



COUNCIL AGENDA: 5-12-15
ITEM: 2.11

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: 5-8-2015

SUBJECT: SB 377(BEALL) SALE OF STATE LOW INCOME HOUSING TAX CREDITS

RECOMMENDATION

As recommended by the Rules and Open Government Committee on May 6, 2015 and outlined in the attached memo previously submitted by the Rules and Open Government Committee, approve a support position for SB 377(Beall) Sale of State Low Income Housing Tax Credits



CITY COUNCIL ACTION REQUEST

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| Department(s): Housing | Date: 4/29/15 | Coordination: City Attorney's Office City Manager's Office | Dept. Approval: /s/ Jacky Morales-Ferrand CMO Approval: <i>[Signature]</i> |
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SUBJECT: SB 377 (Beall) Sale of State Low Income Housing Tax Credits

RECOMMENDED POSITION: Support

RECOMMENDED ACTION:

1. Pursuant to the City's streamlined bill process for responding quickly to legislative proposals, support SB 377 (Beall).
2. Recommend a one-week turnaround so that the City's Legislative Advocate in Sacramento can indicate a support position for SB 377 (Beall).

BILL SYNOPSIS:

SB 377 allows the developer of an affordable project that has been awarded State low-income housing tax credits (LIHTC) for affordable housing to sell those credits to investors without requiring them to become part of the ownership structure. The current State LIHTC program requirement that investors be part of that structure leads to a federal tax liability for the investors. Assuming a federal corporate tax rate of 35%, investors will generally pay a maximum of 65 cents for each dollar of State credit, which is what the State is currently seeing on its credit sales. The lower the net price for credits, the higher the development's funding gap. Other public lenders, such as the City of San José, must make up the difference between private equity and private bank loans and the total amount needed to build and operate the development through so-called "gap" loans. Further, as credits are sold for a net price, these changes would not result in additional fiscal impacts to the State. Other states allow tax credits to be administered, or "certificated," in this way. Thus, eliminating this ownership structure requirement incentivizes investors to pay more for each dollar of State tax credit with no additional cost to the State.

Additionally, this bill would require State tax credits to be sold to investors for no less than 80 cents for each dollar of State credit, setting a floor for credit pricing. Both the structure and the pricing floor would expand the amount of private equity that could be generated through the State tax credit program. If the new value of the State credit to the investor results in an investment closer to a dollar-for-dollar investment to credit match, the value of the program could increase by 35-50%.

IMPACTS TO CITY OF SAN JOSE:

If approved, the changes made in SB 377 would significantly increase the amount of private funding available to develop affordable apartments without additional cost to the State. There are many thousands of people on waiting lists for restricted affordable apartments in San José. By enhancing the State tax credit program to work more efficiently, our region could realize an increase in the number of affordable apartments produced by 50-200 homes per year.

A more efficient State tax credit program that maximizes private investments will also enable the City to use its scarce resources better by producing more or more deeply income-restricted apartments. This increased flexibility would support the City to more strategically use its own investment funds to produce housing types that better meet the needs of the local community. With the loss of nearly \$40 million dollars annually given

the statewide dissolution of Redevelopment Agencies, opportunities to increase the City's leverage of existing housing investment dollars is critical to our ability to continue developing affordable housing for individuals and families living in San José.

To further expand housing opportunities for those in our community who are homeless and struggling with high barriers to housing, such as mental health and substance abuse issues, the Housing Department is actively pursuing the development of 100% supportive housing developments. Supportive housing is a national best practice in housing chronically homeless and high-needs individuals. Financing these deeply affordable projects is increasingly difficult without the annual revenue generated by the Redevelopment Agency. If SB 377 is passed and signed by the Governor, tax credits will increase in value, requiring less gap financing from the City.

POLICY ALIGNMENT:

This bill aligns with the Council-approved *2015 Legislative Guiding Principles and Priorities* to "ensure that state and federal housing and community development related tax programs, policies, and proposals maximize and protect the benefits to San José."

SUPPORTERS/OPPONENTS:

Support: The bill is sponsored by State Treasurer John Chiang and the California Housing Partnership Corporation and supported by Community Economics Inc, and the Non-Profit Housing Association of Northern California.

Opposed: The bill has no registered opposition at this time.

STATUS OF BILL:

The bill was introduced on February 24 and has been referred to the Senate Government and Finance Committee. If passed by the Committee, the bill, a fiscal bill, will then go before the Senate Appropriations Committee before a full vote of the Senate. Bills must pass out of their House of origin by June 5, which then goes to the second House for consideration. September 11 is the last day for bills to pass out of both Houses.

FOR QUESTIONS CONTACT: Jacky Morales-Ferrand, 408-535-3851