

DATE: NOVEMBER 3, 2003

TO: PASADENA COMMUNITY DEVELOPMENT COMMISSION
THROUGH: FINANCE COMMITTEE

FROM: CYNTHIA J. KURTZ
CHIEF EXECUTIVE OFFICER

SUBJECT: APPROVAL OF FIRST IMPLEMENTATION AGREEMENT TO THE DISPOSITION, DEVELOPMENT AND LOAN AGREEMENT (CDC-16) WITH VILLA LOS ROBLES PARTNERS, L.P. FOR THE REHABILITATION OF EIGHT (8) RENTAL UNITS AT 473 NORTH LOS ROBLES AVENUE, PASADENA

RECOMMENDATION:

It is recommended that the Pasadena Community Development Commission (the "Commission") take the following actions.

A. Adopt a resolution:

1. Finding that the rehabilitation of the existing units at 473 North Los Robles Avenue, Pasadena, and the rental of the eight (8) dwelling units (Project) does not have a significant effect on the environment and has been determined to be categorically exempt under Class 3 of the California Environmental Quality Act (CEQA), and specifically, Section 15303 of the State CEQA Guideline
2. Authorizing and directing the Secretary of the Commission to prepare and file with the County clerk a Notice of Exemption for the Project under and pursuant to Sections 15303 of the State CEQA Guidelines.
3. Approving the terms and provisions of the First Implementation Agreement to the Disposition, Development and Loan Agreement (CDC-16) (DDA) between the Commission and Villa Los Robles Partners, L.P. (Developer); and
4. Authorizing the Chief Executive Officer of the Commission to execute, and the Secretary to attest, the First Implementation Agreement and related documents of senior lienholders.

B. Approve a journal voucher transferring \$200,000 from the Housing Opportunity Fund (HOF) (Account No. 8167-810-684120-51308) to the Villa Los Robles Partners, L.P. Project pursuant to the terms and provisions of the First Implementation Agreement.

ADVISORY BOARDS:

On October 14, 2003, the Northwest Commission reviewed and recommended Commission approval of the staff recommendation along with a request for information regarding the plumbers who performed repairs on the lines in October 2002. On October 23, 2003, the Community Development Committee reviewed and recommended the subject approval. The Fair Oaks Project Area Committee did not review the recommendation due to a lack of quorum at its meeting on October 8, 2003.

EXECUTIVE SUMMARY:

On June 15, 1990, the Commission provided a residual receipt loan in the amount of \$326,500 (third lien position) at 3.5% simple interest to Villa Los Robles Partners for the construction of the eight (8) unit, affordable rental apartment building located at 473 N. Los Robles Avenue, Pasadena. The California Housing Finance Agency (CHFA) provided a \$188,000 loan at 7% interest, 15-year term, in first lien position and the California Department of Housing and Community Development (CDHCD) provided a \$440,800, 3% residual receipt loan, 55-year term, in First lien position.

In November 2002, the Project's main sewer lateral collapsed causing a sewage backup into the units. Because of the contamination and environmental concerns, the tenants were relocated off-site at the owners' expense. The Developer has requested Commission assistance to address the associated repair costs. It is recommended the Commission increase its loan amount to \$526,500 (additional \$200,000), 3.5% interest, 55-year term, to pay for the costs to remediate and rehabilitate the eight (8) rental units. The Commission's loan will continue to be secured by a third deed of trust against the property.

CHFA has also agreed to refinance its loan of \$188,000 (current balance \$183,404) to \$213,682 and reduce its interest rate from 7% to 3%. Additionally, the CHFA loan would be extended another 29 years for a total 40-year term. The additional \$30,278 in loan proceeds reflects payments in arrears of principal, interest, impounds and late fees since the November 29, 2002 occurrence.

BACKGROUND:

In June 1990, the Commission made a \$326,500 residual receipt loan (3.5% simple interest, 30-year term, third lien position) to assist in the construction of an eight (8) unit, affordable apartment building at 473 N. Los Robles Avenue, Pasadena. The residual receipt loan provided for annual repayments towards the Commission's outstanding loan amount if the project's net cash flow exceeded operating expenses and debt service on the senior loans. The senior loans were the CHFA \$188,000 loan at 7% interest, 15-year term, in first lien position and the CDHCD \$440,800, 3% residual receipt loan, 55-year term in First lien position.

On October 21, 22, and 23, 2002, the plumbing clogged at the units. A plumber cleared the lines on each day. On November 29, 2002, at 11 p.m., sewage backed up into the apartments. The main sewer lateral to the project on Villa Street had collapsed and it was necessary to clear 30 feet under the street and sidewalk and replace the pipes. The tenants had to be vacated due to the contamination and were placed in local motels at the Developer's expense while the property was repaired.

