



AGENDA

IRVINE COMMUNITY LAND TRUST REGULAR MEETING June 18, 2018

**930 Roosevelt Avenue
Conference Room #1
Irvine, CA 92620**

CALL TO ORDER

4:00 p.m.

ROLL CALL

PRESIDENT/CHAIR:

Melissa Fox

VICE PRESIDENT/VICE CHAIR:

Leon Napper

TREASURER:

Christina Shea

SECRETARY

Nancy Donnelly

BOARD MEMBER:

Mary Ann Gaido

BOARD MEMBER:

Bryan Starr

BOARD MEMBER:

Patrick Strader

ADDITIONS AND DELETIONS TO THE AGENDA

INTRODUCTIONS

EXECUTIVE DIRECTOR'S REPORT

BOARD BUSINESS

1. **APPROVAL OF MINUTES**
RECOMMENDED ACTION:
Approve the Minutes of the Regular Meeting of the Irvine Community Land Trust held on May 21, 2018.

2. **CHELSEA INVESTMENT CORPORATION AFFORDABLE HOUSING DEVELOPMENT AGREEMENT AMENDMENT**
RECOMMENDED ACTION:
Approve First Amendment to Affordable Housing Development Agreement and Authorize execution by the Executive Director.

3. **2018-2019 BUDGET**
RECOMMENDED ACTION:
Adopt Resolution 18-040 of the Irvine Community Land Trust Approving the Fiscal Year 2018-2019 Budget.

4. **HABITAT FOR HUMANITY – BUSINESS TERMS NATIVE SPRING DEVELOPMENT AGREEMENT**
RECOMMENDED ACTION:
Provide direction to finalize Development Agreement with Habitat for Humanity Orange County for the Native Spring development site.

5. **LEGISLATION UPDATE**
RECOMMENDED ACTION:
Review and provide direction to staff.

BOARD COMMENTS

ADJOURNMENT

Adjourn to the regular meeting on Monday, July 16, 2018 at 4:00 p.m.

AGENDA ITEM #1

**MINUTES OF THE REGULAR MEETING OF
THE IRVINE COMMUNITY LAND TRUST
*May 21, 2018***

CALL TO ORDER

The Regular Meeting of the Irvine Community Land Trust was called to order by Melissa Fox at 4:05 p.m., May 21, 2018, at the Irvine Community Land Trust Office, 930 Roosevelt Avenue, 1st Floor Conference Room, Irvine, CA, 92620.

ROLL CALL

Present:	Chair/President:	Melissa Fox
	Vice Chair/Vice President	Leon Napper
	Treasurer:	Christina Shea
	Board Member:	Patrick Strader
	Board Member:	Mary Ann Gaido

Absent:	Board Members:	Nancy Donnelly (Excused) Bryan Starr (Excused)
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Also present were: Madelynn Montoya-Hirneise, Jon Goetz, Adam Eliason, Judith Gass, Jeanne Baran, and Don Davis.

ADDITIONS AND DELETIONS TO THE AGENDA

NONE

INTRODUCTIONS

NONE

EXECUTIVE DIRECTOR'S REPORT

Executive Director Asturias informed the Board that he will be giving a presentation to the Irvine Chamber of Commerce on May 22, 2018. The Assembly Bill 1056 has been approved by the State Senate and is now in the State Assembly for approval. The Senate Bill 3 regarding a bond measure for affordable housing is scheduled for a vote in the November 2018 general election.

BOARD ANNOUNCEMENTS

NONE

PUBLIC COMMENTS

NONE

BOARD BUSINESS

1. APPROVAL OF MINUTES

ACTION: It was moved by Board Member Christina Shea, seconded by Board Member Leon Napper, to adopt the Minutes of the Regular Meeting of the Irvine Community Land Trust held on April 16, 2018.

AYES: 5 BOARD MEMBERS: Napper, Fox, Gaido, Strader, Shea
NOES: 0 BOARD MEMBERS:
ABSENT: 2 BOARD MEMBERS: Starr, Donnelly
ABSTAIN: 0 BOARD MEMBERS:

2. BUDGET REVIEW

ACTION: Direction from the Board was provided on items: an increase on administrative salary and a reduction in costs for some consultant fees.

3. BYLAWS AMENDMENTS

Adam Eliason of CivicStone Inc. presented the Board with the Bylaws Subcommittees recommended changes to the Bylaws. Public comment was given by Jeanne Baran.

A motion was made by Board Member Mary Ann Gaido and second by Board Member Leon Napper to continue the discussions of the Bylaws until next meeting. The Board discussed the matter and Board Member Mary Ann Gaido was in agreement and withdrew the motion.

ACTION: A motion was made by Board Member Patrick Strader and seconded by Board Chair Leon Napper to approve Resolution 18-039, a Resolution of the Irvine Community Land Trust amending the Bylaws of the Corporation; directing a letter be sent to the City of Irvine notifying them of the changes that were made of the Bylaws.

AYES: 5 BOARD MEMBERS: Napper, Fox, Gaido, Strader, Shea
NOES: 0 BOARD MEMBERS:
ABSENT: 2 BOARD MEMBERS: Starr, Donnelly
ABSTAIN: 0 BOARD MEMBERS:

EXECUTIVE SESSION

Conference with Real Property Negotiators (Pursuant to Government Code Section 54956.8)

Location of Property: Lot 7 of Tract No. 17612; APN 104-584-47

Land Trust Negotiators: Mark Asturias, Executive Director, Adam Eliason, CivicStone

Negotiating Parties: Irvine Community Land Trust and Chelsea Investment Corporation

Under Negotiation: Price and terms of payment

Conference with Real Property Negotiators (Pursuant to Government Code Section 54956.8)

Location of Property: Lot 6 and Lot D of Tract No. 17607; portion of APN 580-102-15 and APN 580-102-15

Land Trust Negotiator: Mark Asturias, Executive Director, Adam Eliason, CivicStone

Negotiating Parties: Irvine Community Land Trust and Habitat for Humanity Orange County

Under Negotiation: Price and terms of payment

Irvine Community Land Trust Regular Meeting

REPORTABLE ACTION: In regards to the negotiations between the Irvine Community Land trust and the Chelsea Investment Corporation the Board authorized an increase in gap financing for development.

ADJOURNMENT

A motion was made by Board Member Leon Napper and seconded by Board Member Patrick Strader to adjourn the meeting at 5:55 p.m. to the Regular Meeting of the Irvine Community Land Trust on Monday, June 18, 2018, at 4:00 p.m.

Nancy Donnelly, Secretary

AGENDA ITEM #2



REQUEST FOR IRVINE COMMUNITY LAND TRUST BOARD ACTION

LAND TRUST BOARD MEETING DATE:

JUNE 18, 2018

TITLE: CHELSEA INVESTMENT CORPORATION AFFORDABLE HOUSING
DEVELOPMENT AGREEMENT AMENDMENT

A handwritten signature in black ink, appearing to read "Adam Eliason", written over a horizontal line.

Adam Eliason

RECOMMENDED ACTION:

Approve First Amendment to Affordable Housing and Development Agreement and Authorize execution by the Executive Director.

BACKGROUND:

At the May 21, 2018 meeting, the Board gave direction to staff on proposed amendments to the Development Agreement terms between Chelsea Investment Corporation (Chelsea) and the Land Trust. Subsequent to the Board Meeting, staff and Chelsea have worked together on a first amendment document to the Nightmist Development Agreement.

A summary of the First Amendment terms are as follows:

- \$5.8MM maximum Land Trust subsidy
- Nightmist Project Income Averaging and unit mix as follows:
 - 30 units @ 30% AMI
 - 25 units @ 50% AMI
 - 24 units @ 80% AMI
 - 1 unit @ 120% AMI for a property manager
 - 51.52% AMI Average Affordability
- Sources/Terms of financing - 30 days prior to submission of final tax credit investor paperwork, Chelsea will submit to the Land Trust the final sources and terms of financing. Any savings to the approved proforma related to the sources and terms of financing, allows the Land Trust the ability to decide if additional savings permit increasing the 50% AMI units, or additional capital improvements, or having the Land Trust keep additional savings for another project.
- As an incentive to Chelsea to negotiate the best construction contracts for the project, any cost savings to the construction line item budget will be split, 75% savings to the Land Trust for reimbursement of the subsidy gap and 25% savings to Chelsea.

Chelsea Investment Corporation First Amendment

June 18, 2018

Page 2

The First Amendment also includes an updated Site Plan, Schedule of Performance, Scope of Development and Proforma. Chelsea has approved and signed the First Amendment to the Development Agreement and awaits the Boards approval so that it can commence development activities on the Nightmist Project

Attachment: First Amendment to Affordable Housing and Development Agreement

**FIRST AMENDMENT TO AFFORDABLE HOUSING
AND DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO AFFORDABLE HOUSING AND DEVELOPMENT AGREEMENT (the “First Amendment”) is made and entered into as of June 18, 2018, by and between the **IRVINE COMMUNITY LAND TRUST**, a California nonprofit public benefit corporation (the “Land Trust”), and **CHELSEA INVESTMENT CORPORATION**, a California corporation (the “Developer”).

RECITALS

A. Land Trust and Developer have entered into an Affordable Housing and Development Agreement, dated as of November 20, 2017 (“Agreement”), with respect to that certain real property located at the northeast corner of Sand Canyon Avenue and Nightmist in the City of Irvine, County of Orange, State of California, as more particularly described in the Agreement (the “Property”).

B. The Agreement sets forth the terms and conditions pursuant to which (i) Land Trust will ground lease the Property to Developer, (ii) Developer will design, construct, and operate on the Property an affordable rental housing development with long-term affordability restrictions (the “Project”), and (iii) Land Trust will provide a loan to Developer to assist Developer with the costs Developer incurs in designing and developing the Project.

C. Subsequent to the approval of the Agreement, the parties have determined that additional funds are necessary for the development of the Project as a result of changes in the design of the Project and increases in construction and material costs.

D. The California Tax Credit Allocation Committee has recently adopted regulation changes permitting Low Income Units with income limits greater than 60% AMI through the use of “income averaging” as provided by recent changes in federal law

E. Land Trust and Developer now desire to make certain changes to the Agreement to increase the amount of the Land Trust’s loan to Developer and to modify the terms of affordability of the rental housing development consistent with the income averaging regulations.

NOW, THEREFORE, Land Trust and Developer hereby agree to amend the Agreement and the attachments thereto as follows:

1. Land Trust Loan. The amount of the Land Trust Loan, as set forth in Section 6.2(a) of the Agreement, the Land Trust Promissory Note (Attachment No. 7), and the Land Trust Deed of Trust (Attachment No. 8), is hereby revised to Five Million Eight Hundred Thousand Dollars (\$5,800,000).

