of funding up to \$20,000,000 to provide 222 affordable apartments, which will include a set aside of 90 units for permanent supportive housing ("PSH"). Twenty of the PSH units will have Project-Based Veterans Affairs Supportive Housing ("VASH") Vouchers ("PBVs"), and the supportive services provided by the County of Santa Clara. There will be 125 units at 30% AMI, 23 units at 40% AMI, 20 units at 50% AMI and 54 units at 80% AMI. Finally, there will be two unrestricted manager's units for a total of 222 apartments. The Development will receive supportive services from the County, and on-site service coordination from Community Solutions and First Community Housing.

The NOFA guidelines stated that the City would allocate funding at \$125,000 per unit. The McEvoy Apartments was tentatively awarded \$125,000 per unit for 160 of the 222 units, or \$20,000,000 (the maximum amount that a project could request). **(See Attachment B - Construction/Permanent Sources for the Development)**

The Developer is also pursuing other supplemental construction/permanent funding sources for the Development, including:

- **City of San José Tax-Exempt Multi-Family Housing Revenue Bonds (“City Bonds”)**
The Developer is requesting the City to be the issuer of approximately \$75,655,289 in tax-exempt multifamily housing revenue bonds to, in part, finance the Development and intends to apply for the September 9, 2021 Tax Credit Allocation Committee and California Debt Limit Allocation Committee (CDLAC) joint application funding round. Awards are anticipated to be announced by CDLAC in December 2021.
- **Measure A Affordable Housing Bond (“Measure A”)**
On September 26, 2017, the County issued a NOFA for the Measure A Affordable Housing Bond, a \$950 million general obligation bond that will create new affordable rental and homeowner housing opportunities. The County Board of Supervisors are expected to approve \$31,020,000 in Measure A funds for the Development at the Board of Supervisors meeting on August 31, 2021.

To be competitive when applying for bonds and tax credits, the Developer must obtain a City loan commitment, as described in this memorandum.

ANALYSIS

The McEvoy Apartments Development presents an opportunity to provide 222 homes for residents including unhoused individuals in the Diridon Station Area of San José. This development will be the first high rise affordable housing development funded by the City. Providing dense affordable housing located near the Diridon Station is consistent with the City’s goals of 20% of all housing development in the Station Area as affordable housing to moderate and low-income households. The Development is designed to meet the needs of residents and prioritizes sustainability and environmentally friendly features such as cross-laminated mass timber and designed for LEED Platinum certification. In addition to sustainable building strategies, such as selecting healthy building materials, photovoltaics, incorporating water and energy efficient measures, and providing each household with free VTA SmartPasses, the development will also feature an operating urban farm and large outdoor terrace. The Development is centrally located, as residents from this community will have grocery, pharmacy, restaurants, various retail shopping, light rail and bus connections within walking distance from their home. The Development intends to offer a variety of on-site supportive services for the residents. The Developer is expected to secure approval of Measure A funding from the County in August of 2021. The City’s Construction-Permanent Loan commitment to the Developer of up to \$20,000,000 is necessary at this time because it will enable FCH to leverage their public financing in order to be competitive for Tax Credits and other public and private funding sources.

Construction-Permanent Loan

The Housing Department recommends that City Council approve a Construction-Permanent Loan amount for up to \$20,000,000 from Measure E Funds which equates to \$125,000 per unit for 160 of the 222 units. The City's Construction-Permanent Loan commitment will represent approximately 13% of the total financing for the Development. The City's loan will be structured consistent with its underwriting guidelines and policies and will be repaid through a share of the Development's net cash flow. Final loan terms will be underwritten, negotiated, and determined as the Development approaches construction loan closing. The final loan terms will be documented through the Director's Delegation of Authority Memorandum.

