

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	December 21, 2015
	Agenda Item No.	31
	Roll Call No.	[_____]
	Communication No.	<u>15-652</u>
	Submitted by:	Phillip Delafield, Community Development Director

AGENDA HEADING:

Resolution approving revised terms for repayment of City HOME loan to South View Senior Apartments, L.L.L.P. - 504 E. Hillside.

SYNOPSIS:

In 2007, the City of Des Moines provided a \$250,000 mortgage to South View Senior Apartments L.L.L.P. for construction of a 40-unit Senior Low Income Housing Tax Credit Project at 504 E. Hillside. The interest rate of the HOME loan was at the applicable federal rate (4.89%) in accordance with requirements of the LIHTC program. The Housing and Economic Recovery Act of 2008 (HERA) amended portions of the LIHTC regulations and eliminated a HOME loan from the definition of federal subsidy. Changing the definition of federal subsidy allows the HOME Loan interest rate to be below the applicable federal rate. The refinance to a 1% interest rates makes the HOME loan terms in compliance with Roll Call No. 06-0569 which sets City guidelines for loans associated with LIHTC projects. The refinance will ensure the project can afford the balloon payment at the end of 30 years.

South View Senior Apartments, L.L.L.P. is a single-asset Iowa Limited Liability Limited Partnership. Curly Top, L.L.C. an Iowa Limited Liability Company, is a general Partner of South View Senior Apartments, L.L.L.P. John Mauro is President and sole owner of Curly Top, L.L.C. Mr. Mauro's office is located at 3512 Ingersoll Avenue, Des Moines, IA 50312.

FISCAL IMPACT:

Amount: \$80,000 in interest accrued, but not due.

Funding Source: All interest is returned to the City's HOME Program as Program Interest in year in which the interest is paid.

ADDITIONAL INFORMATION:

By Roll Call No. 06-2236 on November 6, 2006, the City of Des Moines supported a LIHTC project for 40-units of Senior Housing to be built at 1720 SW 1st Street and preliminarily approved a HOME Loan in the amount of \$250,000. The project received an award of tax credits from the Iowa Finance Authority and by Roll Call No. 07-1613 on August 26, 2007 the City approved a HOME loan with a 1% interest rate amortized over 16 years for the development. Shortly after the tax credit award and HOME Loan approval, environmental testing determined that there was ground pollution on the site that could not be economically and expediently removed.

IFA allowed the proposed location to be moved to 504 Hillside (formerly 1900 SE 6th, the site of the South Des Moines Little League Fields) and approved the retention of the LIHTC award on the condition that the City continue to commit the \$250,000 of HOME funds. Both soft costs and hard construction costs had increased as a part of the move and even after committing a substantial portion of the developer fee, there was a \$250,000 gap in the sources and uses.

The project faced a number of additional challenges. Late 2007 was a difficult time to develop property and the value of the tax credits to syndicators was lower than the commitments made at the original 1st Street site. In addition, the attorney for South View determined that the interest rate for the \$250,000 HOME mortgage should be written at the applicable federal rate of 4.89% rather than at the 1% rate as originally approved. In 2007, Federal Law regulating LIHTC financing did not allow a project to receive a below-market interest rate loan from a federally source. The attorney opined that HOME funds were one (1) of a myriad of federal sources that could result in a federal subsidy. A HOME loan with a below market interest rate could disqualify the project from receiving a LIHTC award.

The City Council approved a \$250,000 HOME mortgage for 504 E. Hillside Avenue with a 30-year term at the applicable federal rate of 4.89% with a \$2,500 payment due annually for the first 15 years and a \$5,000 payment due annually for the second 15 years. A balloon payment of principal and interest is due at the end of the 30 year period. These terms have no negative affect on the operating pro-forma during the HOME Period of Affordability of the project but create a very large repayment, approximately \$875,000 at the end of the term which will create a problem for the development. Staff has reviewed other projects with a large balloon payment which create problems down the road. With few cash reserves for rehabilitation/renovation, a former LIHC cannot refinance for rehabilitation funding because of the large balloon payment due and usually a low appraisal.

Subsequently, Congress passed the Housing and Economic Recovery Act of 2008 (HERA) which amended the definition of federal subsidy to eliminate HOME funded loans for projects placed in service after July 30, 2008. The attorney for South View Senior Apartments, L.L.L.P. has sent an opinion that reducing the interest rate to 1% and discharging any interest accrued above the 1% value will not endanger the tax credits.

On March 20, 2006 by Roll Call No. 06-0569, the City Council approved a policy stating that no LIHTC project should receive a HOME loan for more than \$250,000 with all the principal repaid to the City at a minimum 1% interest rate. There are three (3) other LIHTC projects that have a HOME loan with an interest rate above 1%, and the rest of the HOME loans are at 1% or 0%. This refinance for South View Apartments will bring the project in line with the rest of the HOME loans and help with the overall financial strength of the project.

PREVIOUS COUNCIL ACTION(S):

Date: October 8, 2007

Roll Call Number: [07-1986](#)

Action: [Form](#) of Agreement and authorizing execution of HOME Loan for new construction of 40 units of Low Income Senior Housing with Southview Senior Apartment L.L.L.P., John Mauro, (General Partner), \$250,000. ([Council Communication No. 07-613](#)) Moved by Meyer to adopt. Motion Carried 6-1. Nays: Hensley.

Date: August 20, 2007

Roll Call Number: [07-1613](#)

Action: [Form](#) of Agreement and authorizing execution of HOME Agreement for HOME Loan for new construction of 40 units of low-income senior housing at 1720 SW 1st Street with Curly Top, L.L.C, \$250,000. ([Council Communication No. 07-496](#)) Moved by Meyer to adopt. Motion Carried 6-1.
Nays: Hensley.

Date: May 7, 2007

Roll Call Number: [07-0918](#)

Action: [Authorization](#) for staff to negotiate for up to \$250,000 of HOME Funds, for new construction of 40 units of Low Income Senior Housing, located at 1720 SW 1st Street, owned by Curly Top, LLC, (John Mauro, President). ([Council Communication No. 07-279](#)) Moved by Meyer to adopt, and make sure all other funding sources are used prior to using HOME funds. Motion Carried 7-0.

Date: November 6, 2006

Roll Call Number: [06-2236](#)

Action: [Support](#) of application by Curly Top LLC for construction of 40 units of Senior Housing at 1720 SW 1st Street. ([Council Communication No. 06-703](#)) Moved by Hensley to adopt. Motion Carried 6-0.

Date: March 20, 2006

Roll Call Number: [06-0569](#)

Action: [Adoption](#) of new policies and procedures for administration of the HOME Investment Partnership Act (HOME PROGRAM). ([Council Communication No. 06-140](#)) Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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