2. Cost Savings. Section 6.10 of the Agreement is hereby revised to read as follows:

6.10. Excess Sources and Cost Savings Obligations. Subject to the requirements of TCAC and other lenders providing loans to the Project that have been approved by

Land Trust, Developer hereby agrees to (i) reduce the amount of the Land Trust Loan by 75% of the amount of “Excess Sources” for the Project, in an amount to be determined based on the “Excess Sources Calculation” to be conducted prior to the Property Closing, and (ii) pay to Land Trust a “Cost Savings” payment for the Project in an amount to be determined based on the “Audit” to be conducted upon completion of construction of the Project (as those terms are described in subparagraphs (a) and (b) below).

(a) Excess Sources Calculation. Thirty (30) days prior to Developer submitting final application to tax credit investors, Developer shall submit to Land Trust a final project proforma indicating sources and terms. Land Trust shall have two weeks to determine application of Excess Sources (if any). The amount of Excess Sources shall be equal to the amount by which the total sources of construction financing for the Project (which financing includes, but is not limited to, the Land Trust Loan, the Construction Loan, the equity raised by the sale of the Tax Credits and payable upon or prior to completion of the Project, the City Loan, the County Loan, and the AHP Loan) exceed the costs of development projected to be incurred for the Project (which costs include, but are not limited to, the hard and soft costs incurred by Developer to perform predevelopment activities and construct the Project) (the “Excess Sources Calculation”).

(b) Audit to Determine Cost Savings Amount. The amount of Cost Savings to be paid to Land Trust (if any) shall be determined after the Audit, as hereafter described. The amount of such Cost Savings shall be equal to the amount by which the total sources of permanent financing for the Project (which financing includes, but is not limited to, the Land Trust Loan, the Take-Out Loan, the equity raised by the sale of the Tax Credits, the City Loan, the County Loan, and the AHP Loan) exceed the costs of development incurred for the Project (which costs include, but are not limited to, the hard and soft costs incurred by Developer to perform predevelopment activities and construct the Project, and the amount spent to reduce the principal balance of the Construction Loan to the principal balance of the Take-Out Loan). Developer shall cause its certified public accountant(s) to perform and complete, within sixty (60) days following the completion of lease-up of the Project, a final audit of the costs of development of the Project in accordance with the requirements of the Tax Credits and generally accepted accounting principles (“GAAP”) and generally accepted auditing standards (the “Audit”). If the Audit determines that the total sources of permanent financing for the Project (which financing includes, but is not limited to, the Land Trust Loan, the Take-Out Loan, the equity raised by the sale of the Tax Credits, and the AHP Loan) exceed Developer’s total costs to develop the Project (which costs include, but are not limited to, the hard and soft costs incurred by Developer to perform predevelopment activities and construct the Project, and the amount spent to reduce the principal balance of the Construction Loan to the principal balance of the Take-Out Loan), such excess shall be considered the “Cost Savings” for the Project.

(c) Application of Excess Sources and Cost Savings to Additional Project Improvements. Upon determination of the amount of Excess Sources and Cost Savings, Land Trust may, in its sole discretion, direct Developer to use up to one hundred percent (100%) of the Excess Sources and/or Cost Savings to pay for additional improvements to the Project. The additional improvements to be funded with Excess

Sources and/or Cost Savings, shall be subject to the reasonable approval of Land Trust and Developer. Any Excess Sources and/or Cost Savings which remain after the payment for the additional improvements shall be distributed as provided in paragraphs (d) and (e) below.

(d) Application of Excess Sources to Reduced Affordability Targeting.

As an alternative to using Excess Sources for additional improvements pursuant to paragraph (c) above, Land Trust may, in its sole discretion, direct Developer to use up to one hundred percent (100%) of the Excess Sources to change 80% AMI Units to 50% AMI Units which shall be subject to the reasonable approval of Land Trust and Developer.

(e) Excess Sources Reduction of Principal on Land Trust Loan.

Subject to the requirements of TCAC and other lenders providing loans to the Project that have been approved by Land Trust, the Land Trust Loan shall be reduced by seventy-five percent (75%) of the Excess Sources which remain after increasing the development budget to account for any additional improvements and/or change of 80% AMI Units to 50% AMI Units as provided in paragraph (d) above. The remaining twenty-five percent (25%) of the Excess Sources shall be payable to the Developer as payment of the Developer Fee for the Project. The Excess Sources shall be applied to reduce the amount of the Land Trust Loan concurrently with the Property Closing.

(f) Payment of Cost Savings. Subject to the requirements of TCAC and other lenders providing loans to the Project that have been approved by Land Trust, seventy-five percent (75%) of the Cost Savings for the Project which remain after the payment for the additional improvements, once determined by the Audit pursuant to Section 6.10(b) above, shall be due and paid by Developer to Land Trust and allocated and credited as a principal payment on the Land Trust Loan, as and when paid. The Cost Savings for the Project shall become due and payable by Developer to Land Trust within sixty (60) days after receipt of the final equity installment for the Project. The remaining twenty-five percent (25%) of the Cost Savings shall be paid to Developer as payment of the deferred Developer Fee for the Project.

3. Affordable Units. The income levels of the dwelling units in the Project, as set forth in Section 11 of the Agreement, Recital I and Section 4.02 of the Affordable Housing Regulatory Agreement (Attachment No. 11), and the Notice of Affordability Restrictions on Transfer of Property (Attachment No. 12), are hereby revised as follows:

- a. 24 dwelling units shall be rented to households not exceeding 80% AMI.
- b. 25 dwelling units shall be rented to households not exceeding 50% AMI.
- c. 30 dwelling units shall be rented to households not exceeding 30% AMI.
- d. 1 dwelling unit (manager's unit) shall be rented to households not exceeding 120% AMI.

The foregoing income levels shall be in conformance with the income averaging requirements of the Tax Credit Program and the regulations of TCAC. Developer may restrict the maximum income level of tenants of any dwelling unit to lower levels than the foregoing.

4. Affordable Unit Definitions. The following definitions shall be added to Section 1 of the Affordable Housing Regulatory Agreement, and the existing definition of 50% AMI Unit shall be deleted:

“50% AMI Unit” means the twenty-five (25) Affordable Units that are required to be rented to and occupied by 50% AMI Households.

“80% AMI Household” means those persons(s) or households whose income does not exceed eighty percent (80%) of AMI.

“80% AMI Unit” means the twenty-four (24) Affordable Units that are required to be rented to and occupied by 80% AMI Households.

5. Affordable Rent Definitions. The following shall be added to the definition of “Affordable Rent” in Section 1 of the Affordable Housing Regulatory Agreement and the Notice of Affordability Restrictions on Transfer of Property:

“Affordable Rent for 80% AMI Households shall be 30% x 60% of AMI for a household size appropriate to the unit.”

6. Eligible Tenant. The following shall be added to the definition of “Eligible Tenant” in Section 1 of the Affordable Housing Regulatory Agreement:

“, with respect to an 80% AMI Unit, an 80% AMI Household,”

7. Site Plan. The Revised Site Plan attached hereto shall replace and supersede the Site Plan attached to the Agreement as Attachment No. 2.

8. Schedule of Performance. The Revised Schedule of Performance attached hereto shall replace and supersede the Schedule of Performance attached to the Agreement as Attachment No. 3.

9. Scope of Development. The Revised Scope of Development attached hereto shall replace and supersede the Scope of Development attached to the Agreement as Attachment No. 4.

10. Project Budget. The Revised Project Budget attached hereto shall replace and supersede the Project Budget attached to the Agreement as Attachment No. 9.

11. No Other Amendments. Except as amended by this First Amendment, the Agreement shall continue unmodified and in full force and effect. All terms not separately defined herein shall have the meanings as defined in the Agreement

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be duly executed.

LAND TRUST:

IRVINE COMMUNITY LAND TRUST, a
California nonprofit public benefit
corporation

By: _____
Mark Asturias
Executive Director

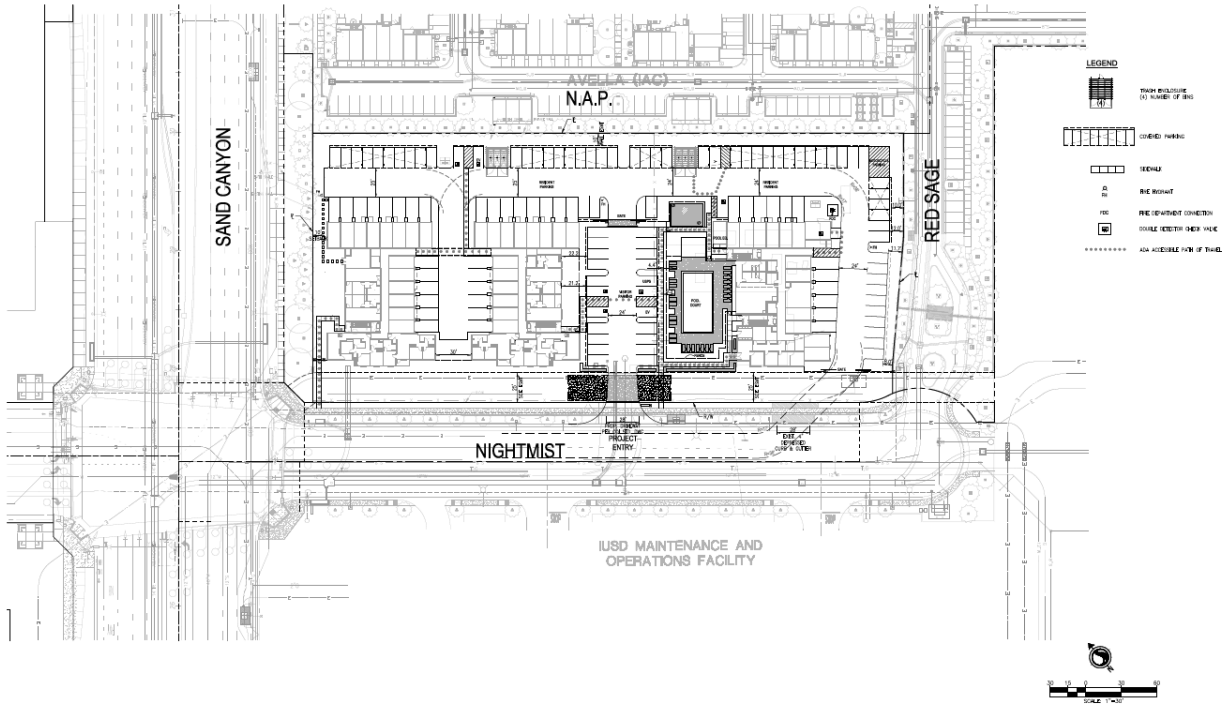
DEVELOPER:

CHELSEA INVESTMENT
CORPORATION, a California corporation

By: 
Cheri Hoffman,
President

ATTACHMENT NO. 2

REVISED SITE PLAN



CYPRESS VILLAGE APARTMENTS
TR 17612- LOT 7
IRVINE, CALIFORNIA

CYPRESS VILLAGE CIC, LP
4339 PASO DEL LAGO, CARLSBAD, CA 92011 TEL: 760.456.6000

C-1
TECHNICAL SITE PLAN 

MARCH 20, 2018
CASE# 17-1000-0000-0000-0000-0000

ATTACHMENT NO. 3

REVISED SCHEDULE OF PERFORMANCE

<u>Task/Event</u>	<u>Time for Performance</u>
1. Developer prepares and obtains approval by Land Trust of proposed Site Plan.	By 08/01/18 for Land Trust approval. By 08/01/18 for Irvine Company approval.
2. Developer submits to City application for Site Plan.	By 08/01/18.
3. Planning Commission public hearing regarding Site Development Permit application.	By 11/01/18.
4. Developer prepares and obtains approval by City of Irvine City Council of proposed Density Bonus Agreement	By 12/01/18.
5. Developer submits to Land Trust preliminary commitment for the Project Financing.	By 90 days prior to closing.
6. Developer submits to Land Trust Evidence of Financing Commitments.	By 60 days prior to closing.
7. Developer obtains allocation of 4% Tax Credits and Bond allocation.	By 120 days prior to closing.
8. Developer obtains Ready To Issue Permit Letter from City.	Prior to Property Closing.
9. Developer and Land Trust open Escrow.	Not later than sixty (60) days prior to the proposed Property Closing.
10. Developer submits Marketing Plan to Land Trust for approval.	Prior to Property Closing.
11. Developer causes the conditions set forth in Section 7.2 to be satisfied and the Property Closing shall occur.	Upon satisfaction of the conditions set forth in Section 7.2, but not later than the Outside Closing Date.