The County's Measure A funds will fund, in part, its purchase of the land from the Developer. The County will own the land and lease it to the Developer. The City's Deed of Trust and the City's leasehold affordability restrictions will be recorded against the County's leasehold. **See Attachment B - Construction-Permanent Sources for the Development.**

By the authority delegated under section 5.06.335 of the Municipal Code (Authority to negotiate and execute Council-approved loans, grants and programs), the Director of Housing will negotiate additional terms and execute documents for these loans in accordance with the City Council's approval, if granted, for this Development. If the Developer is unsuccessful in securing augmented funding for the Development, the Housing Department may return to the City Council for consideration of additional Construction-Permanent financing.

Loan-to-Value Ratio

An appraisal that will be prepared for the senior lender before construction closing is expected to result in a combined loan-to-value ratio ("LTV") that significantly exceeds 100%, which is the City's LTV policy threshold. The 100% LTV policy was intended to reduce the City's risk of loss associated with its loans; however, the deep affordability of the development increases the need for public subsidies, while decreasing the Development's market value, leading to an increased LTV. An elevated LTV is not uncommon for public lenders in the affordable housing industry. Developments that have a high LTV are considered acceptable by City staff, if the Development's projected operating income is expected to be at least 1.15 times the permanent mortgage debt service payments, as is the case in this Development. This is a common standard for assessing the financial feasibility of affordable housing developments.

The security for a City loan with a high LTV is that the development will be constructed and begin permanent operations during the period in which the City receives loan repayments as a portion of Development net cash flow. This is particularly true for affordable housing developments, as the use of public funds creates requirements for affordability restricted apartments, and a contractual cash flow share for developments. Therefore, a site cannot be easily liquidated should a proposed development not proceed. This approval will enable the Development to move forward with obtaining tax credits, financing from a senior lender, and an investor, therefore enhancing the City's repayment potential. For these reasons, an LTV over 100% is warranted.

Affordability Unit Mix/Area Median Income Levels

The Developer proposes to build a unit mix as follows: 54 apartments restricted to low-income households at 80% AMI, 20 apartments restricted to very low-income households at 50% of AMI (a household of one earning approximately \$58,000 annually), 23 restricted to very low-income households at 40% of AMI, 125 restricted to extremely low-income households at 30% of AMI, and two manager units. The Development will include 90 permanent supportive housing units for the chronically homeless, Transition Aged Youth (“TAY”), persons with disabilities, and homeless veterans. The Housing Department finds that this unit mix will help meet priorities expressed by City Council and it will position the Development to be competitive for alternative funding sources. It will further serve the goal of providing affordable and supportive housing for homeless and vulnerable residents. Fig.1 below demonstrates the unit sizes and a breakdown of affordability restrictions for the 222 units.

Fig. 1 – Unit Mix: McEvoy Apartments

| | 30% AMI** | | | 40% AMI** | | | 50% AMI** | | | 80% AMI** | | | MGR | TOTAL |
|--------------|------------|---------------|-------|------------|---------------|---------|------------|---------------|---------|------------|---------------|---------|----------|------------|
| Unit Type | # of Units | Annual Income | Rent | # of Units | Annual Income | Rent | # of Units | Annual Income | Rent | # of Units | Annual Income | Rent | | |
| Studio | 89 | \$34,800 | \$794 | 17 | \$46,400 | \$1,059 | - | \$58,00 | | 34 | \$82,450 | \$2,118 | | 140 |
| 1-BR | 36 | \$39,800 | \$907 | 6 | \$53,040 | \$1,210 | 20 | \$66,300 | \$2,420 | 20 | 94,200 | \$2,420 | 2 | 84 |
| Total | 125 | | | 23 | | | 20 | | | 54 | | | 2 | 224 |
| % | 56% | | | 10% | | | 9% | | | 24% | | | | |

**Assumes TCAC Occupancy of 1.5 Persons per room.

CONCLUSION

If FCH is able to obtain all necessary funding commitments for the Development, they will apply for Low Income Housing Tax Credits and a Tax-exempt Bond Allocation in September 2021. The CDLAC allocation should occur in December of 2021. Staff will return to Council in Spring of 2022 for approval of the Bond Issuance, which would occur within 180 days of allocation. Construction would initiate in May 2022 and conclude in February 2024. **Attachment C** provides an anticipated development timeline for the Development.

