Agenda Report

August 2, 2021

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: ECONOMIC DEVELOPMENT AND TECHNOLOGY COMMITTEE (July 15, 2021)

FROM: William K. Huang, Director of Housing

SUBJECT: **APPROVAL OF A PUBLIC BENEFIT AGREEMENT WITH THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (CSCDA) FOR ACQUISITION BY CSCDA OF THE APARTMENT PROPERTY AT 289 N. EL MOLINO AVENUE FOR CONVERSION TO WORKFORCE AFFORDABLE HOUSING**

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1) Find that the proposed actions are exempt from the California Environmental Quality Act ("CEQA") in accordance with State CEQA Guidelines Sections 15061(b)3 ("common sense exemption") and 15326 because they consist of the acquisition of housing for housing assistance programs;

2) Approve the terms of a Public Benefit Agreement with the California Statewide Communities Development Authority ("CSCDA") for CSCDA's acquisition of the 105-unit apartment property located at 289 N. El Molino Avenue;

3) Authorize the City Manager or designee to approve minor, non-material modifications to the Public Benefit Agreement that are consistent with the purpose and intent of CSCDA's Low-and Moderate-Income/Workforce Housing Rental Program ("Program"); and

4) Authorize the City Manager to execute the Public Benefit Agreement and related documents and take any actions that may be required to implement CSCDA's Program.

EXECUTIVE SUMMARY:

The California Statewide Communities Development Authority ("CSCDA") is a joint powers authority that, among other things, works to create low- and moderate-income housing opportunities throughout California. CSCDA finances the acquisition and operation of rental housing properties through the issuance and sale of governmental purpose revenue bonds. The use of these bonds eliminates the property tax burden on the projects, enabling CSCDA to restrict rents at below market while still ensuring project feasibility.

As a member of CSCDA, the City has the ability to approve the financing and acquisition by CSCDA of apartment projects for conversion to affordable rental housing by entering into Public Benefit Agreements as the local host agency. Through this mechanism, the City currently participates in two (2) CSCDA projects totaling 513 units -- The Hudson (678 E. Walnut Street) and Westgate Apartments (231 S. DeLacey Avenue) -- pursuant to that certain Public Benefit Agreement dated June 1, 2021. The CSCDA transactions for these two projects closed on June 15, 2021. CSCDA is currently negotiating the acquisition of a third project in Pasadena, the 105-unit Theo apartments property located at 289 N. El Molino Avenue. The Public Benefit Agreement for this transaction is recommended for Council approval. One measure of the public benefit from this proposed transaction is the comparison between the projected $103.7M in tenant rent savings over a 30-year period, and the City's property tax forbearance in the amount of approximately $3.6M over the same period.

BACKGROUND:

By City Council action at its regular meeting of May 24, 2021, the City joined the CSCDA Community Improvement Authority ("CSCDA"), a joint powers authority, to support CSCDA's initiatives to produce, preserve, and protect essential rental housing at the low- and moderate-income levels. Council also approved the terms of a Public Benefit Agreement for CSCDA's acquisition of the Hudson apartments project located at 678 E. Walnut Street and the Westgate apartments project (Phases 2 and 3) located at 231 S. DeLacey Avenue; these projects total 513 affordable workforce housing units. CSCDA successfully closed these two transactions with approved bond financing on June 15, 2021.

<u>Missing Middle Housing; CSCDA Workforce Housing Program</u>
The development of moderate-income housing in particular, which is typically defined as housing that serves households earning between 80% and 120% of Area Median Income ("AMI"), does not have the variety of funding sources available to subsidize very low and low income housing. Currently, there are limited Federal, State or local subsidies and programs that fund the production and preservation of housing for moderate and workforce-income households. To date, affordable housing programs in California have almost exclusively focused on providing housing for low-income households, which are households that earn at or below 80% of area median income ("AMI"). State and federal funding sources are almost exclusively targeted to households at or below 60% of AMI. This has left a "missing middle," comprised of

households that earn too much to qualify for traditional affordable housing programs, but not enough to afford market rate housing. Households in this "missing middle" typically earn between 80% and 120% of AMI.