- | | |
|--|---|
| 12. Developer commences construction of Project. | Within 30 days after the Property Closing. |
| 13. Developer completes construction of Project. | Within 16 months after commencement of construction. |
| 14. Developer commences leasing the Units | By 90 days prior to completion of construction. |
| 15. Developer completes leasing of all Units. | Not later than 3 months after completion of construction. |
| 16. Outside Closing Date. | June 30, 2019 |

It is expressly understood and agreed by the Parties that the foregoing schedule of performance is subject to all of the terms and conditions set forth in the text of the Agreement including, without limitation, extension due to Force Majeure. Times of performance under the Agreement may be extended by request of any Party memorialized by a mutual written agreement between the Parties, which agreement may be granted or denied in the non-requesting Party's sole and absolute discretion (subject to events of force majeure set forth in this Agreement).

ATTACHMENT NO. 4

REVISED SCOPE OF DEVELOPMENT

The Project consists of the development of an 80-unit affordable multi-family apartment project, located at Northeast corner of Nightmist and Sand Canyon Ave. in the City of Irvine. Developer shall develop the Project in accordance with the attached development plans submitted by Developer as their proposal to Land Trust and as further amended by the information in this Scope of Development.

The Project site plan submitted to the Land Trust Board of Directors and approved on June 18, 2018 is hereby incorporated.

ATTACHMENT NO. 9

REVISED PROJECT BUDGET

(Included in Attachment No 9 shall be Schedule of Values (SOV) from Emmerson Construction Inc. dated 4/3/18 with a final approval by Donald Dickson, Director of Construction.)

PROJECT SUMMARY : Irvine Nightmist Apartments

80 Unit Affordable Family Project -20 Units County Orange Section 8 PBVs; plus 10 Hud 811 PBVs, 80% AMI rents

10 DD, 10 Homeless and 10 Homeless Vets

SOURCES AND USES SUMMARY	FINANCING ASSUMPTIONS	PRELIM DEVELOPMENT PROGRAMMING SUMMARY																																																																																																																																																																																																										
<p>Development Costs</p> <p>Acquisition</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td>City Land Value</td> <td style="text-align: right;">\$0/unit</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Basis Eligible Acquisition Cost</td> <td style="text-align: right;">\$0/unit</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Subtotal Acquisition</td> <td style="text-align: right;">\$0/unit</td> <td style="text-align: right;">0</td> </tr> </table> <p>Hard Costs</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td>Design Assist</td> <td style="text-align: right;">\$13,375/unit</td> <td style="text-align: right;">1,070,000</td> </tr> <tr> <td>Offsites</td> <td style="text-align: right;">\$816/unit</td> <td style="text-align: right;">65,258</td> </tr> <tr> <td>Onsite</td> <td style="text-align: right;">\$830,371/acre</td> <td style="text-align: right;">2,144,848</td> </tr> <tr> <td>Parking</td> <td style="text-align: right;">\$0/stall</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Vertical Construction Costs</td> <td style="text-align: right;">\$242,546/unit</td> <td style="text-align: right;">19,403,645</td> </tr> <tr> <td>PW Factor</td> <td style="text-align: right;">\$0/unit</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Overhead, Profit, General Conditions</td> <td style="text-align: right;">\$39,697/unit</td> <td style="text-align: right;">3,175,725</td> </tr> <tr> <td>Owner Hard Costs Contingency</td> <td style="text-align: right;">\$16,162/unit</td> <td style="text-align: right;">1,292,974</td> </tr> <tr> <td>Subtotal Hard Costs</td> <td style="text-align: right;">\$338,409/unit</td> <td style="text-align: right;">27,152,450</td> </tr> </table> <p>A&E</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td>A&E</td> <td style="text-align: right;">\$4,849/unit</td> <td style="text-align: right;">387,892</td> </tr> <tr> <td>Financing Fees and Interest</td> <td style="text-align: right;">\$24,336/unit</td> <td style="text-align: right;">1,948,920</td> </tr> <tr> <td>Legal Fees</td> <td style="text-align: right;">\$3,281/unit</td> <td style="text-align: right;">262,500</td> </tr> <tr> <td>Reserves</td> <td style="text-align: right;">\$4,093/unit</td> <td style="text-align: right;">328,600</td> </tr> <tr> <td>Development Impact, CFDs, Mitigation and Permit Fees</td> <td style="text-align: right;">\$49,955/unit</td> <td style="text-align: right;">3,924,400</td> </tr> <tr> <td>Developer Fee</td> <td style="text-align: right;">\$58,465/unit</td> <td style="text-align: right;">4,677,195</td> </tr> <tr> <td>Remaining Development Soft costs</td> <td style="text-align: right;">\$6,259/unit</td> <td style="text-align: right;">501,524</td> </tr> <tr> <td>Owner Soft Costs Contingency</td> <td style="text-align: right;">\$2,354/unit</td> <td style="text-align: right;">189,094</td> </tr> <tr> <td>Subtotal Soft Costs</td> <td style="text-align: right;">\$152,702/unit</td> <td style="text-align: right;">12,216,185</td> </tr> <tr> <td>Total Development Costs</td> <td style="text-align: right;">\$492,108/unit</td> <td style="text-align: right;">39,368,635</td> </tr> </table> <p>Sources</p> <table style="width: 100%; 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Exp./Unit/Year - Includes Ground Lease	5,600	Services/SN Unit/Year	2,333	Replacement Reserves/Unit/Year	250	Vacancy Rate	5.00%	DCR	1.15	Perm Loan Amort	35	Interest Rate - Permanent Loan	5.50%	Interest Rate - Construction Loan	4.00%	Tax- Exempt Bonds - Construction/Perm	8,251,012	Tax- Exempt Bonds - Construction	18,812,830	Tax- Exempt Bonds - C Bond	2,000,000	Total Bonds	28,163,842	SDDA/QCT Boost	YES	Rural Designation	No	50% Test	74.13%	CA 9% Site Amenity Score	15	CA 9% Tiebreaker	N/A	Housing Set Aside	Large Family	Prevailing Wage (State, Federal, Both):	YES		Solar	State	Fed	1st Yr Credit Delivery	0	0	1,805,057	2nd Yr Credit Delivery	0	0	1,805,057	3rd Yr Credit Delivery	0	0	1,805,057	<p>City: Irvine</p> <p>MSA: Orange County</p> <p>4 Person 50% AMI: \$54,650</p> <p>Site (acres): 2.583</p> <p>Construction Type: 4 Story</p> <p>No. of Stories: Four Stories</p> <p>Parking Type: Tuck under/ covered & Surface</p> <p>No. of Stalls: 80</p> <p>Extraordinary Cond:</p> <p>Impact Fees+CFDs per Unit: 41,625</p> <p>Financing Sources: 4% TC & Bonds + 30 PBVs, AHP, ILT \$, PSH \$</p>
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PROJECTED SOURCES AND USES OF FUNDS
 80 Unit Affordable Family Project -20 Units County Orange Seal

