Monterey County

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Board Report

Legistar File Number: 15-1308 December 15, 2015

Introduced: 11/30/2015 **Current Status:** Agenda Ready

Version: 1 **Matter Type:** General Agenda Item

a. Ratify a change in the method by which a monitoring fee is paid to the County, in connection with the loan made between County of Monterey in its capacity as Housing Successor Agency ("County") and MP Geil LLC, related to the Geil Street Apartments, Castroville, as well as ratify associated budget changes required to accommodate the change in payment method;

b. Approve amendments to the Loan Agreement, and to the Regulatory Agreement and Declaration of Restrictive Covenants between County and MP Geil LLC, to reflect the change in the method of paying the monitoring fee to the County; and

c. Authorize the Director of Economic Development to make minor revisions, as needed, to the amendments and to execute the amendments.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

a. Ratify a change in the method by which a monitoring fee is paid to the County, in connection with the loan made between County of Monterey in its capacity as Housing Successor Agency ("County") and MP Geil LLC, related to the Geil Street Apartments, Castroville, as well as ratify associated budget changes required to accommodate the change in payment method;

b. Approve amendments to the Loan Agreement, and to the Regulatory Agreement and Declaration of Restrictive Covenants between County and MP Geil LLC, to reflect the change in the method of paying the monitoring fee to the County; and

c. Authorize the Director of Economic Development to make minor revisions, as needed, to the amendments and to execute the amendments.

SUMMARY/DISCUSSION:

The Geil Street Apartments is an 11-unit affordable housing project in Castroville that was purchased in 2015 by MP Geil LLC, an affiliate of MidPen Housing (MidPen). Rehabilitation of the property has just been completed to correct numerous health and safety issues. The County invested both Urban County Community Development Block Grant funds and Housing Successor Agency funds into the project. The State of California Department of Housing and Community Development (HCD) provided the balance of the financing in the form of a loan for the acquisition of the property.

The Board of Supervisors approved investment of Housing Successor Agency funds and approved associated loan documents - a Loan Agreement and a Regulatory Agreement and Declaration of Restrictive Covenants (Regulatory Agreement) - on March 3, 2015. These documents provided for payment of an annual monitoring fee of $2,000 by MidPen to the County to compensate the County for the cost of overseeing its investment in this project. Subsequently, just before close of this financing, HCD indicated that it would allow MidPen to

charge tenants rental rates which were significantly lower than anticipated by MidPen. HCD's unexpected last minute decision decreased the annual cash flows projected by MidPen, making it difficult to pay the annual monitoring fee of $2,000.
As a result, MidPen asked the County to agree to payment of the monitoring fee upfront, in a lump sum, instead of paying it annually. The net present value of the annual monitoring fee of $2,000, assuming an interest rate of 3% over the 55-year term of affordability, is $53,930.93. The resulting upfront monitoring fee of $53,930.93 would compensate the County for costs of oversight to the same degree but by a different method. Payment of the monitoring fee in a lump sum, upfront, could be accomplished with no change to overall project cost and no change to the amount of the County investment in the project.

On July 2, 2015, the Loan Agreement and the Regulatory Agreement were recorded. Exhibit C to the Regulatory Agreement, a table setting forth project costs and funding sources entitled "Development Budget Sources and Uses," reflected an upfront monitoring fee of $53,930.93 rather than a yearly monitoring fee of $2,000, as requested by MidPen. Exhibit C to the recorded Regulatory Agreement also reflected other budget changes, necessary to accommodate an upfront monitoring fee; primarily, the upfront fee was funded through a reduction of the project's contingency budget. Both the recorded Loan Agreement and the recorded Regulatory Agreement continue to reflect a yearly monitoring fee of $2,000, however.

It is recommended that the Board ratify the change in method of collecting the monitoring fee from an annual fee to an upfront fee, and the adjustments in the project budget necessary to enable payment of an upfront monitoring fee, as reflected in Exhibit C to the Regulatory Agreement. It is further recommended that the Board approve amendments to the Loan Agreement and to the Regulatory Agreement to change their terms to provide for an upfront monitoring fee, consistent with Exhibit C to the Regulatory Agreement.

OTHER AGENCY INVOLVEMENT:
County Counsel has reviewed the proposed amendments to the Loan Agreement and the Regulatory Agreement and approved them as to form.

FINANCING:
There is no impact on the General Fund. The upfront monitoring fee of $53,930.93 will be deposited in Fund 175, Unit 8203, Appropriation DEO012, to be used in furtherance of affordable housing.

Prepared by: Jane Royer Barr

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Approved by: David L. Spaur

David L. Spaur, CEcD, EDFP, Economic Development Director, Ext. 5387

Attachments:
Loan Agreement, record July 2, 2015
Geil 1st Amendment to Agency Loan Agreement
Regulatory Agreement, recorded July 2, 2015
Geil 1st Amendment to Regulatory Agreement and Declaration of Restrictive Covenants
(Attachments are on file with the Clerk of the Board)