One of CSCDA's programs is the Workforce Housing Program (the "Program") which was developed to address the need for missing middle housing. Under a Public Benefit Agreement (discussed below) between CSCDA and local jurisdiction members, CSCDA issues government bonds to acquire new or existing Class A market-rate apartment buildings. The use of these bond funds reduces project financing costs and eliminates the property tax burden. This financing mechanism requires the participating city to forgo property taxes from the projects while facilitating the projects' economic feasibility, thereby creating affordable housing opportunities that might not otherwise exist for workforce income households at below-market rents. While the participating city is required to forgo property tax revenue on the approved project, it receives an equity stake in the project once the bond has matured typically around Year 30), with the city entitled to excess sales proceeds at that time. The participating city does not incur any fees, costs, liability, or administrative responsibility in connection with CSCDA's acquisition and operation of the project, and is also not a direct party to any real estate or financial transaction.

Properties acquired by CSCDA under the Program are targeted for income-eligible households at 80% to 120% of AMI with rents at or below current market levels. Additionally, annual rent increase are capped at the lesser of the annual increase in AMI, the increase in market rents, or four percent (4.0%). Existing tenants who do not meet Program income requirement would not be displaced. Existing tenants who are income-eligible will have their rents reduced. Vacated units will be made available to new, income-eligible tenants. Regulatory agreements which include provisions restricting the occupancy of the units to income-eligible households, limiting annual rent increases, preventing the displacement of current tenants who do not meet the income requirements, and any local preference policies, will be recorded against each Program property with an effective term of 30 years. Program properties will be professionally managed by experienced property managers.

CSCDA recently received approval from the cities of Anaheim, Glendale, and Monrovia to acquire apartment projects for conversion to low-and moderate-income housing. CSCDA will be converting 1,107 units in Anaheim, 507 units in Glendale, and 261 units in Monrovia to moderate-income housing. In addition to the Hudson and Westgate projects in Pasadena that are currently under the Program, CSCDA is negotiating with the owner of third project (discussed below) for City approval.

THE THEO PROJECT, PUBLIC BENEFIT AGREEMENT

CSCDA has entered into a Letter of Intent ("LOI") with the owner of The Theo apartments property located at 289 N. El Molino Avenue. The Theo, which consists of 105 units, is a newer residential development completed in 2019 with nine (9) very low income Inclusionary units. Not counting the nine (9) Inclusionary units which remain restricted in perpetuity, the proposed affordability mix under the CSCDA Program for the remaining units consists of 45% of the units at 80% of AMI, 10% at 100% of AMI, and 45% at 120% of AMI.

The Program establishes maximum allowable rents for each of the three income categories equal to 35% of the respective income limits. However, CSCDA will commit to further affordability with target rents that are either below the current market rate or below the Program maximum rents, as shown in the following tables:

Maximum Allowable Rents

Unit Type	Total Units (non Inclus.)	Current Market Rent	Program Max Rent 80% AMI	Program Max Rent 100% AMI	Program Max Rent 120% AMI
1 BR	49	$3,018	$2,207	$2,759	$3,311
2 BR	47	$3,659	$2,483	$3,103	$3,724

Targeted Rents

Unit Type	Total Units (non Inclus.)	Current Market Rent	Target Rent 80% AMI	Target Rent 100% AMI	Target Rent 120% AMI
1 BR	49	$3,018	$2,207	$2,759	$2,867
2 BR	47	$3,659	$2,483	$3,103	$3,476

The difference between the affordable target rents and market rents is expected to increase yearly due to the program's annual rental increase cap (which is the lesser of 4%, the increase in AMI, or the increase in market rents); this means that the affordability of the units at The Theo will deepen each year. The Program's annual rent increase cap will protect against significant rent growth at The Theo compared to projects in the wider rental market. One measure of the public benefit from this transaction is the comparison between the projected $103.7M in tenant rent savings over a 30-year period, and the City's property tax forbearance in the amount of approximately $3.6M over the same period.