	18,860,383	Close	Construction Period					Construction Subtotal	Stabilization 8mos	1,088,188 Conversion	8808	Total	
			Quarter 1 15%	Quarter 2 25%	Quarter 3 25%	Quarter 4 20%	Quarter 5 15%						
SOURCES OF FUNDS													
1 Federal LIHTC Equity			2,287,206	-	-	-	-	2,287,206	-	12,808,352	152,480	15,248,038	
2 State LIHTC Equity	0		-	-	-	-	-	-	-	-	-	-	
3 Developer's Contribution Of Fee			-	-	-	-	-	-	2,500,000	-	-	2,500,000	
5 Construction Loan			-	3,339,640	7,190,019	5,995,692	4,960,517	4,191,914	26,877,782	485,860	(26,163,642)	8,261,012	
6 Permanent Loan (Tranche A)			-	-	-	-	-	-	-	6,251,012	-	6,251,012	
7 Permanent Loan (Tranche B)			-	-	-	-	-	-	-	6,560,243	-	6,560,243	
8 Deferred Developer Fee			-	-	-	-	-	-	-	1,108,999	-	1,108,999	
9 GAP	\$25,000/unit		2,000,000	-	-	-	-	2,000,000	-	-	-	2,000,000	
10 ICLT	\$47,800/unit		3,800,000	-	-	-	-	3,800,000	-	-	-	3,800,000	
11 AHP	\$0/unit		-	-	-	-	-	-	-	-	-	-	
12 County Of Orange PSH			-	-	-	-	-	-	-	1,198,800	-	1,198,800	
13 Reimbursable Infrastructure Note			-	-	-	-	-	-	-	-	-	-	
14 Residual Receipt Loans Accrued Interest	\$0/unit		-	-	-	-	-	-	-	-	-	-	
15 HOME			477,000	32,078	32,078	32,078	32,078	32,078	180,388	64,155	-	254,643	
16 Total Sources of Funds			8,684,206	8,071,718	7,222,897	8,027,770	4,982,684	4,223,981	34,402,976	660,016	4,288,786	162,480	38,368,636
USES OF FUNDS													
ACQUISITION													
21 Land value (ground lease)	\$0/unit		-	-	-	-	-	-	-	-	-	-	
26 Basic Eligible Acquisition Cost	\$40,000/unit		-	-	-	-	-	-	-	-	-	-	
27 Other: Closing Costs			10,000	-	-	-	-	-	10,000	-	-	-	
28 Total Land / Acquisition			10,000	-	-	-	-	-	10,000	-	-	-	
NEW CONSTRUCTION - Includes PWs													
48 Design Assist	\$		1,070,000	-	-	-	-	-	1,070,000	-	-	-	
49 Off-site Improvements	\$		-	65,258	-	-	-	-	65,258	-	-	65,258	
51 Site Work	\$0/acre		-	1,072,424	1,072,424	-	-	-	2,144,848	-	-	2,144,848	
53 Vertical	\$0.00/sq ft		-	2,827,557	4,712,596	4,712,596	3,770,077	2,827,557	18,860,383	-	-	18,860,383	
54 GC Contingency	3%		26,750	99,131	144,525	117,815	94,252	70,689	663,282	-	-	663,282	
55 General Requirements	6%		65,805	243,862	355,779	289,825	231,860	173,895	1,381,026	-	-	1,381,026	
56 Contractor Overhead	2%		21,935	81,287	118,593	96,608	77,287	57,965	463,876	-	-	463,876	
57 Contractor Profit	6%		65,805	243,862	355,779	289,825	231,860	173,895	1,381,026	-	-	1,381,026	
60 Total New Construction	\$328,243/unit		1,260,286	4,633,382	6,769,788	6,608,688	4,406,935	3,304,001	25,859,478	-	-	25,859,478	
ARCHITECTURAL													
62 Building			-	-	-	-	-	-	-	-	-	-	
64 Landscape			-	-	-	-	-	-	-	-	-	-	
65 Energy Consultant			-	-	-	-	-	-	-	-	-	-	
66 Other: Acoustic Study			-	-	-	-	-	-	-	-	-	-	
67 Other: Traffic Study			-	-	-	-	-	-	-	-	-	-	
68 Other:			-	-	-	-	-	-	-	-	-	-	
69 Total Architectural			-	-	-	-	-	-	-	-	-	-	
SURVEY & ENGINEERING													
72 Civil			193,946	193,946	-	-	-	-	387,892	-	-	-	
73 ALTA			-	-	-	-	-	-	-	-	-	-	
74 Staking			-	-	-	-	-	-	-	-	-	-	
75 Structural Testing			-	-	-	-	-	-	-	-	-	-	
76 Soils			-	-	-	-	-	-	-	-	-	-	
77 Other:			-	-	-	-	-	-	-	-	-	-	
78 Other:			-	-	-	-	-	-	-	-	-	-	
79 Other:			-	-	-	-	-	-	-	-	-	-	
80 Total Survey & Engineering			193,946	193,946	-	-	-	-	387,892	-	-	-	
CONTINGENCY COSTS													
83 Hard Cost Contingency	8%		62,515	231,669	337,990	275,333	220,267	165,200	1,292,874	-	-	1,292,874	
84 Soft Cost Contingency	3%		148,008	7,827	3,521	7,158	10,689	11,790	188,084	-	-	188,084	
85 Total Contingency			210,523	239,496	341,511	282,492	230,956	176,990	1,482,068	-	-	1,482,068	
CONSTRUCTION PERIOD EXPENSES													
88 Construction Loan Interest			-	11,132	57,363	125,282	179,227	207,173	680,177	415,155	-	896,332	
89 Soft Loan Interest			-	32,078	32,078	32,078	32,078	32,078	180,388	64,155	-	224,643	
90 C Bond Interest			-	-	-	-	-	-	-	-	-	-	
91 Origination Fee	1.00%		261,636	-	-	-	-	-	261,636	-	-	261,636	
92 Credit Enhancement & Application Fee			-	-	-	-	-	-	-	-	-	-	
93 Owner Paid Bonds			-	-	-	-	-	-	-	-	-	-	
94 Lender Inspection Fees			-	7,500	7,500	7,500	-	7,500	30,000	-	-	30,000	
95 Taxes During Construction			75,000	-	-	-	-	-	75,000	-	-	75,000	
96 Other: Application fee			-	-	-	-	-	-	-	-	-	-	
97 Insurance During Construction			65,000	-	-	-	-	-	65,000	-	-	65,000	
98 Title and Recording Fees			25,000	-	-	-	-	-	25,000	-	-	25,000	
99 Construction Mgmt. and Monitoring			20,000	5,625	9,375	9,375	7,500	5,625	67,500	-	-	67,500	
100 Predevelopment Loan Interest			-	-	-	-	-	-	-	-	-	-	
101 Other: Accounting & Admin			25,000	5,000	5,000	5,000	-	5,000	45,000	-	-	45,000	
102 Other:			-	-	-	-	-	-	-	-	-	-	
103 Total Construction Period Expense			471,636	81,336	111,816	179,236	218,804	267,676	1,289,701	478,510	-	1,778,011	

OPERATING BUDGET & INCOME ANALYSIS

80 Unit Affordable Family Project -20 Units County Orange Section 8 PBVs; plus 10 Hud 811 PBVs, 80% AMI rents

Year	2018
MSA	Orange County
4 Person HUD MFI	\$82,700

OCHA 11.1.17										OCHA 10.1.17	
Rent:	Restriction	%AMI	Units	Square Feet/Unit	Total Sq. FL.	Gross Rents	Utility Allowance	Monthly Net Rent	Annual Rent	RA Contract Rent	Annual Overhang
1BR/1BA	RDA	80%	8	500	4,000	\$ 1,483	\$ 46	\$ 1,437	\$ 137,971	\$ 1,660	\$ -
1BR/1BA	RDA	50%	6	574	3,446	\$ 927	\$ 46	\$ 881	\$ 63,432	\$ 1,842	\$ -
1BR/1BA	RDA	30%	10	574	5,743	\$ 556	\$ 46	\$ 510	\$ 61,224	\$ 1,842	\$ 135,816
2BR/1BA	RDA	80%	8	750	6,000	\$ 1,669	\$ 62	\$ 1,607	\$ 154,234	\$ 1,860	\$ -
2BR/2BA	RDA	50%	1	828	828	\$ 1,043	\$ 62	\$ 981	\$ 11,771	\$ 1,860	\$ -
2BR/2BA	RDA	30%	7	828	5,797	\$ 626	\$ 62	\$ 564	\$ 47,353	\$ 1,860	\$ 116,447
3BR/2BA	RDA	80%	8	1,000	8,000	\$ 1,854	\$ 81	\$ 1,773	\$ 170,208	\$ 2,680	\$ -
3BR/2BA	RDA	50%	18	1,088	19,589	\$ 1,159	\$ 81	\$ 1,078	\$ 232,794	\$ 2,760	\$ -
3BR/2BA	RDA	30%	13	1,088	14,147	\$ 695	\$ 81	\$ 614	\$ 95,823	\$ 2,760	\$ 333,177
3BR/2BA	N/A	N/A	1	1,088	1,088	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Rents			80		68,638				974,809		585,440
Community Room/Office					3,285						
% Loss to Efficiency				25%	23,974						
Construction Square Feet					95,898						
RA Overhang									0		
Income from Operations				PUPM							
Laundry				\$ 16.00					15,360		
Other Income (App. Fees, Late, etc.)				\$ 4.00					3,840		
Garage				\$ -		0 Garages			0		
Cable & Highspeed Data Income				\$ -					0		
Telephone Income				\$ -					0		
Sub-Total				\$ 20.00					994,009		585,440
Less: Vacancies @				5%					49,700		29,272
Total Income									844,309		668,168
Operating Expenses				PUPA			Notes				
Admin				\$ 788					61,538		
Management Fee				\$ 677					46,154		
Utilities				\$ 1,068					84,615		0
Payroll				\$ 1,348					107,692		0
Repair & Maintenance				\$ 886					69,231		
Insurance				\$ 144					11,538		
Taxes (HOA, CFD)				\$ 48					3,846		
Other				\$ 182					15,360		
Ground Lease				\$ 800					48,000		
Total Expenses				\$ 6,800					447,876		0
Net Operating Income									496,433		668,168
Reserves				\$250.00/unit					20,000		0
Services				\$2,333/unit "80 units"					0		70,000
Issuer and Monitoring Fee - CSCDA @0.05%				0.050%					13,082		0
Mandatory Debt Service				0.420%					0		
Net Income Available for Debt Service									483,262		488,168

D&C TEST

1.16

1.16

Loan Sizing	Tranche A	Tranche B	Tranche C
Loan Amount	6,251,012	6,560,243	2,000,000
Interest	5.50%	5.50%	
Term	18	18	
Amortization	35	36	
Debt Service Coverage	1.15	1.16	
Monthly Payment	33,569	35,230	
Annual Payment	402,827	422,755	
Cash Flow After D/S	\$ 60,424	\$ 63,413	

AGENDA ITEM #3



REQUEST FOR IRVINE COMMUNITY LAND TRUST BOARD ACTION

LAND TRUST BOARD MEETING DATE:

JUNE 18, 2018

TITLE: FISCAL YEAR 2018-2019 BUDGET

A handwritten signature in blue ink that reads "Mark Asturias".

Executive Director

RECOMMENDED ACTION:

Adopt Resolution 18-040 of the Irvine Community Land Trust Approving the Fiscal Year 2018-2019 Budget.

BACKGROUND:

Analysis

The draft Fiscal Year 2018-2019 Budget (Budget) is presented for adoption. The Budget beginning fund balance, approximately \$13.1 million, is based on the estimated closing balance for Fiscal Year 2017-2018. Revenues are projected at approximately \$2.885 million.

Administration, contract services and operating costs are proposed at approximately \$791,800. Reserving funds for future liabilities will leave approximately \$11.2 million in available funds for capital projects.

Anticipated 2018-2019 Budget Revenues

The estimated fund balance beginning July, 2018 is \$13,120,416 and is based on Fiscal Year 2017-2018 revenues less expenditures. Additional revenues for Fiscal Year 2018-19 are estimated at \$2,885,000 with a portion of these funds coming from Settlement Agreement with the City of Irvine. Revenues from rental payments on nine homes, a note owed by Jamboree Housing Corporation for the Doria project, and the ground lease payment from AMCAL Multi-Housing, Inc. for the Alegre project, provide the balance of projected funds for the Land Trust during the upcoming fiscal year (Attachment 1).

Proposed 2018-2019 Administrative Expenditures

Expenditures account for operational and general activities, and project development costs for the Nightmist property (Attachment 2). Administrative costs are estimated at \$336,320 to support expenses associated with salaries, office space, legislative efforts and conference attendance. Contract services total \$455,500 due to development activity that is expected for the Nightmist property that will be developed by Chelsea Investment Corporation.

Property operational costs for the scattered site condominiums remain constant with Homeowner Association dues, property maintenance and repair costs, and property taxes accounting for the majority of expenses. However, due to the increasing age of the condominiums, the rehabilitation budget has been increased to cover potential systems replacements, such as heating and air conditioning units, plumbing, appliances, flooring and window coverings. Property management costs remain unchanged for the fiscal year and are included with contract service expenditures.

