



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

County Counsel

DATE: June 26, 2007

BOARD MEETING DATE: July 10, 2007

SPECIAL NOTICE/HEARING: None

VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Thomas F. Casey III, County Counsel

SUBJECT: Resolution authorizing the County Manager to offer housing assistance loans as an incentive to Individuals accepting senior or "hard to fill" management-level positions of employment with the County of San Mateo, and authorizing a housing assistance loan to the Human Services Agency Director

RECOMMENDATION:

Adopt a resolution:

1. Authorizing the County Manager to offer housing assistance loans as an incentive to individuals accepting employment with the County as Assistant or Deputy County Managers, or as Department Directors or Deputy Directors, or in other management-level positions determined by the County Manager, after consultation with the Director of Human Resources, to be "hard to fill" positions; and
2. Authorizing a housing assistance mortgage loan to the Human Services Agency Director.

VISION ALIGNMENT:

Commitment: Partnerships - Responsive, effective and collaborative government.

Goal(s): 20 – Government decisions are based on careful consideration of future impact, rather than temporary relief or immediate gain.

BACKGROUND:

In recent years, the County has needed to offer mortgage loans as housing assistance incentives to certain job candidates in order to effectively compete in the labor market. For example, approximately five years ago, when the County sought

to hire a new Chief Executive Officer for the San Mateo Medical Center, the County found it necessary to offer a secured housing assistance loan as an incentive to motivate the County's preferred candidate to relocate and accept employment with the County. Similarly, when the County recently offered employment to the current Assistant County Manager, the County found it necessary to assume the mortgage loan that had been made by his former public agency employer. Other candidates for County employment have expressed strong reservations about relocating to the area because of the high cost of housing in the County.

Because of the frequency with which such housing assistance is sought by candidates for senior positions with the County and the sometimes fast-moving pace of negotiations, the County Manager has indicated that it would improve the County's competitive position in the labor market if the Board granted him authority to offer certain candidates for employment a housing assistance mortgage loan as an incentive. Specifically, the County Manager requests that such authority extend to candidates for employment as Assistant or Deputy County Managers, or as Department Directors or Deputy Directors, or in other management-level positions determined by the County Manager, after consultation with the Director of Human Resources, to be "hard to fill" positions. The phrase "hard to fill" is a term of art in the Human Resources field, so there is a form of objective standard that can serve as guidance in making the determination.

The relatively recent recruitment of the current Human Services Agency Director, Beverly Beasley Johnson, included as an incentive, an offer to seek authority from the Board to consummate a housing assistance mortgage loan.

DISCUSSION:

As noted, the instant program proposal is to vest the County Manager with the authority to offer a housing assistance mortgage loan as an incentive to candidates for senior or "hard to fill" management-level positions of employment with the County, including Assistant or Deputy County Managers and Department Directors or Deputy Directors.

Further, in order to be eligible for such an incentive loan, the candidate would have to purchase a home within one year of beginning employment with the County and would have to use the proceeds of the incentive loan in order to finance, in whole or part, the purchase of a residence within the county. Moreover, the candidate must be relocating from out of the immediate commuting area of the County's offices. Specifically, to be eligible for such a loan, the candidate's new main job location would have to be at least fifty (50) miles further from the candidate's former home than the candidate's former main job location was from the candidate's former home. (This "fifty mile test" is derived from the federal Internal Revenue Code provisions related to the deductibility of relocation expenses.)

Also, any housing assistance incentive mortgage loans made pursuant to this authority would be for an amount not to exceed one million dollars (\$1,000,000.00) and would be made at an initial interest rate that is comparable to the County

Treasurer's pooled rate for County investments. All loans would be secured by appropriate promissory notes and deeds of trust and could, at the County Manager's discretion, be subordinated to other financing from a commercial mortgage lender. Likewise, all loans would be subject to a satisfactory appraisal of the property to be purchased, including a showing that the County's loan would be adequately secured through the equity of the borrower and/or the value of the property. The issuance of a title insurance policy insuring the County's interest in the purchased property would also be a requirement.