As income-eligible tenants experience increases in income, their rents would increase to the corresponding income tier, as applicable (e.g., a household whose income increased from 80% to 100% of AMI would be expected to pay rents priced at 100% of AMI when they renew their lease). Households who exceed the Program income limits would be required to pay market rents, but these households would not be displaced. All new tenants would need to income-qualify before entering into a lease. The current maximum income limits, pursuant to state bond financing requirements, are as follows:

Household Occupancy	Low Income 80% AMI	Median Income 100% AMI	Moderate Income 120% AMI
1 person	$66,240	$82,800	$99,360
2 persons	$75,680	$94,600	$113,520
3 persons	$85,120	$106,400	$127,680
4 persons	$94,560	$118,200	$141,840
5 persons	$102,160	$127,700	$153,240

An estimated 37% of the current tenants at the Theo are potentially income eligible; these tenants would be able to rent units at the affordable rents once their current leases expire. CSCDA anticipates full conversion of The Theo to Program requirements by the third year of operation as current leases expire, non-income-qualifying tenants elect to move out, and income-eligible tenants move in. The Theo is 95% occupied and all leases are scheduled to expire over the next twelve months. Current tenants who are not income eligible may remain after the expiration of their leases, but they will be subject to market increases in rent.

Waterford Property Company ("Waterford") as CSCDA's Project Sponsor/Administrator, will be responsible for general project operations, tenant marketing and leasing, and compliance with the regulatory agreement.

Public Benefit Agreement, Ownership Structure and Liability

As recommended, the City would effectuate CSCDA's proposed acquisition, operation and management of The Theo property by entering into a Public Benefit Agreement.

Under the Public Benefit Agreement, the City has no initial ownership in the project. However, the City maintains an option to force a sale or refinance of the project starting in Year 15. After all debt is discharged (typically Year 30), the City becomes the beneficiary of all cash flow from the project or of all net sales proceeds if the project is sold. The City would not have a fee interest in the project and would not be a direct party to the real estate or financial transactions. The project is a real estate asset owned jointly by the CSCDA and its Project Sponsor/Administrator which is responsible for overseeing all operations of the project. Project Sponsors/Administrators are entities that have experience owning and operating multifamily housing rental projects, including projects with affordability restrictions. The Project Sponsors/Administrators are responsible for any project shortfalls; the City has no obligations should this occur. The project financing is reviewed and approved by bond investors who require healthy reserves and property insurance in excess of the replacement cost value of the property in order to protect against worst-case scenarios where costs exceed the revenues or where the property is destroyed. The Project Administrator/Sponsor would be responsible for covering any cash shortfall not covered by reserves.

CSCDA is a public entity separate and apart from its members, and any debts, liabilities, and obligations incurred by CSCDA will not constitute debts, liabilities, or obligations of its member agencies. Bonds issued for any particular project will be indebtedness solely of CSCDA, and payable only from revenues of the project. The City will not incur any financial expenditures (including upfront investment and annual operating costs), liabilities, or obligations as a member of CSCDA or entering into a Public Benefit Agreement with CSCDA in connection with a project. The City Attorney's office, through outside counsel, has reviewed the legal documents in connection with this Agenda Report, and has confirmed the same.

COUNCIL CONSIDERATION:

The proposed action is consistent with the City's General Plan - Housing Element and the Five-Year Consolidated Plan. It also supports and promotes the quality of life and the local economy -- a goal of the City Council's Strategic Plan.

ENVIRONMENTAL ANALYSIS:

The proposed actions are not subject to CEQA. Pursuant to State CEQA Guidelines Section 15061(b)(3) the "common sense" exemption, CEQA does not apply where a project does not have the potential for causing a significant effect on the environment. "Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The actions are also exempt pursuant to State CEQA Guidelines Section 15326, which applies to the acquisition of housing for housing assistance programs. The action proposed herein, approval of a Public Benefit Agreement for the acquisition by CSCDA of The Theo multifamily residential property, does not have the potential for any significant impact on the environment, and is undertaken to support Pasadena's housing assistance programs.

FISCAL IMPACT:

Council approval of the recommended action, and the proposed acquisition and operation by the CSCDA of the Theo will result in the City forgoing property tax revenues generated from this multifamily rental development. Based on current projections, the total amount of property tax revenues that would be forgone is approximately $3,608,600 (current dollars) for the 30-year period from FY 2022 through FY 2051. The City will have no financial or legal obligation for the tax-exempt status of CSCDA, the debt service obligations carried by CSCDA, nor any other matter related to CSCDA and its projects.

Respectfully submitted,

WILLIAM K. HUANG
Director of Housing

Prepared by:

James Wong
Senior Project Manager

Approved by:

STEVE MERMELL
City Manager

Attachment A: Public Benefit Agreement