Service Contracts

The Land Trust contracts legal services with Meyers/Nave, real estate services with CivicStone, Inc., bookkeeping services with Robert S. Borish CPA, Inc., audit services with Haynie & Company, financial services with RSG, Inc., advocacy services with Joe A. Gonsalves & Son, marketing services with HKA, and property management services with Proactive Realty Investments, Inc. These contracts will continue through June 30, 2020 and the annual contract amounts for each consultant are included in the Budget.

Reserve Funds – Capital Projects

Reserve funds of approximately \$43,000 are established to cover liabilities associated with tenant rental guarantees for units that are set-aside for adults with developmental disabilities at the Alegre and Parc Derian developments. The Chelsea Investment Corporation affordable rental housing project (Nightmist site) is budgeted at the recommended \$5.8 million in gap funding for the development of this project. These funds will be expended toward the end of the fiscal year and will be used for project related expenses including payment of community facilities district fees, architectural and engineering costs, city permits and fees.

Funds not encumbered by the Budget for administration, property management, liabilities and capital development costs will be reserved in investment and banking accounts.

Assets and Liabilities

The Land Trust holds multiple assets including land, rental units and cash investments (Attachment 3). These assets include BNY Mellon investments of approximately \$9.2 million, \$352,000 in a cash savings account, operating funds of \$1,711,950, multiple certificates of deposit totaling approximately \$1,512,741, and nine scattered site rental units valued at approximately \$4,330,000.

The Land Trust has issued loans to the Doria Phase I and Doria Phase II affordable rental housing for a combined value of approximately \$3.2 million. The Alegre Project land is appraised at a value of \$8.35 million. In addition, the Development Agreement with AMCAL Multi-Housing, Inc. for the Alegre Project includes annual lease payments. At the termination of the Ground Lease, the physical improvements (104 units) will become the property of the Land Trust. The current estimated value of the improvements, exclusive of land is \$36,200,000. The

Land Transfer Agreements with the City of Irvine for the Native Springs and Nightmist properties have a combined value of \$12.6 million.

The most recent development, Parc Derian, has an estimated project value (land and improvements of \$29,750,000. The Parc Derian Project completed construction in April and was fully occupied by May. A grand opening event is proposed during the Summer.

The Alegre and Parc Derian Tenant Placement Guarantee Agreements for residents with developmental disabilities and the Chelsea Investment funding guarantee are included in the Budget. Total costs for the tenant guarantee liabilities and Chelsea project development funding total \$5,932,000.

The Land Trust Settlement Agreement with the City of Irvine transfers \$29.2 million over time to the Land Trust for affordable housing development. The City transferred \$2,372,974 during fiscal year 2017-18 and to date the Land Trust has received \$5,408,008 in settlement funds. The remaining funds due the Land Trust are \$23,596,173 and based on City projections the final payment should be made in fiscal year 2024-25.

Staff is recommending adoption of Resolution 18-040 approving the Budget as presented.

Attachments:

- Attachment 1: Estimated Revenue Budget for Fiscal Year 2018-2019
- Attachment 2: Statement of Activities Expenditures Fiscal Year 2018-2019
- Attachment 3: 2017-2018 Statement of Assets and Liabilities
- Attachment 4: Resolution 18-040

**Irvine Community Land Trust
2018-2019 Budget Statement of Revenues
July 1, 2018**

		Estimated Budget Fund Balance
BEGINNING OF YEAR FUND BALANCE		\$ 13,120,416
		Estimated Budget Revenues
PROGRAM REVENUES:		
Operating grants and contributions		
from Settlement Funds		\$ 2,200,000
Interest on cash deposits.		\$ 18,750
Investment Income (BNY Mellon)		\$ 500,000
Donations		\$ -
Miscellaneous Revenues		\$ 250
Rent (Note 1)		\$ 108,500
Doria Loan Repayment/Monitoring Fee (Note 2)		\$ 40,000
Alegre Ground Lease Payment (Note 3)		\$ 17,500
TOTAL PROJECTED REVENUES		\$ 2,885,000
TOTAL ESTIMATED FUNDS (2018 - 2019)		\$ 16,005,416

Note 1: Nine units rent payments.

Note 2: Doria Agreement requires residual receipts payments and amounts fluctuate annually.

Note 3: Annual lease payment increases by 3.5% annually. Initial amount of \$500K received in 2015-16 fiscal year.

ATTACHMENT 1

IRVINE COMMUNITY LAND TRUST
 FISCAL YEAR 2018 - 2019
 BUDGET

ANNUAL BUDGET OPERATIONAL EXPENDITURES	
Administration Costs	
Employment Costs	
<i>Executive Director</i>	\$130,000
<i>Car Allowance</i>	\$4,800
<i>Phone Allowance</i>	\$1,200
<i>Administrative Analyst/Office Coordinator/Recording Secretary</i>	\$60,000
Subtotal Salaries Expenses	\$196,000
Employer Related Business Insurance and Payroll Costs	
<i>Employer Related Payroll Taxes</i>	\$27,000
<i>Business Insurance (Directors Coverage, Errors & Omissions,) ALLIANT</i>	\$2,500
<i>Business Insurance (Workers Compensation) HARTFORD</i>	\$1,500
<i>Liability Insurance (short term disability) ALLIANT</i>	\$2,500
<i>Employee Insurance (Medical/Dental/Vision) BLUE SHIELD OF CA</i>	\$37,750
<i>Less Employee Contributions (Offsetting Amount)</i>	(\$15,130)
<i>Employee Benefits (Term Life/Disability Insurance) GUARDIAN</i>	\$3,000
Subtotal Insurance & Payroll Expenses	\$59,120
TOTAL EMPLOYMENT COSTS	
	\$255,120

IRVINE COMMUNITY LAND TRUST
FISCAL YEAR 2018 - 2019
BUDGET

ANNUAL BUDGET	
General Operating Costs	
Land Trust Office Lease	
<i>Office Lease (\$2,100 a month for Executive Space @ 930 Roosevelt)</i>	\$25,200
Subtotal Lease Expenses	\$25,200
Office Expenses (Operating)	
Business Expense (lunch/dinner meetings)	\$6,000
Phone/ AT&T Telecommunication	\$1,500
Local Travel	\$2,500
Meeting Supplies	\$2,500
Banking Charges	\$1,000
Special Events - (Project related)	\$2,500
Memberships/Subscriptions/Dues/Professional Fees	\$5,000
Taxes/ Business Licenses/Fees (state/gov agency)	\$1,000
OFFICE SUPPLIES	\$5,000
<i>Duplicating/Copying/Publishing</i>	
<i>Supplies</i>	
<i>Postage</i>	
COMPUTERS	\$5,000
<i>Computer Hardware/Equipment</i>	
<i>Computer Software/License fee</i>	
<i>Computer Training</i>	
<i>Website maintenance (CivicStone)</i>	
CONFERENCE/EVENTS/MEETINGS	\$30,000
<i>Registration Fees</i>	
<i>Hotel/Lodging</i>	
<i>Travel - Airfare/Parking/Taxi/rentals</i>	
<i>Meals</i>	
Subtotal General Office Expenses	\$56,000
TOTAL GENERAL OPERATING COSTS	
	\$81,200

IRVINE COMMUNITY LAND TRUST
 FISCAL YEAR 2018 - 2019
 BUDGET

ANNUAL BUDGET	
Consultant Contracts	
Legal Services (Meyers-Nave)	\$100,000
<i>Administrative</i>	
<i>Nightmist Project</i>	
<i>Native Springs Project</i>	
Project Management Services (CivicStone)	\$100,000
Project Financial Services (Rosenow Spevacek Group)	\$100,000
Property Management (Proactive Realty Investments)	\$15,000
Accounting/Payroll Services (Robert S. Borish CPA)	\$10,000
Auditing Services (Haynie & Company)	\$14,000
Advocacy/Lobbying Services (Gonsalves & Son)	\$42,000
Marketing & Communication Services (HKA)	\$56,000
Appraisal Services	\$5,000
Architectural/Planning Services	\$5,000
Development and Environmental Review Services	\$2,500
Engineering Services	\$2,500
Escrow Services	\$2,000
Title Services	\$1,500
TOTAL CONSULTANT CONTRACT EXPENSES	\$455,500
TOTAL OPERATION COSTS	\$791,820

IRVINE COMMUNITY LAND TRUST
FISCAL YEAR 2018 - 2019
BUDGET

ANNUAL BUDGET Capital Expenditures	
Acquired Properties Management Expenses	
Utilities/Fees	\$5,500
Home Owner Association Dues	\$36,000
Taxes - Nine Units (Note 1)	\$8,000
Insurance	\$4,500
Site Maintenance (Unit Turnover Costs)	\$5,000
Property Repair/Rehabilitation	\$40,000
Subtotal Expenses	\$99,000
Tenant Rental Guarantees	
Tenant Placement Guarantee - Alegre Units	\$21,500
Tenant Placement Guarantee - Parc Derian Units	\$21,500
Subtotal Expenses	\$43,000
New Construction Projects	
Habitat for Humanity Orange County (Native Spring Project)	
Chelsea Development Agreement (Nightmist/Salerno Project)	\$5,800,000
Subtotal Expenses	\$5,800,000
TOTAL CAPITAL EXPENDITURES/GUARANTEES	\$5,942,000
Note 1: Tax Assessor confirmed property taxes will be abated for nine units. Awaiting refund for 80 Clearbrook.	
TOTAL FISCAL YEAR 2018-2019 BUDGET EXPENDITURES	\$6,733,820

**Irvine Community Land Trust
Land Trust Statement of Assets and Liabilities
Estimated June 2018**

Assets:

- | | | |
|----|---|---|
| 1. | Estimated Cash ^A | \$10,898,801 |
| 2. | Deposit with management company ^B | \$16,995 |
| 3. | Nine rental units ^C valued at | \$3,057,576 |
| | a. <u>Properties</u> | |
| | | <u>Acquisition Date</u> |
| | | <u>Value</u> |
| | i. 49 Tarocco | December 2008 \$324,852 |
| | ii. 56 Clearbrook | December 2008 \$317,730 |
| | iii. 109 Tarocco | February 2010 \$301,881 |
| | iv. 55 Lakepines | April 2010 \$304,539 |
| | v. 21 Goldenrod | May 2010 \$313,662 |
| | vi. 80 Clearbrook | July 2010 \$334,409 |
| | vii. 20 Van Buren | November 2010 \$343,052 |
| | viii. 108 Cartier Aisle | April 2012 \$392,519 |
| | ix. 224 Greenmoor | May 2012 \$424,932 |
| 4. | Doria Affordable Rental Housing Project Partnership interest: | |
| | a. Doria Phase 1 Development Loan | \$1,602,505 at 3 percent simple interest payable over 55 years |
| | b. Doria Phase 2 Development Loans | \$1,600,000 at 1 percent simple interest payable over 55 years |
| 5. | Cypress Village (Alegre Affordable Rental Housing Parcel) Land/Improvement Value: | |
| | i. 3.36 acres ^D | \$8,350,000 appraised value |
| | ii. Improvements | \$36,200,000 |
| 6. | AMCAL (Alegre) Development Agreement ^E | |
| | a. Ground Lease (Future Revenue) | \$10,000 in annual base rent and up to an additional \$20,000 in bonus rent |
| 7. | Alegre Affordable Rental Housing Project Partnership interest: | |
| | a. Development Loan - CDBG | \$837,673 at 3 percent simple interest payable over 59 years |
| | b. Development Loan - HOME | \$416,930 at 3 percent simple interest payable over 59 years |

