



Date: June 8, 2017

To: Thomas J. Bonfield, City Manager

Through: Keith Chadwell, Deputy City Manager

From: Reginald J. Johnson, Director
Department of Community Development

Subject: Housing Authority of the City of Durham Request for City Loan Subordination

Executive Summary

The Housing Authority of the City of Durham (“DHA”) recently requested that the City subordinate its existing deed of trust on the DHA-controlled Edgemont Elms Apartments affordable housing development (“Edgemont Elms”) to the United States Department of Housing and Urban Development (“HUD”) and Edgemont Elms Housing, Inc. The purpose of the subordination is to allow DHA to convert the 16 public housing units in Edgemont Elms to the Rental Assistance Demonstration project-based rental assistance program (the “RAD Program”).

HUD rules require that a use restriction agreement be placed on the property in the first lien position to ensure ongoing affordability of the project. This agreement is called the RAD Use Agreement and will replace the first position HUD Declaration of Trust (restrictive covenants) that is currently encumbering Edgemont Elms. The Declaration of Trust will no longer be required because of the conversion of the public housing units. Under the RAD Program, the public housing residents will pay the same percentage of their income towards rent (no more than 30% of their adjusted gross income) and maintain the same basic rights as they currently possess in the public housing program. The RAD Use Agreement will have a new 20-year term to insure long-term affordability.

The Department of Community Development (“DCD”) staff finds that the approval of the subordination of the City deed of trust to HUD and Edgemont Elms Housing, Inc. will assist DHA in preserving affordable housing units within Durham, and thereby support DCD’s objective to develop and preserve safe and affordable rental housing within Durham.

Recommendation

The Department of Community Development recommends that the City Council authorize the City Manager to execute all necessary documents regarding the subordination of the City's deed of trust to the U.S. Department of Housing and Urban Development (HUD) and Edgemont Elms Housing, Inc., in connection with the conversion of 16 public housing units in Edgemont Elms Apartments to the Rental Assistance Demonstration project-based rental assistance program.

Background

Edgemont Elms is located at 912 Angier Avenue and 301 South Elm Street on 4.42 acres in Durham. It is owned by Edgemont Elms Housing, Inc., a North Carolina non-profit wholly controlled by DHA. Edgemont Elms consists of fifty-seven (57) dwelling units. Sixteen (16) of the apartments are public housing units, exclusively serving families whose income is at or below 30 percent of the area median income level.

In 2012 and 2013, DHA embarked upon an ambitious plan to convert its entire public housing and HOPE VI portfolios to the RAD Program. The conversion will consist of nearly 1900 units from 19 public developments, including four HOPE VI developments. The RAD Program is a HUD initiative that provides public housing authorities with a new financing vehicle to rehabilitate/convert their public housing portfolios. The program authorizes public housing authorities to convert their existing public housing units to project-based voucher assistance units. Public housing authorities are then able to utilize private market financing tools, such as low-income housing tax credits and multifamily housing bonds, to substantially renovate their public housing portfolios. The existence of the project-based rental assistance provides a more stable source of funding from HUD compared to the current public housing program.

All RAD conversions do not involve rehabilitations. Some involve merely a transfer of the public housing units from the public housing platform to the project-based rental assistance platform, in order to take advantage of the more stable funding source. The Edgemont Elms conversion will not involve any rehabilitation as the project was substantially renovated in 2012-2013. This form of conversion is commonly referred to as a "straight conversion."

The City's deed of trust is currently in the third lien position on the Edgemont Elms property. The lien positions are as follows:

- HUD Declaration of Restrictive Covenants (1st Position). Dated October 18, 2013 and imposing on the property the long-term (20 years) affordability requirements.
- Mechanics and Farmers' Deed of Trust (2nd Position). Securing the July 3, 1989 loan in the principal amount of \$832,000.
- City Deed of Trust (3rd Position). Securing the July 3, 1989 loan in the principal amount of \$1,057,879.
- North Carolina Housing Finance Agency (4th Position). Securing the July 3, 1989 loan in the principal amount of \$60,000.

DHA (through its development company Development Ventures Incorporated) is currently in the process of closing on a line of credit with Mechanics and Farmers Bank. The closing should occur in June 2017. The purpose of the line of credit is to provide DHA with additional resources to finance its affordable housing predevelopment expenses. Edgemont Elms will secure this new line of credit.

In connection with the new line of credit, the City previously approved (on September 6, 2016) the subordination of its current deed of trust to the proposed Mechanic and Farmers deed of trust. Once this transaction closes, the City's lien position will move from third position to fourth position, and the North Carolina Housing Finance Agency will move from the fourth lien position to the fifth lien position.

If the City agrees to subordinate its deed of trust to the RAD Use Agreement, the City's lien position will remain in fourth position but the HUD Declaration of Restrictive Covenants will be cancelled and replaced by the RAD Use Agreement, in first position. The RAD Use Agreement will have a new 20-year term to insure long-term affordability. Mechanics and Farmers and the North Carolina Housing Finance Agency have already tentatively consented to subordinating their respective deeds of trusts to the RAD Use Agreement.

Issues/Analysis

The 2015-2020 Five Year Consolidated Plan, which sets broad strategic goals and defines the priorities and needs as they relate to housing and community development, has identified as an ongoing priority need, the preservation of affordable rental housing units. Although this subordination request is revenue neutral, it is consistent with DCD's objective of and commitment to the development and preservation of safe and affordable rental housing.

Alternatives

If the subordination request is not approved by Council, DHA will not be able to convert Edgemont Elms to RAD Program.

Financial Impact

The subordination request does not require funding from the City.

UBE Summary

This item is a grant funding request and was not reviewed by the Department of Equal Opportunity/Equity Assurance for compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting.