

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

May 19, 2020

FROM

GARY HALLEN, Director, Community Development and Housing

SUBJECT

Revise Neighborhood Stabilization Program Loan Agreement with Hillcrest Court Apartments, LLC relating to the Hillcrest Court Apartments Affordable Housing Development

RECOMMENDATION(S)

1. Approve revisions to the amendment of the Neighborhood Stabilization Program Loan Agreement (**Agreement No. 10-685 A-3**), the Amended and Restated Promissory Note, and the Amended and Restated Affordability Covenant Agreement, approved under Resolution 2019-29, and approve the Modification Agreement between the County of San Bernardino and Hillcrest Apartments, LLC relating to Neighborhood Stabilization Program Deed of Trust recorded against the Hillcrest Court Apartments Affordable Housing Development.
2. Authorize the Chief Executive Officer or Deputy Executive Officer, upon consultation with County Counsel, to make necessary non-substantive modifications, approve, and execute all required certificates and related ancillary documents to enable the execution of the Amendment to the NSP Loan Agreement, the Amended and Restated Promissory Note, and the Amended and Restated Affordability Covenant Agreement and the re-recording of the Amendment to the NSP Loan Agreement, and the Amended and Restated Affordability Covenant Agreement.
3. Direct the Community Development and Housing Department Director to transmit all documents to the Clerk of the Board within 30 days of execution.

(Presenter: Gary Hallen, Director, 387-4411)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Promote the Countywide Vision.

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

Pursue County Goals and Objectives by Working with Other Agencies.

FINANCIAL IMPACT

Approval of this item will not impact Discretionary General Funding (Net County Cost). This action will not result in any financial impact to the General Fund and is intended only to correct a scrivener's error with regards to the amount of principal and interest required to be repaid under the transaction documents.

BACKGROUND INFORMATION

The action requested of the Board of Supervisors (Board) is to approve a revised amendment of the Neighborhood Stabilization Program (NSP) Loan Agreement (Agreement No. 10-685 A-2), the Amended and Restated Promissory Note, and the Amended and Restated Affordability Covenant Agreement, all approved under Resolution 2019-29, between the Housing Authority of

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the County of San Bernardino (HACSB) and the County of San Bernardino (County) related to the Hillcrest Court Apartments Affordable Housing Development (Project). The Board is also being asked to approve the Modification Agreement modifying the Original NSP Deed of Trust (as defined below). The revision is necessary to correct the repayment obligations of principal and accrued interest amounts. These stated loan documents are collectively referred to as the County NSP Loan Documents.

On July 27, 2010 (Item No. 31), the County and the Victorville Redevelopment Agency entered into an NSP Loan Agreement for Multi-Family Housing under which the County provided a loan in the principal amount of \$6,050,000. The NSP Loan is evidenced by the Promissory Note dated December 10, 2010, and is secured by a Deed of Trust with Assignment of Rents that was recorded in the Official Records of the County Recorder for the County of San Bernardino as Document No. 2011-0147792 on April 13, 2011 (Original NSP Deed of Trust), which included the NSP Affordability Covenant Agreement attached thereto as Exhibit B. The NSP Loan Agreement, the NSP Promissory Note, the Original NSP Deed of Trust, and the NSP Affordability Covenant Agreement were assigned to the Hillcrest Court Apartments, LLC (the "Owner" – which is managed by HACSB) pursuant to the Assignment and Assumption Agreement dated January 18, 2018 and recorded in the Official Records on March 01, 2018 as Document No. 2018-0074836.

At the time the Owner acquired the Project, the Owner assumed the NSP Loan in the approximate principal amount of \$5,682,080.68 plus accrued interest.

When the Owner subsequently refinanced the first mortgage, it was agreed that the NSP Loan would be restructured to include outstanding principal and accrued interest. As of April 30, 2019, the then outstanding principal was \$5,682,080.68 and the accrued interest was \$1,002,556.59, for a total outstanding balance of \$6,684,637.27. The County and the Owner agreed to execute an Amendment to the NSP Loan Agreement, an Amended and Restated Promissory Note, an Amended and Restated Affordability Covenant Agreement, and an NSP Deed of Trust Modification Agreement. The County NSP Documents approved by the Board under Resolution 2019-29 inadvertently misstated the outstanding balance due on the County loan. The current action under consideration by the Board is to approve revisions to the County NSP Documents to reflect the correct outstanding balance of \$6,684,637.27. A summary of the required changes made to the County NSP Loan Documents are as follows:

Amendment to NSP Loan Agreement-

- Recital D was updated to correct the stated outstanding principal and accrued interest of \$6,684,637.27.
- Section 1.3 was updated to correct outstanding principal and accrued interest of \$6,684,637.27.

Amended and Restated Promissory Note-

- The Loan Amount listed in the header of the Promissory Note was updated to correct the stated outstanding principal and accrued interest of \$6,684,637.27.
- The opening paragraph of the Promissory Note was updated to correct the stated outstanding principal and accrued interest of \$6,684,637.27.

Amended and Restated Affordability Covenant Agreement-

- Recital 6 was updated to correct the stated outstanding principal and accrued interest of \$6,684,637.27.

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- Recital 10 was updated to correct the stated outstanding principal and accrued interest of \$6,684,637.27.

NSP Deed of Trust Modification Agreement- no revisions were necessary to the Modification Agreement recorded on May 06, 2019 as Document No. 2019-0144756, which accurately reflected the stated outstanding principal and accrued interest of \$6,684,637.27.

No other changes have been made to the previously approved County NSP Loan Documents. Upon Board approval, County staff will work to ensure that the corrected documents are executed and that applicable documents are recorded in the Official Records of the County Recorder for the County of San Bernardino, including: (1) the Amendment to the NSP Loan Agreement recorded on May 06, 2019 as Document No. 2019-0144761, which will be replaced with the attached Amendment to NSP Loan Agreement; and (2) the Amended and Restated Affordability Covenant Agreement recorded on May 06, 2019 as Document No. 2019-0144757, which will be replaced with the attached Amended and Restated Affordability Covenant Agreement.

PROCUREMENT

Not Applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Suzanne Bryant, Deputy County Counsel, 387-5455) on April 27, 2020; Finance (Kathleen Gonzalez, Administrative Analyst, 387-5412) on May 1, 2020; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on May 4, 2020.

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Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Robert A. Lovingood Seconded: Josie Gonzales

Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: May 19, 2020



cc: CDH- Hallen w/agree for sign
Contractor- C/O CDH w/agree
File- w/agree
la 05/26/2020