8. 17275 Derian (Parc Derian) Affordable Rental Housing Parcel:	
a. 2 acres	\$5,750,000 acquisition cost
b. 80 units	\$24,000,000
9. 17275 Derian Ground Lease	\$1 per year for 99 years (prepaid in 2016)
10. Native Spring Affordable Housing Parcel:	
a. 4.0 acres	\$11,500,000 appraised value
11. Nightmist Affordable Housing Parcel:	
a. 2.5 acres	\$1,120,000 appraised value
12. Settlement Agreement (Future revenues)	\$23,596,173

Liabilities:

1. Security deposit for rentals ^F	\$16,995
2. Tenant Placement Guarantee ^G	\$28,936

Footnotes:

- A. Excess cash is invested through California United Bank and BNY Mellon. Includes operating funds deposited in California United Bank of approximately \$1.8M
- B. Cash held for security deposits and operation of eight rental units.
- C. Capital assets are recorded at historical cost; donated capital assets are recorded at estimated fair market value at the date of donation.
- D. Value of land without improvements. Improvements, which are owned by AMCAL, have current estimated value of \$31M. Improvements will become asset of Land Trust at termination of lease.
- E. AMCAL made up front ground lease payment of \$500,000 during 2015-16 fiscal year. Remaining term of lease includes remainder lease value for 99-year term.
- F. Security deposits owed to renters upon termination of lease.
- G. Rental Guarantee for two two-bedroom units at Alegre Project and four one-bedroom units at Parc Derian Project that may open December 2017 set aside for residents with developmental disabilities.

RESOLUTION 18-040

A RESOLUTION OF THE IRVINE COMMUNITY LAND TRUST
APPROVING THE FISCAL YEAR 2018-19 BUDGET

WHEREAS, the Irvine Community Land Trust (Corporation) Board of Directors (Board) took steps to perfect the organization of the Corporation and to conduct other business on behalf of the Corporation; and

WHEREAS, the Board has reviewed the Fiscal Year 2018-2019 Budget (Budget); and

WHEREAS, the Budget estimates revenues of approximately \$2,885,000; and

WHEREAS, the Budget proposes administrative costs of approximately \$336,320, contract service expenditures of approximately \$455,500, and operation costs of acquired properties of approximately \$89,000; and

WHEREAS, contracts for legal, real estate, bookkeeping, accounting, insurance, financial, and property management services are included as part of the Budget and authority to execute by the Executive Director contracts in amounts not to exceed the annual budget for each service have been considered by the Board; and

WHEREAS, the Budget proposes reserving approximately \$43,000 in funds for potential liabilities associated with the Alegre and Parc Derian affordable housing projects rental guarantees for units set-aside for adults with developmental disabilities; and

WHEREAS, the Budget proposes reserving approximately \$5,800,000 in funds for the potential liabilities associated with the Chelsea Investment Corporation affordable housing project; and

WHEREAS, with the estimated fund balance, estimated revenues and proposed expenditures the Budget projects a positive balance at the end of the fiscal year.

NOW, THEREFORE, the Board of Directors of the Irvine Community Land Trust DOES HEREBY RESOLVE as follows:

SECTION 1. The Fiscal Year 2018-2019 Budget is approved and adopted as presented.

SECTION 2. The Board of the Irvine Community Land Trust authorizes the Executive Director to execute all service contracts in amounts not to exceed the approved Budget.

SECTION 3. The Secretary shall certify to the passage and adoption of this Resolution.

PASSED AND ADOPTED by the Board of the Irvine Community Land Trust at regular meeting held on the 18th of June, 2018.

MELISSA FOX
PRESIDENT OF THE IRVINE COMMUNITY LAND TRUST

ATTEST:

NANCY DONNELLY
SECRETARY OF THE IRVINE COMMUNITY LAND TRUST

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, Nancy Donnelly, Secretary of the Irvine Community Land Trust, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of the Board of the Irvine Community Land Trust held on the 18th day of June, 2018.

AYES: MEMBERS:

NOES: MEMBERS:

ABSTAIN: MEMBERS:

ABSENT: MEMBERS:

NANCY DONNELLY
SECRETARY OF THE IRVINE COMMUNITY LAND TRUST

AGENDA ITEM #4



REQUEST FOR IRVINE COMMUNITY LAND TRUST BOARD ACTION

LAND TRUST BOARD MEETING DATE:

JUNE 18, 2018

TITLE: HABITAT FOR HUMANITY – BUSINESS TERMS NATIVE SPRING
DEVELOPMENT AGREEMENT

A handwritten signature in black ink, appearing to read "Adam Eliason".

Adam Eliason

RECOMMENDED ACTION:

Provide direction to finalize Development Agreement with Habitat for Humanity Orange County for the Native Spring development site.

BACKGROUND:

The Board approved exclusive negotiations for the Native Spring Development Agreement with Habitat for Humanity Orange County (Habitat) at the October 17, 2016 meeting. In November 2016 Habitat notified Staff of an error in their calculation of prevailing wage and considerable increases in material and labor costs. The Board approved subsidy amount went from \$5.2MM to \$7.5MM. Since that time, Habitat has reviewed the prevailing wage issue with their legal counsel and has determined it is not applicable because of unique legislation that applies only to Habitat organizations.

SUMMARY OF HABITAT PROPOSAL

On May 21, 2018 Habitat submitted a letter to amend their initial proposal.

1. The Land Trust requested subsidy cap is \$7.5MM. Habitat has represented that they are facing substantial increases in labor and material costs in combination with financing terms that have caused an increase in the subsidy request since their initial proposal.
2. If the actual contract construction amount is below the proforma construction amount estimate, the Land Trust subsidy will be reduced by an equal amount.
3. Any Habitat fundraising would first apply towards guaranteeing their \$1.5MM developer fee. In other words, any unexpected increases to the proforma costs due to change orders, holding costs, etc. would be offset by Habitat's fundraising efforts. The next \$1MM in fundraising would go directly to the Land Trust. Any additional fundraising revenue would be split 50/50. The maximum Land Trust would receive would equal \$3,032,800. This amount represents the \$7.5MM less land liens/fees. Habitat believes it would be challenging to use donations to pay off fees and liens placed on the property by the original land donor.

4. All pre-development costs would be reimbursed by Land Trust as they occur.

BOARD DISCUSSION

Habitat's request for additional subsidy is unfortunately similar to our Nightmist project and other affordable and market rate projects in the region. Staff agrees with Item 2 of Habitat's proposal and recommends the Board accept this proposed item. Staff is requesting direction on two points raised by Habitat in their letter.

1. The nature of a developer's business includes risk. It appears Habitat would like to eliminate any risk by using fundraising donations towards their Development Fee before reducing the substantial Land Trust subsidy amount. The Board may consider a counter proposal to the fundraising such as the first \$1MM in fundraising goes towards Land Trust and additional fundraising is split 50/50.
2. Affordable Housing Developer's also risk spending their own pre-development funds even before they have a final Development Agreement executed and throughout the entitlement process. The Board may consider a counter proposal that Habitat pay for all pre-development expenses and will be reimbursed at the end of each phase of construction.

Following Board direction, staff recommends the Board authorize finalizing a development agreement with Habitat to be considered during the summer.

Attachment:

1. Habitat proposal letter dated May 21, 2018



*Creating
a World
Where
Everyone
has a
Decent Place
to Live.*

May 21, 2018

Mark Asturias
Executive Director
Irvine Community Land Trust
930 Roosevelt Ave, Suite 106
Irvine, CA 92620

Dear Mark,

To facilitate your upcoming meeting with your ICLT board, we wanted to get back to you with the terms under which Habitat for Humanity of Orange County (HFHOC) can currently move forward on the Native Spring development.

Under the terms of our agreement, HFHOC will be responsible for the repayment of the construction loan. In addition, there will be a substantial amount of management time and in-house costs that will be incurred during pre-development and the entitlements phase for which HFHOC will not see any portion of the developer fee until the completion of the first phase of construction. From a market perspective, a for-profit builder would expect a minimum of 3% overhead draw and 3% builder fee for a development of this nature. However, this would be a "no-risk" model in that all up-front costs, and the construction loan itself, would be the responsibility of the project owner. The \$1.5 million that HFHOC stands to receive in this venture is equivalent to this no-risk model, yet HFHOC is undertaking considerable risk as noted above.

We have made it clear in our communications that fundraising for this project does not fit our traditional model, we will need to develop new, currently unknown sources and success cannot be guaranteed. However, we are willing to apply our best effort toward success. In addition, it will be necessary to place a cap on the dollar amount that HFHOC can contribute through fundraising to pay down the "financial burden" that was placed on the ICLT for this parcel. HFHOC is only in a position to fundraise against this subsidy "up to" a dollar amount that would cover "project contributions". We cannot commit donor funding / contributions to paying off the fees and liens placed on this project by the original land donor. We believe doing so would call into question our use of donations and subsequently jeopardize our fundraising abilities in the future.

At this time with the above in mind, and after significant input from our Board of Directors, HFHOC can continue discussions based on the following criteria:

1. The \$1.5 million developer fee to HFHOC will need to be protected, yet will have no impact on the "Subsidy Cap" number that follows. Simply put, any fundraising for this site will first go toward ensuring the developer fee to

HFHOC. However, we are not asking ICLT to increase the Subsidy Cap to guarantee our developer fee.

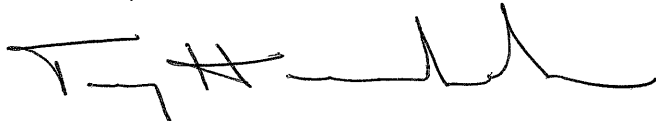
2. The "Subsidy Cap" is the maximum dollar outlay that the ICLT will infuse into the project. That total amount is to be set at \$7,500,000. This number shall include project contributions up to \$3,032,800 and "land liens/fees" contributions of \$4,467,200.

The project contributions within the subsidy cap reflects the uncertainty of future construction costs considering that we are at a minimum 14 months out to being able to enter into a G-max contract. We are proposing that if the G-max contract comes in less than what is reflected in the pro-forma, that the ICLT project contributions would be reduced by such amount.

