



## COMMUNITY DEVELOPMENT

CITY HALL

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## CITY COUNCIL STAFF REPORT

Meeting: July 5, 2016

### Subject

Request for Funding – Stevens Creek L.P. an affiliate of Charities Housing Development Corporation of Santa Clara County – Affordable Senior Housing, 19160 Stevens Creek Boulevard

### Recommended Action

Approve Resolution No. 16 - \_\_ to reserve \$3,672,000 from the City's Affordable Housing Fund to assist in the potential development of affordable senior housing at 19160 Stevens Creek Boulevard in the City of Cupertino; and to make findings required by the California Environmental Quality Act.

### Description

The City has received a request from Stevens Creek, L.P., an affiliate of Charities Housing Development Corporation of Santa Clara County (Charities Housing), for the reservation of \$3,672,000 from the City's Affordable Housing Fund to assist in the potential construction of rental housing units affordable to extremely low and very low-income senior households with incomes between 30% and 50% of area median income for Santa Clara County (AMI). Charities Housing proposes to purchase the property at 19160 Stevens Creek Boulevard, which is identified in the City's Housing Element as the Barry Swenson site and shown as a site suitable for lower income housing.

Charities Housing has entered into a purchase and sale agreement with the owners of the site to purchase the property for the amount of \$3,672,000. Charities Housing has provided an appraisal showing that the fair market value of the property is \$3,700,000. The sale must close by the end of July 2016. To finance the purchase, Charities Housing has received a loan commitment for \$3,000,000 from the Housing Trust Silicon Valley (the Trust Loan). \$2,000,000 of the Trust Loan will be used to partially finance the purchase of the Barry Swenson site. The Trust Loan has a term of 24 months and may be extended for an additional 12 months. The remainder of the purchase price for the Barry Swenson site will

be financed through a loan from Charities Housing to Stevens Creek L.P. in the amount of \$1,672,000 (the Charities Loan).

The proposed City loan of \$3,672,000 would not be funded until the project has received all required planning approvals, which Charities Housing estimates may occur in February 2017. At the time the City disburses its loan, \$2,000,000 of the Trust Loan would be paid down using funds from the City loan, and the remaining \$1,000,000 of the Trust Loan would be subordinate to the City's loan. The Charities Loan would also be repaid in its entirety using the City loan funds. In addition, the developer intends to apply for an allocation of 9% low-income housing tax credits to finance the construction of the development. If funded, the City loan would have a term of 55 years from the completion of construction at a 3% simple interest rate and would be repaid through residual receipts payments from the development.

The adoption of the resolution would reserve \$3,672,000 from the City's Affordable Housing Fund for the project on the terms listed below, with the funds to be disbursed after the conditions for funding are met. However, by reserving these funds, the City makes no commitment to the approval of any particular project on the site. No project has yet been presented to the City for review. The General Plan and zoning permit approximately 18 to 19 units with a density bonus.

On April 19, 2016 the City Council considered and approved a request by MidPen Housing Corporation for \$3,500,000 from the Affordable Housing Fund to purchase the same site. However, MidPen was apparently unable to purchase the property. Charities Housing has been able to enter into a purchase and sale and agreement with the owner. While MidPen proposed to apply for a General Plan amendment to permit 30 units on the site, Charities Housing does not intend to request approval for more than 19 units, or as permitted with a density bonus.

Charities Housing's request for reservation of funds was submitted to the Housing Commission at its meeting of June 23, 2016. Commissioners supported the requested loan 3-0 (two members absent) on the terms listed below. Members of the public requested that the community be involved before the project moves forward. Charities Housing has indicated that it intends to conduct community meetings and outreach prior to submitting a formal application to the City. The City has made no commitment to approving any particular project on the site and will not fund the property purchase until and unless the project receives all planning approvals.

## City Loan Terms

If funded, the City loan is proposed to have the following terms:

- Borrower: Stevens Creek, L. P., a California limited partnership formed to own and operate the development. The general partner of the developer is Stevens Creek Charities LLC, whose sole member is Charities Housing Development Corporation of Santa Clara County.
- Affordability: A 55-year affordability covenant would be recorded providing that all of the units, except a manager's unit, must be occupied by extremely low and very low-income senior households with incomes between 30% and 50% of AMI.
- Term: The term of the City loan would commence as of the closing date and end 55 years from the completion of construction of the development.
- Interest: 3% simple interest calculated annually.
- Loan Documents: The City loan terms would be set forth in a loan agreement. The City loan would be evidenced by a promissory note and secured by a deed of trust and a regulatory agreement recorded against the property. The City would also record an option agreement, as described below.
- Security: The deed of trust would be secured against the property. The City and the developer would also enter into an option agreement which would permit the City to purchase the property for the amount of the City loan, plus assumption of the \$1,000,000 Trust Loan, if the project does not proceed according to an agreed-upon schedule. (The proposed Trust Loan equals the funds that the City granted to the Housing Trust shortly before the dissolution of the City's redevelopment agency.)
- Timing of Funding: The City would close the City loan and disburse the City loan funds after the development receives its entitlements, which is anticipated to be in February 2017. The anticipated closing date for the City loan would be 90 days following receipt of all entitlements.
- Repayment: The City loan would be repaid through residual receipts payments. The \$1,000,000 Trust Loan would be due in its entirety at the end of its 55-year term, not paid through residual receipts. Therefore, the City would receive 100% of the soft lender portion of available residual receipts.

- Subordination: The Trust Loan must be subordinated to the City loan through execution of a subordination agreement.
- Commencement of Construction: The developer must commence construction of the development within a term of two years from the date of the City loan closing, with a possible one year extension. The option agreement that will be entered into by Charities along with the loan agreement will allow the City to take title of the site two to three years after making the loan (depending on whether the one-year extension is granted) if construction does not commence during that period.
- Tax Credit Financing: The developer must work diligently to obtain tax credit financing in a timely manner, and must succeed in obtaining such tax credit financing within a term of two years from the date of the City loan closing, with a possible one year extension.
- Financial Pro Forma: The developer must provide for the City's approval an updated pro forma budget and construction schedule for the development.

#### Conditions to Funding the City Loan

The project must comply with the following conditions prior to disbursement of the City loan:

- The development must have received all discretionary entitlements.
- All review required by the California Environmental Quality Act must be completed.
- The developer must execute all of the loan documents referenced above, including an option agreement with the City which would allow the City to purchase the property for the price of the City loan, plus assumption of the \$1,000,000 Trust Loan, if the project does not proceed within the timelines set forth in the City Loan agreement.
- The developer must provide for the City's approval an updated pro forma budget and construction schedule for the development.
- The developer must provide for the City's approval an updated appraisal within 90 days of the projected close of escrow which reflects adequate value to support the City's loan of \$3,670,000.

Following the Housing Commission meeting, Charities Housing expressed concern about the appraisal condition in the event that the property's value declines. The City's loan would not be secured if it were made for more than the appraised value. Additionally, it would be unusual for a property's value to decline after the site had received all entitlements. However, a provision has been added allowing the loan to be made in that circumstance if approved by the City Council.

Additionally, staff recommends that the funds be reserved for a two-year period with a possible one year extension.

Sustainability Impact

None.

Fiscal Impact

Currently, there is a balance of approximately \$11,323,000 in the BMR Affordable Housing Fund based on the Council's approval of the 2016-2017 Grant Funding Allocations on April 19, 2016. The current project will cost an additional \$172,000. If the Council authorizes reservation of the funds, the BMR Affordable Housing Fund will have approximately \$7,324,000 available for other affordable housing purposes.

Prepared by: Ben Fu, Assistant Director of Community Development

Reviewed by: Aarti Shrivastava, Assistant City Manager/Community Development Director

Approved for Submission by: David Brandt, City Manager

Attachments:

- A. City Council Resolution No. 16-\_\_ , a Resolution of the City Council of the City of Cupertino Approving the Reservation of \$3,672,000 from the Affordable Housing Fund to Assist in the Development of Affordable Senior Housing act 19160 Stevens Creek Boulevard
- B. Housing Commission Resolution No. 16-04, a Resolution of the Housing Commission of the City of Cupertino Recommending that the City Council Reserve \$3,672,000 from the Affordable Housing Fund to Assist in the Development of Affordable Senior Housing at 19160 Stevens Creek Boulevard
- C. Request for Funding
- D. Financial Pro-Forma
- E. Preliminary Title Report