



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: July 12, 2016

Subject: APPROVAL OF HOME AND HOPWA LEGAL DOCUMENTS FOR THE RIVIERA APARTMENTS IN WALNUT CREEK

RECOMMENDATION(S):

In the matter of making a loan of \$1,000,000 in HOME Investment Partnership Act (HOME) and \$1,000,000 in Housing Opportunities for Persons with HIV/AIDS funds to Riviera Family Apartments L.P., a California limited partnership, for the development of the Riviera Family Apartment project in Walnut Creek:

1. FIND, as the responsible agency, that on the basis of the whole record before the County (including the Initial Study prepared by the City of Walnut Creek as the lead agency) that there is no substantial evidence that the project will have a significant effect on the environment, and that the Mitigated Negative Declarations prepared for this project adequate and acceptable to comply with the California Environmental Quality Act; and
2. APPROVE and AUTHORIZE the Conservation and Development Director, or designee, to execute legal documents to effect the loan; and
3. DIRECT the Director of Conservation and Development, or designee, to file a Notice of Determination for the Riviera Family Apartments with the County Clerk; and
4. DIRECT the Director of Conservation and Development, or designee, to arrange for payment of the \$50 handling fee to the County Clerk for filing such Notice of Determination.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **07/12/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: Candace Andersen, District II
Supervisor
Mary N. Piepho, District III
Supervisor
Karen Mitchoff, District IV
Supervisor
Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: July 12, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

ABSENT: John Gioia, District I
Supervisor

By: June McHuen, Deputy

Contact: Kara Douglas 674-7880

cc:

FISCAL IMPACT:

No General Fund impact.

FISCAL IMPACT: (CONT'D)

HOME Investment Partnerships Act funds are provided to the County on a formula allocation basis through the U.S. Department of Housing and Urban Development (HUD). HOME CFDA# 14.256. HOPWA funds are provided to the County on a formula allocation basis through the City of Oakland CFDA# 14.241.

BACKGROUND:

On April 15, 2015, the Board of Supervisors allocated \$1,000,000 of HOME funds and on February 9, 2016, allocated \$1,000,000 of HOPWA funds to Resources for Community Development (RCD) for the Riviera Family Apartment development. RCD has formed a limited partnership, Riviera Family Apartments L.P. to develop and own this project.

The purpose of the Riviera Family Apartment development is to increase the supply of multi-family rental housing affordable to and occupied by lower income households, including households with special needs, in Central County through the construction of 58 units of affordable housing on two non-contiguous sites at 1511-1515 and 1716-1738 Riviera Avenue in Walnut Creek.

Twenty-four of the units will be designated as County-assisted, eight of which will be reserved for persons with HIV/AIDs. Nine of the 58 units will be affordable and available to households earning up to 30 percent of the area median income (AMI), 40 units will be affordable and available to households earning up to 50 percent of AMI, 8 units will be affordable and available to households earning up to 60 percent AMI, and the remaining unit will be reserved for an on-site manager.

Additional financing for the development includes City of Walnut Creek (inclusionary and former redevelopment agency funds), nine percent low income housing tax credits, State Affordable Housing and Sustainable Communities funds, and tax exempt bonds. The County is the issuer for tax exempt bonds.

HOME funds will be provided in the form of a 20-year, residual receipt loan with a three percent interest rate. There may be some payments if the project has surplus cash flow. HOPWA funds will be provided as a 10-year fully deferred loan with no interest. The County will have an additional regulatory agreement to ensure that the County-assisted units remain affordable following the expiration of the HOME and HOPWA affordability terms. The total term of affordability for the County-assisted units is 55 years. Affordability and use restrictions are incorporated into the County loan documents. The loan documents are attached in their substantially final form and will be executed in a form approved by County Counsel. Through this action, the DCD Director is authorized to execute subordination agreements and estoppels that are consistent with the terms in the Loan Agreement.

National Environmental Policy Act (NEPA): HOME and HOPWA projects are subject to

NEPA and 24 CFR Part 58 review. The NEPA review for this project is complete and required mitigation actions are included in the loan agreement. The city of Walnut Creek, as the lead agency, completed the CEQA review and posted Notices of Determination for the project on February 18, 2015.

Due to the high construction costs and limited revenue from the restricted rents, the total amount of the financing provided to the project will likely exceed the value of the completed project. Even though the proposed equity investment from low income housing tax credits is substantial compared to the amount of long term debt, the partnership agreement will have numerous safe guards of the investor's equity. These safe guards essentially subordinate the County's debt to the investor's equity. Therefore, the County funds may not be fully secured through the value of the property.

CONSEQUENCE OF NEGATIVE ACTION:

Without the approval and execution of the HOME and HOPWA legal documents, the project will not be constructed. Riviera Family Apartments L.P. must close on the County financing by July 15, 2016, or the HOME and HOPWA funds may be recaptured by the HUD.

CHILDREN'S IMPACT STATEMENT:

The Riviera Family Apartment project will support indicator number 3: Families are Economically Self Sufficient.

ATTACHMENTS

Riviera County Regulatory Agreement
Riviera Intercreditor Agreement Walnut Creek
Riviera HOME HOPWA LOAN Agreement
Riviera HOME HOPWA Promissory Note
Riviera HOME HOPWA Deed of Trust
Riviera HOME HOPWA Regulatory Agreement