3. The pre-development costs were always part of the ICLT subsidy and were to be paid by ICLT. The issue of timing seems minor here. HFHOC cannot assume additional risk at this point. The deal structure has us at risk for the construction loan and our management expenses until the first phase of construction is complete. ICLT will need to reimburse HFHOC for the pre-development costs as they occur. Additionally, our concern here is the breach language deemed necessary by ICLT. We are not in a position to risk these pre-development dollars with no clear definition of what would constitute "breach of contract" and what would be grounds for termination. Consequently, all pre-development costs need to be reimbursed as they are expended.
4. The "Fundraising" component we propose is fairly straightforward. Any fundraising dollars generated would first go to ensure HFHOC's \$1.5 million developer fee. The next \$1 million received would go directly to the ICLT. Any additional fundraising revenue would be split 50/50 between HFHOC and ICLT, yet with a cap to ICLT equal to that of the "project contributions" of \$3,032,800, as noted previously.

We are pleased to be a part of this much needed affordable housing development, and are excited about moving forward. This partnership between HFHOC and the ICLT will be one that we will all look back on with great pride and will serve as a model for other Habitat affiliates, land trusts and cities in the future.

Sincerely,



Troy Hendrickson
V.P. Construction/Real Estate Development

Cc: Sharon Ellis

AGENDA ITEM #5



REQUEST FOR IRVINE COMMUNITY LAND TRUST BOARD ACTION

LAND TRUST BOARD MEETING DATE:

JUNE 18, 2018

TITLE: LEGISLATION UPDATE

Mark Asturias

Executive Director

RECOMMENDED ACTION:

Review and provide direction to staff.

BACKGROUND:

Senate Bill 1056 Update

Senate Bill 1056, sponsored by the California Community Land Trust Network and the Irvine Community Land Trust, grants a property welfare exemption to land trusts upon acquisition of property. The exemption is effective for a maximum of five years to allow land trusts time to develop and then lease the property to rental housing developers or home buyers. SB 1056 passed in the State Senate and was referred to the State Assembly for review and concurrence (Attachment 1). Hearings on the bill should happen later this month and will require attendance by staff to testify in support.

Staff has been working with the California Assessor's Association to address concerns they have over language in the bill. The Assessor's Association has requested four amendments to our legislation that include the following:

1. A trigger date, not to exceed four years, where a land trust would need to pay back property taxes if development has not commenced on the property. Current language provides for five years.
2. A multi-use clarification that the exemption applies only to the affordable housing portion of a project if the site is developed with multiple uses.
3. A sunset provision to ensure the exemption is providing the desired outcome and to protect against land banking abuse.
4. An expansion of the welfare exemption to all developers of affordable housing.

Staff has responded to the Assessor's Association and is in ongoing conversations about their above proposal. Generally, staff is not supportive of four versus five years for a trigger to repay property taxes. The Nightmist project is an example where five years is needed to get through negotiation, entitlements, construction and completion. The clarification on multi-use is appropriate since community land trusts are focused on developing affordable housing state-wide. However, the clarification will need to be worded so as to allow the exemption to apply to other

qualifying uses that occupy a portion of the property, such as the land trust offices that will be located in the Nightmist project. Staff does not support a sunset provision since community land trusts do not land bank. It is unnecessary to have a legislative review and the five year exemption term is incentive to get projects under construction. The expansion of the welfare exemption to all developers is not supported by land trusts throughout California. Community land trusts are unique in that they develop perpetually affordable housing and are in need of this legislation since they are a new model of development. Many other affordable housing developers create affordable projects that are limited term, using tax credits or state density bonus laws and they receive financial and discretionary benefits using those existing programs. These items continue to be discussed and may result in future amendments to Senate Bill 1056. If amended, with the support of the Network and the Land Trust, the legislation will be sent back to the Senate for concurrence and then onto the Governor for signature.

Assembly Bill 448

As the Board is aware, Orange County has been in the news over homeless issues. Orange County State legislators, County and City elected officials have attempted to work on solutions to address the issue on a county-wide basis. One proposal that has surfaced is legislation to create a Housing Trust Fund for the purpose of financing housing that specifically assists the homeless population. Assembly Bill 448 (Attachment 2) has been introduced by Members Daly and Quirk-Silva to permit the creation of a joint powers authority called the Orange County Housing Trust. The draft bill language includes a general process for the creation of the Housing Trust, its powers, make-up and proposed activities.

The concept will create a joint powers authority that can provide funding for the planning and construction of affordable housing. There will be no land use controls granted the Authority and it will not own or operate any affordable housing projects. In addition, the Authority can have representation from every city and the County and may include community stakeholders. Included in the concept, is the idea of working with the community to obtain private funding that can be leveraged with other public funding to facilitate the development of housing. The authority will be another tool allowing Orange County jurisdictions to cooperatively work together on homeless developments.

The Land Trust may wish to consider sending a letter of support on this legislation as it specifically provides ways to fund affordable housing projects in Orange County.

Attachments:

1. Senate Bill 1056 in print as amended May 9
2. Assembly Bill 448 as amended May 31

AMENDED IN SENATE MAY 9, 2018
AMENDED IN SENATE APRIL 25, 2018

SENATE BILL

No. 1056

Introduced by Senator Beall
(Coauthors: Senators Hertzberg, McGuire, Newman, Portantino,
and Wieckowski)
(Coauthor: Assembly Member Choi)

February 12, 2018

An act to add Section 214.18 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1056, as amended, Beall. Property taxes: welfare exemption: community land trust.

Existing property tax law, in accordance with the California Constitution, provides for a "welfare exemption" for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met.

This bill, for lien dates occurring on and after January 1, 2019, would provide that property is within the welfare exemption if that property is owned by a community land trust, as defined, otherwise qualifying for the welfare exemption, and specified conditions are ~~met~~ *met, including that the property is being or will be developed or rehabilitated as housing, as specified*. The bill would prohibit this exemption from being denied on the basis that the subject property does not currently contain specified property that is in the course of construction. *However, the bill would make the community land trust liable for property tax for the years for which the property was exempt under these provisions*

if the property was not developed or rehabilitated for housing, or if the development or rehabilitation is in the course of construction, within 5 years of the lien date following the acquisition of the property.

By imposing new duties upon local government officials with respect to the exemption provided by this bill, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Existing law requires the state to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding those provisions, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The availability of housing is of vital statewide importance,
- 4 and the development of decent and secure housing for every
- 5 Californian is a priority of the highest order.
- 6 (b) There is currently a severe housing crisis in California,
- 7 especially impacting the ability of persons and families of low and
- 8 moderate income to purchase and own or rent a home or unit.
- 9 (c) Community land trusts and limited equity housing
- 10 cooperatives acquire, develop, rehabilitate, and own single-family
- 11 dwelling units and multifamily housing unit projects for the specific
- 12 purpose of providing, among other affordable housing options,
- 13 limited equity home ownership and affordable rental housing to
- 14 persons and families of low and moderate income.

1 (d) To facilitate the acquisition, development, rehabilitation,
2 financing, ownership, and rental of housing for persons and
3 families of low and moderate income, community land trusts and
4 limited equity housing cooperatives must have certainty and
5 uniformity across the state when valuation of property is conducted
6 by county assessors so that, when acquiring, developing, or
7 rehabilitating property for persons and families of low and
8 moderate income, the value of the property is exempt from property
9 taxation prior to the occupancy or ownership of that housing to
10 facilitate development and rehabilitation of restricted affordable
11 dwellings and units.

12 SEC. 2. Section 214.18 is added to the Revenue and Taxation
13 Code, to read:

14 214.18. (a) Property is within the exemption provided by
15 Sections 4 and 5 of Article XIII of the California Constitution if
16 the property is owned by a community land trust, otherwise
17 qualifying for exemption under Section 214, and all of the
18 following conditions are met:

19 (1) The property is being or will be developed or rehabilitated
20 as any of the following:

21 (A) An owner-occupied single-family dwelling.

22 (B) As an owner-occupied unit in a multifamily dwelling.

23 (C) As a member occupied unit in a limited equity housing
24 cooperative.

25 (D) As a rental housing development.

26 (2) Improvements on the property are or will be available for
27 use and ownership or for rent by qualified persons.

28 (3) (A) A deed restriction or other instrument, requiring a
29 contract or contracts serving as an enforceable restriction on the
30 value of owner-occupied units or on the affordability of rental
31 units is recorded on or before the lien date following the acquisition
32 of the property by the community land trust. ~~A~~

33 (B) *For purposes of this section, "a contract or contracts serving*
34 *as an enforceable restriction on the value of owner-occupied units*
35 *or on the affordability of rental units" means a contract described*
36 *in paragraph (11) of subdivision (a) of Section 402.1.*

37 (C) A copy of the deed restriction or other instrument shall be
38 provided to the assessor.

39 (b) ~~In~~ *Subject to subdivision (d), in the case of property not*
40 *previously designated as an open space, the exemption provided*

1 by subdivision (a) shall not be denied to a property on the basis
2 that the property does not currently contain a single-family
3 dwelling, a unit in a multifamily dwelling, a unit in a limited equity
4 housing cooperative, or a rental housing development that is in
5 the course of construction.

6 (c) For purposes of this section, all of the following definitions
7 shall apply:

8 (1) “Community land trust” has the same meaning as that term
9 is defined in clause (ii) of subparagraph (B) paragraph (11) of
10 subdivision (a) of Section 402.1.

11 (2) “Limited equity housing cooperative” has the same meaning
12 as that term is defined in Section 817 of the Civil Code.

13 (3) “Persons and families of low or moderate income” has the
14 same meaning as that term is defined in Section 50093 of the
15 Health and Safety Code.

16 (4) “Qualified persons” means persons and families of low or
17 moderate income, including persons and families of low or
18 moderate income that own a dwelling or unit collectively as
19 member occupants or resident shareholders of a limited equity
20 housing cooperative.

21 (5) “Rental housing development” means a rental housing
22 development in which all of the residential units in the
23 development, other than units provided to property managers, are
24 required to be rented to, and occupied by, persons and families of
25 low or moderate income, at rents that do not exceed an affordable
26 rent as described in Section 50053 of the Health and Safety Code.

27 *(d) Notwithstanding any other law, the community land trust*
28 *shall be liable for property tax for the years for which the property*
29 *was exempt from taxation pursuant to this section if the property*
30 *was not developed or rehabilitated, or if the development or*
31 *rehabilitation is in the course of construction, in accordance with*
32 *paragraph (1) of subdivision (a) within five years of the lien date*
33 *following the acquisition of the property by the community land*
34 *trust.*

35 ~~(d)~~

36 (e) This section shall apply to lien dates occurring on and after
37 January 1, 2019.

38 SEC. 3. If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code.

3 SEC. 4. Notwithstanding Section 2229 of the Revenue and
4 Taxation Code, no appropriation is made by this act and the state
5 shall not reimburse any local agency for any property tax revenues
6 lost by it pursuant to this act.

7 SEC. 5. This act provides for a tax levy within the meaning of
8 Article IV of the California Constitution and shall go into
9 immediate effect.

