

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Leslye Corsiglia  
Jennifer A. Maguire

**SUBJECT:** SEE BELOW

**DATE:** April 25, 2011

Approved

Date

5/2/11

**COUNCIL DISTRICT:** City-wide  
**SNI AREA:** All

**SUBJECT: APPROVAL OF NEIGHBORHOOD HOUSING SERVICES OF SILICON VALLEY'S (NHSSV) PLAN TO ADDRESS ITS HOMEVENTURE FUND AND HOME INVESTMENT PARTNERSHIP OBLIGATIONS**

## **RECOMMENDATION**

It is recommended that the City Council adopt a Resolution:

- 1) Authorizing the Director of Housing to release Neighborhood Housing Services of Silicon Valley's (NHSSV) \$1,300,000 *HomeVenture Fund* restricted capital grant, allowing the use of the funds for past operating expenses. In exchange NHSSV will commit to utilize \$1,300,000 in other grant proceeds within City of San José municipal boundaries.
- 2) Accepting NHSSV's proposal to repay the City for its \$115,000 obligation in HOME Investment Partnership ("HOME") funds over five years with interest equivalent to the interest earned by the City's Investment Pool.
- 3) Authorizing the Director of Housing to negotiate and execute all documents related to the fulfillment of the conditions of these recommendations as adopted by the City Council.
- 4) Adoption of the following Appropriation Ordinance amendments in the Housing Trust Fund:
  - a. Establish a Transfer to the Home Investment Partnership Program Fund by \$115,000
  - b. Decrease the Ending Fund Balance by \$115,000
- 5) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Home Investment Partnership Program Fund:
  - a. Increase the revenue estimate for Transfers by \$115,000

- b. Increase the appropriation to the Housing Department for the Loans and Grants project by \$115,000

### **OUTCOME**

The approval to authorize the Director of Housing to release from restrictions NHSSV's \$1.3 million *HomeVenture Fund* restricted capital grant will reduce the deficit in unrestricted net assets being carried by the nonprofit organization. This will greatly improve NHSSV's prospects for receiving additional grants from other sources that fund foreclosure prevention assistance, homeownership counseling, and other vital services to San José residents. This loss will be offset by the NHSSV's utilization of new grant proceeds to make homebuyer loans exclusively to San José residents.

Authorizing the loan from the Housing Trust Fund will keep the City in good standing with HUD, allow the City to remain eligible to receive federal funding for housing and community development programs, and provide NHSSV with sufficient time to repay the City.

### **BACKGROUND**

Neighborhood Housing Services Silicon Valley is a congressionally-chartered NeighborWorks organization and a local 501(c)(3) nonprofit corporation specializing in programs and services that promote and support affordable homeownership and neighborhood revitalization in San José. In the mid-1990s, the City requested that NeighborWorks America support the establishment of a local affiliate in the City of San José and offered significant financial support to the organization. Since 1999, NHSSV has been the City's predominant nonprofit housing partner specializing in homebuyer education, counseling, and other mortgage and real estate-related services for low- and moderate-income homebuyers.

NHSSV is also a partner of the local "Don't Borrow Trouble Silicon Valley" campaign, designed to increase awareness and education about predatory lending practices in Silicon Valley. The organization has also been at the forefront of addressing the loan foreclosure issue. It currently operates a foreclosure prevention program with federal funding through the NeighborWorks America organization. NHSSV is also a partner in San José's Neighborhood Stabilization Program (NSP) II consortium. Since its inception, NHSSV has provided thousands of prospective homebuyers with pre-purchase homebuyer education and performed real estate and lending services for hundreds of first time homebuyers. NHSSV earns fees for lending and real estate brokerage services when assisted homebuyers close their loans.