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, final loan business terms 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. If the recommended actions are approved and FCH successfully closes construction financing, it will be included in these Quarterly Production Reports.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals. The Development prioritizes environmentally friendly features such as solar panels, energy-efficient fixtures, Energy Star appliances and a Platinum LEED environmental design certification. The Development is centrally located, residents from this community will have grocery, pharmacy, restaurants, various retail shopping, light rail and bus connections within walking distance from their home.

POLICY ALTERNATIVES

To arrive at this proposal, Housing Department staff considered the following options:

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

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

Cons: The City will lose an opportunity to provide housing for low income and homeless individuals and other households currently residing in San José.

Reason for not recommending: The proposed Development is a viable opportunity to meet the demand for deeply affordable housing for some of the most vulnerable homeless individuals and residents. The Development will help the City fulfill its affordable housing goals and will provide additional employment opportunities for property management, supportive services and case management jobs.

PUBLIC OUTREACH

Prior to City Council's approval of the Development's entitlements on February 11, 2020 FCH implemented a comprehensive outreach plan to engage with the community to provide information, to answer questions, and to better understand the concerns of the neighborhood residents and businesses. From October 2018 to April 2019, the Developer hosted or attended neighborhood and community meetings, attended by neighborhood associations, local faith-based organizations, various advocacy groups and community members, addressing a wide array of topics regarding the Development.

This memorandum will be posted on the City's Council Agenda website for the August 31, 2021 Council Meeting.

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COORDINATION

Preparation of this report was coordinated with the Office of the City Attorney.

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 José Municipal Code.

FISCAL/POLICY ALIGNMENT

This expenditure is consistent with the following policy documents: *The City's Envision 2040 General Plan* and the *2014-23 adopted Housing Element* in that it will help the City meet its Regional Housing Needs Allocation; the City's current *Housing Investment Plan* in that it increases San José's supply of affordable housing; the *City's 2015-20 HUD Consolidated Plan* in that it will provide rental apartments affordable to very low- and extremely low-income households; [and the *Community Plan to End Homelessness 2020-2025, endorsed by the City Council on August 25, 2020, in that it provides supportive housing for formerly homeless residents.*](#) The City is bringing forward the Affordable Housing Siting Policy in the coming weeks. The McEvoy development was approved under the 2021 Notice of Funding Availability which was limited to specific growth areas in the City. This development complied with that restriction due to its location in the Diridon Station Area.

COST SUMMARY/IMPLICATIONS

The recommended actions in this memorandum will provide a \$20,000,000 construction loan to FCH for the development of the McEvoy Apartments. The loan will be funded by the Real Property Transfer Tax that has been reserved in the General Fund for Measure E projects and is recommended as part of this memorandum to be appropriated to the Housing Department. This equates to \$125,000 per unit for 160 of the 222 units to encumber and draw upon when construction is initiated in Spring 2022. \$15,625,000 will be appropriated for 125 ELI units and \$4,375,000 for 35 VLI units. There is no ongoing fiscal impact to the General Fund as a result of this action.

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BUDGET REFERENCE

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

| Fund # | Appn # | Appn. Name | Total Appn | Rec. Budget Action | 2021-2022 Proposed Operating Budget Page* | Last Budget Action (Date, Ord. No.) |
|--------|--------|--|--------------|--------------------|---|-------------------------------------|
| 001 | 8597 | Measure E – 45% Extremely Low Income Reserve | \$38,925,000 | (\$15,625,000) | IX-47 | 06/22/21, Ord. 30621 |
| 001 | 8600 | Measure E – 35% Low Income Reserve | \$30,275,000 | (\$4,375,000) | IX-47 | 06/22/21, Ord. 30621 |
| 001 | New | Measure E – 45% Extremely Low Income | N/A | \$15,625,000 | N/A | N/A |
| 001 | New | Measure E – 35% Low Income | NA | \$4,375,000 | N/A | N/A |

*The Adopted Operating Budget was approved on June 15, 2021 and adopted on June 22, 2021 by the City Council.