O

AMENDED IN SENATE MAY 31, 2018

AMENDED IN ASSEMBLY MAY 18, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 448

Introduced by Assembly Member Members Daly and Quirk-Silva
(Coauthors: Senators Bates, Moorlach, and Nguyen)

February 13, 2017

An act to ~~amend Section 54930 of~~ *add Section 6539.5 to the Government Code, relating to local government: joint powers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 448, as amended, Daly. ~~Local governments: parcel taxes: notice.~~
Joint powers authorities: Orange County Housing Trust.

Existing law authorizes 2 or more public agencies, by agreement, to form a joint powers authority to exercise any power common to the contracting parties, as specified. Existing law authorizes the agreement to set forth the manner by which the joint powers authority will be governed.

This bill would authorize the creation of the Orange County Housing Trust, a joint powers authority, for the purposes of funding housing specifically assisting the homeless population and persons and families of extremely low, very low, and low income within the County of Orange, as specified.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Orange.

~~Existing law requires the legislative body of a local agency, as defined, to provide notice of a new parcel tax to the owner of a parcel affected~~

by the tax, if that owner does not reside within the jurisdictional boundaries of the taxing entity, as specified.

This bill would instead require a local agency to provide notice of a new parcel tax to any owner of record of a parcel affected by the tax, if that owner of record does not reside within the jurisdictional boundaries of the taxing entity. The bill would also require the notice to be made within 30 days of the certification of the election approving the new parcel tax. The bill would, with regard to a school district or special district, require the city, county, or city and county in which the district is located, to prepare and mail the notice on behalf of the district. The bill would also require the district to reimburse the city, county, or city and county for the cost of preparing and mailing the notices.

Because this bill would impose new requirements on local entities, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *The County of Orange is in the midst of a fluid and*
- 4 *worsening homelessness crisis. Since 2013, the county has*
- 5 *experienced a 53-percent increase in the unsheltered homeless*
- 6 *population, many of whom have sought shelter over the last five*
- 7 *years on the Santa Ana riverbed and at the Orange County Civic*
- 8 *Center in Santa Ana.*
- 9 (b) *There has been a lack of regional focus that continues to*
- 10 *stymie the implementation of a long-term solution to homelessness*
- 11 *in the County of Orange.*
- 12 (c) *The County of Orange and the cities within the county have*
- 13 *worked together to develop an approach under the Joint Exercise*
- 14 *of Powers Act (Article 1 (commencing with Section 6500) of*
- 15 *Chapter 5 of Division 7 of Title 1 of the Government Code) to*
- 16 *establish and authorize the use of an Orange County Housing*

1 *Trust that would not only be responsible for responding to the*
2 *homelessness crisis with the development of capital projects and*
3 *the acquisition of necessary funds for those projects, but also for*
4 *helping the county respond to the low-income and affordable*
5 *housing crisis that the region is experiencing in tandem with the*
6 *homelessness crisis.*

7 *(d) Permanent supportive housing and other services provided*
8 *to those within that form of housing is a nationally recognized*
9 *model for ending chronic homelessness, and can assist the County*
10 *of Orange in its response to the homelessness crisis.*

11 *(e) Neither the Orange County Housing Trust nor the act*
12 *authorizing the creation of the Orange County Housing Trust do*
13 *either of the following:*

14 *(1) Regulate land use in cities or in the unincorporated area of*
15 *the County of Orange.*

16 *(2) Authorize the Orange County Housing Trust to serve as an*
17 *owner or operator of housing units.*

18 *SEC. 2. Section 6539.5 is added to the Government Code, to*
19 *read:*

20 *6539.5. (a) (1) Notwithstanding any other law, the County of*
21 *Orange and any of the cities within the County of Orange may*
22 *enter into a joint powers agreement pursuant to this chapter to*
23 *create and operate a joint powers agency to fund housing to assist*
24 *the homeless population and persons and families of extremely*
25 *low, very low, and low income, as defined in Section 50093 of the*
26 *Health and Safety Code, within the County of Orange.*

27 *(2) The joint powers agency created pursuant to this section*
28 *shall be known as the Orange County Housing Trust, and shall be*
29 *created and operate in accordance with this section.*

30 *(3) The Orange County Housing Trust shall include the County*
31 *of Orange and may include any, or all, of the incorporated cities*
32 *within the County of Orange.*

33 *(b) The Orange County Housing Trust shall be governed by a*
34 *board of directors consisting of representation from the County*
35 *of Orange, the cities within the county, and other community*
36 *stakeholders.*

37 *(c) Notwithstanding any other law, the Orange County Housing*
38 *Trust may do any of the following:*

39 *(1) Fund the planning and construction of housing of all types*
40 *and tenures for the homeless population and persons and families*

1 of extremely low, very low, and low income, as defined in Section
 2 50093 of the Health and Safety Code, including, but not limited
 3 to, permanent supportive housing.

4 (2) Receive public and private financing and funds, and use
 5 those funds to pledge repayment of debt instruments.

6 (3) Authorize and issue bonds, certificates of participation, or
 7 any other debt instrument.

8 (4) (A) Form and govern an infrastructure financing district
 9 pursuant to Chapter 2.8 (commencing with Section 53395) of Part
 10 1 of Division 2 of Title 5, or an enhanced infrastructure financing
 11 district pursuant to Chapter 2.99 (commencing with Section
 12 53398.50) of Part 1 of Division 2 of Title 5. For purposes of an
 13 infrastructure financing district or enhanced infrastructure
 14 financing district formed by the Orange County Housing Trust,
 15 the Orange County Housing Trust shall constitute a city as that
 16 term is defined in Section 53395.1 or a county as that term is
 17 defined in Section 53398.51, and the board of directors shall be
 18 a legislative body as that term is defined in Sections 53395.1 and
 19 53398.51.

20 (B) An infrastructure financing plan adopted by the Orange
 21 County Housing Trust pursuant to Article 2 (commencing with
 22 Section 53395.10) of Chapter 2.8 or Article 2 (commencing with
 23 Section 53398.59) of Chapter 2.99 of Part 1 of Division 2 of Title
 24 5 may provide for the authority to collect incremental property
 25 tax revenues, pursuant to Section 53396 or 53398.75, as
 26 applicable, from the County of Orange and any city participating
 27 in the Orange County Housing Trust, with the consent and
 28 agreement of the city from which the incremental property tax
 29 revenues are to be collected. An infrastructure financing plan
 30 adopted pursuant to this paragraph shall not include a provision
 31 for the receipt of incremental property tax revenues from any other
 32 affected taxing entity as that term is defined in Section 53395.1 or
 33 53398.51.

34 (d) The Orange County Housing Trust shall incorporate into
 35 its joint powers agreement annual financial reporting and auditing
 36 requirements that shall maximize transparency and public
 37 information as to the receipt and use of funds by the agency.

38 SEC. 3. The Legislature finds and declares that a special statute
 39 is necessary and that a general statute cannot be made applicable
 40 within the meaning of Section 16 of Article IV of the California

1 *Constitution because of the unique challenges faced by the County*
2 *of Orange and the cities located within the county in addressing*
3 *the housing needs of extremely low, very low, and low-income*
4 *households and the homeless within the county.*

5 ~~SECTION 1. Section 54930 of the Government Code is~~
6 ~~amended to read:~~

7 ~~54930. (a) A local agency shall provide notice of a new parcel~~
8 ~~tax to any owner of record of a parcel affected by the tax, if that~~
9 ~~owner of record does not reside within the jurisdictional boundaries~~
10 ~~of the taxing entity. The notice shall be made within 30 days of~~
11 ~~the certification of the election approving the new parcel tax. For~~
12 ~~school districts and special districts, the notice shall be prepared~~
13 ~~and mailed by the county or city or city and county in which the~~
14 ~~school district or special district is located.~~

15 ~~(b) For purposes of this section:~~

16 ~~(1) "Local agency" means any city, county, city and county,~~
17 ~~school district, or special district authorized to impose a parcel~~
18 ~~tax.~~

19 ~~(2) "Parcel tax" means a tax levied by a local agency and~~
20 ~~approved by the voters upon any parcel of property identified using~~
21 ~~the assessor's parcel number system, or upon any person as an~~
22 ~~incident of property ownership pursuant to Section 4 of Article~~
23 ~~XIII A of the California Constitution, that is collected via the annual~~
24 ~~property tax bill.~~

25 ~~(c) The notice shall include, but is not limited to, all of the~~
26 ~~following information:~~

27 ~~(1) The amount or rate of the parcel tax in sufficient detail to~~
28 ~~allow each property owner to calculate the amount of the tax to~~
29 ~~be levied against the owner's property.~~

30 ~~(2) The method and frequency for collecting the parcel tax, and~~
31 ~~the duration of time during which the parcel tax will be imposed.~~

32 ~~(3) The telephone number and address of an individual, office,~~
33 ~~or organization that interested persons may contact to receive~~
34 ~~additional information about the parcel tax.~~

35 ~~(d) The notice shall be accomplished through a mailing, postage~~
36 ~~prepaid, in the United States mail and shall be deemed given when~~
37 ~~so deposited. The notice shall be mailed to a property owner, if~~
38 ~~that owner does not reside within the jurisdictional boundaries of~~
39 ~~the taxing entity subject to the new tax, whose name and address~~
40 ~~appears on the last equalized county assessment roll or the State~~

1 Board of Equalization assessment roll, as applicable. The notice
2 shall be in at least 10-point type, and shall be in one of the
3 following forms:

4 (1) An envelope or mailing which shall include the name of the
5 local agency and the return address of the sender on the cover.

6 (2) A postcard, which shall include the name of the local agency
7 and the return address of the sender on the front, and include the
8 following information on the back in this format:

9

10	Dear Property Owner:
11	-
12	The local agency named on the front of this postcard imposed a parcel tax.
13	-
14	The parcel tax will be:
15	
16	1. Levied at a rate of _____ -
17	[Amount or Rate of the Tax]
18	2. Collected _____ -
19	[Frequency and Method of Collection]
20	3. Levied _____ -
21	[Specify number of years or if indefinitely]
22	If you have any questions about the tax, please contact:
23	-
24	[Name and Telephone Number]
25	-
26	[Address]
27	-
28	[Email Address or Website Address]

29

30 (e) The local agency may recover the reasonable costs of the
31 notice required by this section from the proceeds of the parcel tax.
32 A school district or special district shall reimburse the county, city,
33 or city and county that prepares and mails the notice for the cost
34 of preparing and mailing the notice. The costs recovered for these
35 purposes, whether recovered pursuant to this subdivision or any
36 other provision of law, shall not exceed the reasonable costs of
37 preparing and mailing the notice.

38 SEC. 2. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because

1 a local agency or school district has the authority to levy service
2 charges, fees, or assessments sufficient to pay for the program or
3 level of service mandated by this act, within the meaning of Section
4 17556 of the Government Code.

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