The scope of abatement and repairs included: 1) abatement to remove contaminated soil, flooring, drywall, built-ins and fixtures, landscaping, contents removal and storage; 2) repairs to flooring (some installation of new flooring), cabinets, plumbing fixtures, drywall (installation of new drywall), insulation, new interior painting, new curtains and window blinds, stoves and refrigerators; and 3) sitework – new sewer lateral, hydro cleaning and landscaping and irrigation repairs. The Developer's estimated repair cost totaled \$175,901.

The Developer also incurred the expenses of \$259,522 for tenant relocation (\$63,522) and personal tenant belongings (\$196,000). Developer has indicated the rehabilitation and tenant costs totaled \$448,705. The Developer's initial insurance claim was denied because sewer backups are excluded from the Project's insurance policy. However, the Developer persevered and received a \$98,939 check on June 24, 2003 from its insurance carrier. The insurance funds will be used to pay the losses incurred to the tenants' personal belongings. The Developer has personally reimbursed the tenants for losses not covered by the insurance company.

The Developer has agreed to execute a Full Release and Agreement on Claim No. 9194 for the award of the \$200,000 loan from the Commission. Execution of this Full Release and Agreement on Claim No. 9194 would cancel the Developer's current claim and any future claims against the City regarding the sewer damage to its property.

The Developer filed a claim against the City of Pasadena (City) in February 2003 for the damages caused by the sewer lateral breakage. The City conducted a review of the sewer lateral installation at the Villa Street property line and determined that the sewer lateral problem was not caused by the City's construction but rather the manner in which the sewer lateral had been installed when Villa Los Robles was built. The City sent a notice of rejection by operation of law on the claim to the Developer on March 3, 2003.

Subsequently, the Developer requested additional Commission assistance to address some of the associated costs. To verify the total rehabilitation cost, the Commission retained C. P. O'Halloran Associates, Inc. to estimate the abatement, sitework and repair costs based on an on-site review of the Project. The resultant May 9, 2003, O'Halloran cost estimate totaled \$173,600. The proposed First Implementation Agreement to the Commission's DDA will provide \$200,000 of additional assistance (\$173,600 plus \$26,400 in appraisal, legal and management fees) for the work related to the repairs.

The Commission's existing \$326,500, 3.5%, 30 year, residual receipt loan (increasing to 10.5% for the remaining 15 year loan term) was granted based on the fact that the project did not generate sufficient income to debt service the necessary construction/permanent financing. The CHFA loan is the only monthly amortizing indebtedness. If the project generates cash flow after the CHFA loan debt service, the CDHCD and Commission each receive 25% of the proceeds and the Developer retains the remaining 50%. For FY 2003, the projected amount of residual receipts payments to both the CDHCD and the Commission is \$1,204 and \$2,408 to the Developer. The Commission loan continues to accrue interest during the loan term and should the property be sold or refinanced, the Commission is entitled to full payment of its outstanding loan balance plus interest. If the recommendation is approved, the loan term and covenant would be extended to 2042 along with an added \$200,000 in Commission assistance.

On June 26, 2003, Keyser Marston Associates Inc. (KMA) submitted their analysis of the Developer's proforma and outstanding indebtedness. KMA's review concluded that the restrictions on rental income to accommodate low-income households does not provide sufficient funds for the Commission loan to be amortized monthly. KMA also recommended that the Commission's loan term be extended to 55 years, and the

HOUSING IMPACT:

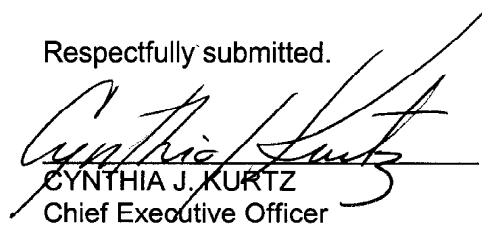
Approval of the subject recommendation will allow the continued retention of eight rental housing units for occupancy by lower-income and very- low- income households for an increased covenanted term from thirty (30) years to fifty-five (55) years.

The proposed project complies with the goals and objectives of the Commission's Five-Year Implementation Plan (1999-2004), the Five-Year Consolidated Plan (2000-2005), the General Plan Housing Element, the Commission's Priority Work Program, and the Housing Element of the Northwest Pasadena Community Plan.

FISCAL IMPACT:


Sufficient funds for this action are available in the Housing Opportunity Fund (Account No. 8167-810-684120-51308).

Respectfully submitted.



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Chief Executive Officer

Prepared by:



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Reviewed by:



GREGORY ROBINSON
Housing Administrator

Approved by:



RICHARD J. BRUCKNER
Director

(PCDC VLRP)