CEQA

Addendum to the Diridon Station Area Plan Final Environmental Impact Report (SCH#2011092022, Resolution No. 77096), File Nos. File Nos. GP17-015, C18-034, SP18-059, and T19-017.

/s/
JACKY MORALES-FERRAND
 Director, Housing Department



JIM SHANNON
 Budget Director

For questions, please contact Division Manager, Kemit Mawakana at (408) 535-3851.

- Attachment A: Development Overview and Site Map
- Attachment B: Construction/Permanent Sources for the Development
- Attachment C: Anticipated Development Timeline

Attachment A: Development Overview and Site Map

McEvoy Apartments will add 222 units of low-income housing to Downtown San Jose as the first phase of two affordable rental housing developments on a 1.13 acre infill site that is immediately adjacent to the planned Google San Jose campus, a few blocks south of Diridon Station and one block from the Guadalupe River trail. The development will provide housing for those at or below 30% to 60% of area median income (AMI). Units will be reserved for homeless households served through the County's rapid rehousing and permanent supportive housing (RRH and PSH) programs, as well as the Intellectually and Developmentally Disabled (I/DD) and the remaining units will be reserved for households earning at or below 60% AMI. The project is structured to meet the County Measure A requirements for a "type 2" project. There are 140 studio units, 82 one-bedroom units and 2 additional one-bedroom manager's units. All units are located in the tower above the podium level.

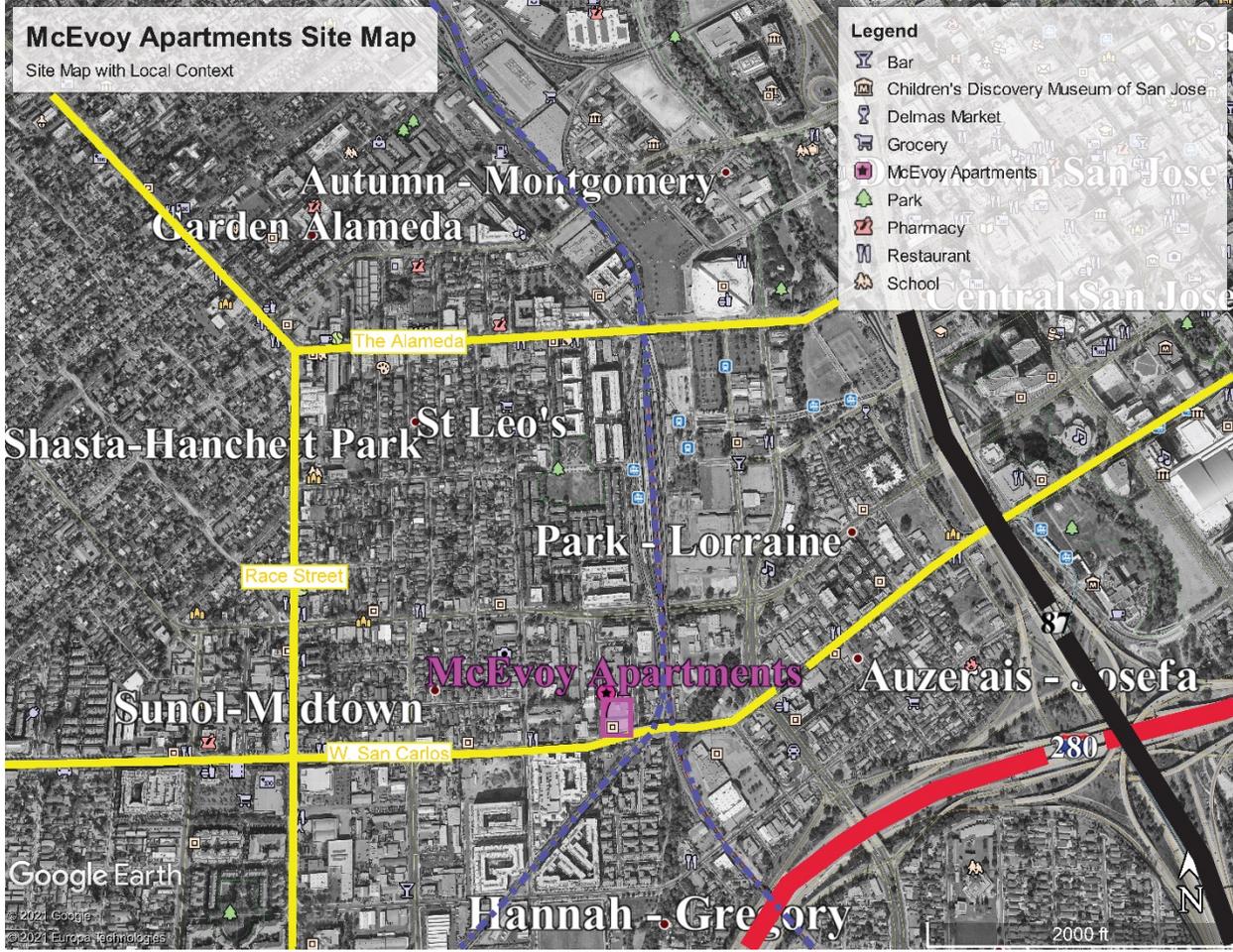
Entitled at 13-stories, common areas on the second and 13th floors include a fitness room, computer lab, open lounge/seating areas, centralized laundry, and offices for property management and resident services. The development will also feature an operating urban farm and large outdoor terrace.