All housing assistance incentive mortgage loans would be for a period of not more than thirty years and would be repayable on terms determined by the County Manager. All loans would be due and payable within a period not more than 180 days after the employee in question leaves his or her County employment for any reason, or immediately upon sale of the property that was purchased with the housing assistance incentive mortgage loan.


The County Manager would make a written report to all Board members within thirty (30) days after a housing assistance incentive mortgage loan is made pursuant to this authority.

The proposed housing assistance mortgage loan to the Human Services Agency Director meets all of the requirements of the program authority sought by the County Manager. In addition, the home to be purchased is located in East Palo Alto, and it is anticipated that there is something to be gained countywide in having a prestigious County Department Director purchase a home there. The terms of the loan are set forth in the form of the Note as attached to this memo.

FISCAL IMPACT:

The fiscal impact of any housing assistance incentive mortgage loan will depend on the specific terms negotiated with the candidate for employment and on whether there is any significant change to the average pooled fund rate, which is the return the County receives on its pooled investments. Over the last ten years, that rate has varied from a yearly high of 5.92% to a yearly low of 2.82%; and the rate at the end of May of this year stood at 4.61%. Assuming that there are no significant changes in the pooled funds interest rate, the County should realize approximately the same return that the County would receive from its pooled earnings for the loan to the Human Services Agency Director, and for all housing assistance incentive mortgage loans that may be made in the future.


THOMAS F. CASEY III COUNTY CLERK

RECOMMENDED
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NANCY HANSEN
COUNTY MANAGER

TFC:lat

cc: John Maltbie, County Manager

Attachment

PROMISSORY NOTE

\$850,250.00
Redwood City, California

July 20, 2007

The undersigned (Borrowers) have received a loan of Eight Hundred Fifty Thousand Two Hundred and Fifty Dollars and No Cents (\$850,250.00) from the County of San Mateo, a political subdivision of the state of California ("Holder") for the purpose of the purchase of the single family residence at 100 Maple Lane, East Palo Alto, California (the "Property"), and promise to repay the principal amount of such loan, with interest as set forth in this Note, at the County of San Mateo – County Manager's Office, 400 County Center, 1st Floor, Redwood City, California, or such other place as may be directed by Holder. All sums due are payable in lawful money of the United States of America. The unpaid principal amount of this Note will bear interest at the rate of four and sixty-one one hundredths of a percent (4.61%) per annum, computed on the basis of a 360-day year.

Borrowers will pay to Holder the principal amount of this Note, and accrued interest, as follows:

Borrowers will make an initial payment of interest only on the first day of August 2007, covering interest accrued on this Note from the date hereof to August 1, 2007. After, that Borrowers will make 360 equal monthly installments of principal and interest, which will be in the amount of \$4,363.84 each, and will be due on the first day of September 2007 and the first day of each succeeding month after that.

The final payment of this Note, which will be in an amount equal to the entire outstanding principal balance of this Note, together with all accrued and unpaid interest, will be due on August 1, 2037 ("Maturity Date"), unless due earlier as set forth below.

All payments on this Note will be applied first to the payment of any costs, fees, late charges, or other charges incurred in connection with the indebtedness evidenced by this Note; next, to the payment of accrued interest; then to the reduction of the principal balance; or in any other order that Holder requires.

If any of the monthly payments on this Note are not paid when the same becomes due or if default is made under the Deed of Trust securing this note, then or any time thereafter, the whole of the unpaid principal and interest owing on this note, and also the whole of the unpaid principal and interest owing on

every other note secured by said Deed of Trust shall, at the election of the Holder hereof and without notice, become immediately due and payable.

If this Note is not paid when due or if any other event of default occurs, Borrowers promise to pay all costs of collection, including, but not limited to, reasonable attorneys' fees incurred by the Holder to enforce the terms and conditions herein, whether or not such enforcement includes the commencement of a lawsuit. A penalty of four percent (4%) of the monthly amount due shall be payable if any payment due is made after the 15th of the month in which it is due.

A Deed of Trust secures this note to First American Title Company, a corporation, as Trustee. Said Deed of Trust contains the following provision among others: "THE LOAN SECURED BY THIS DEED OF TRUST SHALL NOT BE TRANSFERABLE OR ASSUMABLE. UPON ANY SUCH ATTEMPTED TRANSFER OR ASSUMPTION, ALL INDEBTEDNESS OR OBLIGATIONS SECURED HEREBY SHALL BECOME IMMEDIATELY DUE AND PAYABLE, IRRESPECTIVE OF THE MATURITY DATE SPECIFIED IN ANY NOTE, EVIDENCING THE SAME. IN ADDITION, IF THE TRUSTOR SHALL SELL, CONVEY OR ALIENATE SAID PROPERTY, OR ANY PART THEREOF, OR ANY INTEREST THEREIN, OR SHALL BE DIVESTED OF TITLE OR ANY INTEREST THEREIN IN ANY MANNER OR WAY, WHETHER VOLUNTARY OR INVOLUNTARY, WITHOUT THE WRITTEN CONSENT OF THE BENEFICIARY BEING FIRST HAD AND OBTAINED, BENEFICIARY SHALL HAVE THE RIGHT, AT ITS OPTION, EXCEPT AS PROHIBITED BY LAW, TO DECLARE ANY INDEBTEDNESS OR OBLIGATIONS SECURED HEREBY, IRRESPECTIVE OF THE MATURITY DATE SPECIFIED IN ANY NOTE EVIDENCING THE SAME, IMMEDIATELY DUE AND PAYABLE" and the undersigned agrees to be bound thereby.

Accordingly, the undersigned acknowledge and agree that, consistent with applicable law, Holder may accelerate the maturity date of the principal and accrued interest on this Note in the event that the Property is sold, conveyed or alienated, except as may be prohibited by law, including section 2924.6 of the California Civil Code.

The undersigned acknowledge that the loan evidenced by this Note is a special purpose loan in that it has been and continues to be specifically negotiated as a part of the undersigned, Beverly Beasley Johnson's, terms of employment, and that the general aspects of the Holder's employment relationship with the undersigned indicate that the loan is fashioned for the undersigned alone and, therefore, shall not be assumable and shall be due and payable as provided above.

Furthermore, the loan evidenced by this Note shall be all due and payable within 180 days of either the termination for any reason of the undersigned, Beverly Beasley Johnson's employment with the County of San Mateo, or termination of the use of the above-mentioned Property as the principal residence of the Borrowers, whichever comes first. Nothing herein confers upon the Borrowers, or either of them, any right to continued employment by Holder, as a result of the repayment obligations under the Note, or otherwise.

The undersigned may prepay at any time all or a portion of the loan without penalty, however, any prepayment will be in an amount of not less than \$1,000.00

Beverly Beasley Johnson

Thomas Johnson

Approved as to form:

Michael P. Murphy,
Assistant County Counsel

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION AUTHORIZING THE COUNTY MANAGER TO OFFER HOUSING ASSISTANCE LOANS AS AN INCENTIVE TO INDIVIDUALS ACCEPTING EMPLOYMENT WITH THE COUNTY AS ASSISTANT OR DEPUTY COUNTY MANAGERS, OR AS DEPARTMENT DIRECTORS OR DEPUTY DIRECTORS, OR IN OTHER MANAGEMENT POSITIONS DETERMINED BY THE COUNTY MANAGER, AFTER CONSULTATION WITH THE DIRECTOR OF HUMAN RESOURCES, TO BE “HARD TO FILL” POSITIONS; AND AUTHORIZING A HOUSING ASSISTANCE MORTGAGE LOAN TO THE HUMAN SERVICES AGENCY DIRECTOR

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, there is frequently a limited pool of qualified candidates for the County of San Mateo’s employment vacancies at the management level of employment, including Assistant or Deputy County Managers and Department Directors or Deputy Directors; and