### **City's Contribution to the *HomeVenture Fund***

On September 5, 2000, the City Council authorized the Housing Department to contribute up to \$2,000,000 to the NHSSV *HomeVenture Fund* from funds provided by the Redevelopment Agency in the form of a restricted capital grant. This action established the NHSSV

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*HomeVenture Fund* as a capital account designed to provide deferred subordinate financing for home purchases by low- and moderate-income households. Since inception of the Fund, it has been successfully utilized to help over 160 low- and moderate- income households acquire homes within the City of San José. Out of this total, 108 were made to low-income households and 60 homes were purchased in Strong Neighborhoods Initiative (SNI) areas.

Since 2000, a number of actions have been taken to modify the amount of funds available for lending. Recent actions include an amendment to the *HomeVenture Fund* Agreement approved by City Council on June 19, 2007 to increase the City's total funding of this account to \$4.55 million. As described below, on October 30, 2007, the City Council approved another amendment to authorize the temporary transfer of up to \$1.3 million from the Fund to be used to offset a budget deficit that resulted in part from the City's reduction in operating fund subsidies to NHSSV.

#### **NHSSV's HomeVenture Fund Obligation**

On October 30, 2007, the City Council approved the Housing Department's recommendation to allow the transfer of \$1.3 million from the *HomeVenture Fund* to NHSSV's operating budget.

The funds were to be used for accrued administrative costs that were incurred by NHSSV over several years. As stated in the memorandum to the City Council supporting that action, it was the nonprofit organization's intention to replenish the capital account from two grants that NHSSV had been awarded from the Community Development Financial Institution (CDFI). In accordance with CDFI grant agreements, after successful completion of the three-year contract period, the grant funds were to become "unrestricted," and could be used to support other programs and services offered by NHSSV.

NHSSV was unable to replenish the capital account with the CDFI grant proceeds due to the soft housing market which impeded sales at its 17-unit Villa Almendra townhome development. This resulted in significant carrying costs for the organization. In order to avoid losing the property through foreclosure, NHSSV had used its CDFI grant funds to pay the loan and offset losses incurred by the project. As a result, NHSSV had to develop an alternative strategy to repay this \$1.3 million Home Venture Fund obligation.

#### **NHSSV's HOME Obligation**

One of the sources for the *HomeVenture Fund* is federal HOME funds administered by the City in which the Housing Department contributed to the Fund as lending capital for use by NHSSV. In 2009, the City of San José Housing Department was audited by HUD and was asked to implement stricter requirements to document administrative costs. In the course of the City's subsequent review of NHSSV's HOME-funded contract for the administration of HOME capital funds, it was determined that NHSSV was charging both HOME and the homebuyer for the staff costs associated with processing HOME funded loans. As a result NHSSV was bringing in

revenue in excess of the costs incurred for processing the loans. This is not allowed under HOME regulations. As a result, NHSSV is required to repay \$115,000 to the City's HOME account.

## **ANALYSIS**

### **Proposed Plan to Address NHSSV's \$1.3 Million HomeVenture Fund Obligation**

The actions recommended in this memorandum will authorize the Director of Housing to release from restriction NHSSV's \$1.3 million restricted capital grant which will reduce the deficit in unrestricted net assets being carried by the nonprofit organization. NHSSV is proposing to use new grant proceeds to make homebuyer loans exclusively to San José residents. One source of the grant proceeds is a CalHome grant recently awarded to NHSSV. Under the terms of NHSSV's CalHome grant, loans can be made to homebuyers purchasing property anywhere within Santa Clara County. NHSSV has agreed to use \$1.3 million in CalHome grant proceeds, or other funding sources not obligated to the City, exclusively for properties within the City of San José.

A new *HomeVenture Fund* agreement between the City and NHSSV will be created. The agreement will include modified conditions to facilitate improved conformance with requirements of the funding sources that contributed to the *HomeVenture Fund*. It will also allow NHSSV to charge administrative fees commensurate to the cost of processing loans issued from the Fund. This new agreement will retire the previous *HomeVenture Fund* agreement. The Housing Department is asking for City Council authorization for the Director of Housing to negotiate and execute the terms of this new agreement governing the utilization of the remaining fund balance and future repayments to the Fund.