McEvoy will share a podium-level courtyard with playground, stacked auto parking, and utility spaces with the second-phase tower at the same site (Dupont Apartments). The project will also include 224 spaces for indoor bike storage, in addition to outdoor bike racks on McEvoy Street to accommodate additional bicycles. The project is one of the first mass timber buildings in San Jose, designed for LEED Platinum certification. In addition to sustainable building strategies, such as selecting healthy building materials, photovoltaics, incorporating water and energy efficient measures, and providing each household with free VTA SmartPasses.

First Housing Services and Community Solutions will provide resident services, with at least one full-time resident services provider, and services will include programs related to tending and harvesting the urban farm, food security, digital literacy, public transit support, and coordinate care for additional supportive services needed by each population.

The capital stack on this 4% tax-credit project includes City and County financing, as well as gap financing provided by Apple Computers. The highly affordable rents are made possible by VASH and Section 8 vouchers.





Attachment B: Construction/Permanent Sources for the Development***As of Developer's Proforma Submitted to Housing Dept. on 8/26/2020***Sources of Funds - Permanent**

| Loan | Amount |
|--|-----------------------|
| City-Issued Tax Exempt Perm Loan – Tranche A | \$ 22,986,000 |
| City of San Jose | \$ 20,000,000 |
| County of Santa Clara Measure A | \$ 31,080,000 |
| Additional Source TBD | \$ 8,000,000 |
| Deferred Developer Fee | \$ 2,795,117 |
| Additional County of Santa Clara Loan | \$ 3,453,785 |
| Capital Contributions | |
| <i>General Partner</i> | \$ 100 |
| <i>Limited Partner</i> | \$ 62,231,770 |
| TOTAL | \$ 148,211,368 |

Sources of Funds - Construction

| Loan | Amount |
|--|-----------------------|
| City-Issued Tax Exempt Construction Loan | \$ 75,655,289 |
| City-Issued Taxable Construction Loan | \$ 5,799,757 |
| City of San Jose | \$ 20,000,000 |
| County of Santa Clara Measure A | \$ 31,080,000 |
| Costs Deferred Until Conversion | \$ 6,657,929 |
| Deferred Developer Fee | \$ 2,795,117 |
| Capital Contributions | |
| <i>General Partner</i> | \$ 100 |
| <i>Limited Partner</i> | \$ 6,223,177 |
| TOTAL | \$ 148,211,368 |

Attachment C: Anticipated Development Timeline

| | |
|--|----------------|
| Submitted Construction Drawings for Building Permits | July 2021 |
| Apply for CDLAC/TCAC | September 2021 |
| Bond Allocation Award | December 2021 |
| Close Financing | April 2022 |
| Start Construction | May 2022 |
| Complete Construction | February 2024 |