WHEREAS, many especially qualified candidates for employment in senior or “hard to fill” management positions have expressed concern about accepting such employment due to the high cost of housing in the San Mateo County area; and

WHEREAS, this Board believes that the County will be better able to compete for the most qualified candidates for senior-level and other “hard to fill” management positions by offering housing assistance mortgage loans as incentives in appropriate cases and desires to vest the County Manager with the authority to offer such incentives to candidates for senior-level and other “hard to fill” management positions of

employment in cases deemed appropriate by the County Manager; and

WHEREAS, there has been presented to this Board for its consideration and acceptance an individual housing assistance mortgage incentive loan in connection with the recent recruitment of a new Human Services Agency Director, (the "HSA Director Loan") which loan serves as another example of the value and benefit of such incentive mortgage loans, reference to which loan documents is hereby made for further particulars, and this Board has examined and approved the mortgage loan terms and desires to consummate the same.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED as follows:

The County Manager shall have the authority to offer and make a housing assistance mortgage loan as an incentive to any candidate to accept an appointed (as opposed to elected) senior-level or "hard to fill" management positions with the County. This authority is subject to the following conditions:

1. Each candidate offered such housing assistance mortgage loan incentive must be a candidate for employment at the level of Assistant or Deputy County Manager, or Department Director or Deputy Director, or for employment in a management position determined by the County Manager, after consultation with the Director of Human Resources, to be a "hard to fill" position.
2. In order to receive a housing assistance mortgage loan from the County, a candidate must accept employment with the County and purchase a

home, located within the County, within one year of beginning employment with the County. The candidate's new main job location with the County must be at least fifty (50) miles farther from the candidate's former home than the candidate's former main job location was from the candidate's former home.

3. A housing assistance mortgage loan made pursuant to the authority set forth in this Resolution shall consist of a loan to the candidate once the candidate has assumed employment with the County, which loan proceeds must be used to finance, in whole or in part, the purchase of a residence within the County. The County Manager shall have the authority to authorize a loan of up to one million dollars (\$1,000,000.00) at an initial interest rate that is comparable to the County Treasurer's pooled rate for County investments. All loans shall be secured by appropriate promissory notes and deeds of trust and may, at the County Manager's discretion, be subordinated to other financing from a commercial mortgage lender. In all cases, such loans shall be subject to satisfactory appraisal of the property, a showing of adequate security for the loan, through equity or the value of the property, or both, and the issuance of a title insurance policy insuring the County's interest in the property.
4. A housing assistance mortgage loan made pursuant to this authority shall be for a period of not more than thirty (30) years and shall be repayable on terms determined by the County Manager; provided, however, that such loans shall be repaid, at the latest, within one hundred and eighty (180)

days after the recipient of the loan leaves County employment for any reason or immediately upon sale of the residence that was purchased with the housing assistance mortgage loan.

5. The County Manager, or his designee, shall have the authority to take the actions necessary to consummate a housing assistance mortgage loan made under the terms set forth herein, including executing and accepting on behalf of the County, such notes, deeds of trust, notices, escrow instructions, consents, and approvals or other documentation, as may be required in connection therewith.
6. Within thirty (30) days after a housing assistance mortgage loan is completed pursuant to the authorization granted pursuant to this Resolution, the County Manager shall make a written report of the material terms of such loan to each member of the Board of Supervisors.
7. This Resolution and the authorization provided hereby do not limit this Board's discretion to grant mortgage assistance incentives to candidates for employment in positions other than those specified herein. Likewise, neither this Resolution nor the authorization provided hereby limits this Board's discretion to grant mortgage assistance loans and incentives to candidates for County employment on terms different from those stated herein.

BE IT FURTHER DETERMINED AND ORDERED, that the HSA Director Loan is authorized in an amount equal to \$850,250.00, and that the County Manager, or his designee, is authorized to take the actions necessary to consummate the

HSA Director Loan, including executing and accepting on behalf of the County, such notes, deeds of trust, notices, escrow instructions, consents, and approvals or other documentation, as may be required in connection therewith.

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