### **Proposed Plan to Address NHSSV's HOME Fund Obligation**

As previously noted, NHSSV is required to repay \$115,000 to the City's HOME account. NHSSV will pay the City from unrestricted grant proceeds and/or loan repayments in monthly installments over five years at which time the obligation will be repaid with interest. Interest on the outstanding balance will be assessed monthly at the rate equivalent to the interest earned by the City's Investment Pool Fund 1. In order to ensure that the City remains in good standing with HUD, the Housing Department is recommending that the City Council approve the transfer of \$115,000 from the Housing Trust Fund to the HOME Investment Partnership Program Fund in order to immediately resolve the repayment due to HUD.

## **EVALUATION AND FOLLOW-UP**

The Housing Department will monitor NHSSV's performance in meeting its obligations through utilization of progress reports required in the new *HomeVenture Fund* agreement.

## **POLICY ALTERNATIVES**

To arrive at this proposal, Staff considered the following options:

**Alternative #1:**     ***Do not approve NHSSV's plan to address its HomeVenture Fund and HOME obligations.***

**Pros:**                 If the plan is not approved, the City may be able to pursue other means for NHSSV replenish the *HomeVenture Fund*.

**Cons:**                 If the City does not accept NHSSV's in lieu of requiring full repayment, NHSSV may cease to remain a viable entity. At best, it would be limited in its ability to obtain additional grant resources that directly benefit low- and moderate- income homebuyers in San José.

**Reason for not recommending:**     NHSSV has been a long-time partner of the City and promotes affordable and responsible homeownership opportunities and education for prospective first time homebuyers. It is in the City's best interests to facilitate NHSSV's continued financial viability. It should be noted that the conditions that lead to NHSSV's *HomeVenture Fund* repayment obligations were spurred by the City's request to have NHSSV find new revenue sources in order to reduce the operating support required by the City. While the specific strategy of acquiring and developing land was not endorsed by the City as a means to increase operating support, the rapid deterioration of the residential real estate market was outside the control of NHSSV and was the primary reason for the agency's inability to meet its repayment obligation. Prior to accepting NHSSV's proposed repayment strategy, the Housing Department explored every viable repayment option before determining that the recommended strategy is the only feasible course of action.

## **PUBLIC OUTREACH/INTEREST**

The recommended action meets Criterion #1 below. Therefore, this memo will be posted on the City's website for the May 17, 2011 Council agenda.

√ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.

- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
- Criterion 3:** Consideration of proposed changes to service delivery, programs, or staffing that may have impacts to community services and have been identified by staff, the Board or Council, or a community group that requires special outreach.

**COORDINATION**

This report has been prepared by the Housing Department in coordination with the Redevelopment Agency, the Finance Department, and the Office of the City Attorney.

**COST SUMMARY/IMPLICATIONS**

The actions recommended in this memorandum will authorize the Director of Housing to release from restriction NHSSV's \$1.3 million *HomeVenture Fund* restricted capital grant, which will reduce the deficit in unrestricted net assets being carried by the nonprofit organization.

In addition, the budget actions recommended as part of this memorandum will transfer \$115,000 from the Housing Trust Fund to the Home Investment Partnership Program Fund for repayment to the U.S. Department of Housing and Urban Development.

**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	Amount for Project	2010-2011 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
440	8999	Ending Fund Balance	\$1,426,652	\$115,000	N/A	12/07/10, Ord. No. 28860

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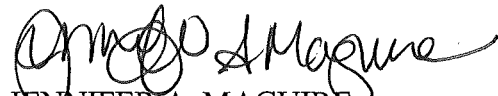
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CEQA

Not a project, PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance

  
JENNIFER A. MAGUIRE  
Budget Director

/s/  
LESLYE CORSIGLIA  
Director of Housing

I hereby certify that there will be available for appropriation in the Home Investment Partnership Program Fund in the Fiscal Year 2010-2011 moneys in excess of those heretofore appropriated there from, said excess being at least \$115,000.

  
JENNIFER A. MAGUIRE  
Budget Director

For questions, contact LESLYE CORSIGLIA, Director of Housing, at 408-535-3851.