

REPORT

DATE ISSUED: May 28, 2008

REPORT NO: HCR08-101

ATTENTION: Chair and Members of the Housing Commission  
For the Agenda of August 15, 2008

SUBJECT: Memorandum of Understanding with the San Diego Capital Collaborative

REQUESTED ACTION:

That the Housing Commission, on behalf of the San Diego City-County Reinvestment Task Force (RTF), enter into a Memorandum of Understanding (MOU) with the San Diego Capital Collaborative (SDCC) for the purpose of preparing a business plan establishing a regional land bank.

STAFF RECOMMENDATION:

Authorize the Interim President and CEO of the Housing Commission to execute all pertinent documents to effectuate the execution of the MOU.

BACKGROUND:

On September 20, 2007 the RTF adopted a resolution supporting the investigation of the creation of a regional land bank for the purposes of acquiring foreclosed properties for affordable housing. Land banking is the accumulation of foreclosed properties for the express purposes of re-selling them to eligible low-income and moderate families.

Since the adoption of that resolution, the housing foreclosure crisis has had a significant impact on San Diego County. San Diego County's foreclosure rate is the 9<sup>th</sup> highest nationally. The high incidences of foreclosures have created significant instability in San Diego's housing market (declining market values, restrictive credit, and a decline in the production of new housing). The RTF has determined that San Diego's low and moderate income communities are disproportionately impacted by the foreclosure crisis. These communities are experiencing a higher incidence of foreclosures and a corresponding increase in vacant and abandoned properties. Additionally, the decline in property values is resulting in a decline in community wealth, decreasing tax base for city services and schools, and is contributing to further disinvestment.

In response to this national crisis, the United States Congress passed the American Housing Rescue and Foreclosure Prevention Act of 2008 (H.R. 3221) on July 26, 2008 which the President of the United States signed into law on July 30, 2008. Embedded in H.R. 3221 is a one-time emergency assistance earmark of \$3.9 billion that will be designated for states and units of local government. One of the eligible uses for this funding is land banking.

The mission of the RTF is to spur private and public financing of affordable housing and economic development in areas suffering from disinvestment. One of the RTF's primary goals is to develop strategies for investment in underserved areas. Together with the SDCC, the RTF sees the creation of a regional land bank as one strategy that can address the number of foreclosed properties in San Diego County.

On June 19, 2008 the RTF Board recommended that the RTF enter into a MOU with SDCC for the purposes of developing a business plan for the creation of a regional land bank. On July 17, 2008 the RTF Board asked for the MOU to be presented to the Housing Commission to enter into the MOU on behalf of the RTF due to the Housing Commission having administrative responsibility for the RTF.

Under the terms of the MOU (Attachment 1) SDCC will have responsibility for the preparation of the business plan and shall provide the staff resources necessary to prepare the business plan at no cost to RTF. SDCC will consult regularly with the RTF in the preparation of the business plan. Additionally, both the RTF and SDCC agree to cooperate in seeking grants and other sources of seed capital to fund any necessary studies, data analysis, or consultant services mutually determined to be necessary for the preparation of the business plan and SDCC will act as fiscal agent to facilitate such grants and/or seed capital. However, neither party shall be obligated to provide funds for such studies, data analysis, or consultant services.

This agreement constitutes the first of several MOU's concerning the subject matter. This MOU is limited to the preliminary phase of preparing and adopting a business plan for the concept of land banking. Subsequent MOUs will deal with the rights and duties of the parties, if any, concerning the implementation of the business plan, as ultimately adopted by the RTF.

FISCAL CONSIDERATIONS:

Approval of this MOU does not authorize the expenditure of any funds by the Housing Commission nor the RTF concerning the preparation and/or adoption of the business plan. Funding, if any, concerning the implementation of the business plan will be the subject of subsequent agreements between the parties.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The RTF Board considered this MOU at their July 19, 2008 regularly scheduled meeting but due to the Housing Commission having administrative responsibility for the RTF, the RTF Board deferred the decision to the Housing Commission Board.

ENVIRONMENTAL REVIEW:

This activity is not a "project" and is therefore not subject to the California Environmental Qualities Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

KEY STAKEHOLDERS & PROJECTED IMPACTS:

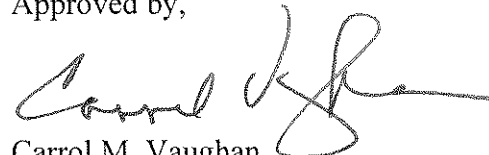
The results of this particular MOU will not have any foreseeable impacts on any key stakeholders. The resulting MOUs and land bank initiative have the potential to create more affordable housing opportunities in the San Diego region.

Respectfully submitted,



D. Todd Philips  
Director, Policy and Public Affairs

Approved by,



Carrol M. Vaughan  
Interim President & Chief Executive Officer

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into as of July 17th, 2008 (the “Effective Date”) by and between the San Diego Housing Commission, a public agency on behalf of the San Diego City/County Reinvestment Task Force (“RTF”), a quasi-public entity and the San Diego Capital Collaborative (“SDCC”), a non-profit corporation.

A. Background

1. The mission of the RTF is to spur private and public financing of affordable housing and economic development in areas suffering from disinvestment. Its two primary goals are to monitor lending practices and policies; and develop strategies for investment in underserved areas.
2. SDCC was sponsored by the RTF. The mission of the SDCC is increase the social and economic viability of San Diego’s urban neighborhoods by establishing a new industry standard for socially responsible investment of private capital in low and moderate income communities.
3. The current foreclosure crisis has had a significant impact on San Diego County. San Diego County’s foreclosure rate is the 9<sup>th</sup> highest nationally. The high incidences of foreclosures have created significant instability in San Diego’s housing market (declining market values, restrictive credit, and a decline in the production of new housing).
4. The RTF has determined that San Diego’s low and moderate income communities are disproportionately impacted by the foreclosure crisis. These communities are experiencing a higher incidence of foreclosures and a corresponding increase in vacant and abandoned properties. Additionally, the decline in property values is resulting in a decline in community wealth, decreasing tax base for city services and schools, and is contributing to further disinvestment.
5. The SDCC has determined that the negative impacts caused by the foreclosure crisis are the primary impediment to the investment of new capital in San Diego’s communities.
6. On September 20, 2007 the RTF adopted a resolution supporting the investigation of the creation of a regional land bank for the purpose of acquiring foreclosed properties for affordable housing.
7. On June 19, 2008 the RTF recommended that the RTF enter into a memorandum of understanding with the San Diego Capital Collaborative for the purposes of developing a business plan for the creation of a regional land bank.

B. Purpose

1. The purpose of this agreement is to set forth the terms under which each of the parties will work cooperatively to develop a business plan for a regional land bank.

#### C. Responsibilities of the Parties

1. SDCC will be the primary party responsible for the preparation of the business plan and shall provide the staff resources necessary to prepare the business plan at no cost to RTF.
2. SDCC will consult regularly with the RTF in the preparation of the business plan.
3. The parties will cooperate in seeking grants and other sources of seed capital to fund any necessary studies, data analysis, or consultant services mutually determined to be necessary for the preparation of the business plan and SDCC will act fiscal agent to facilitate such grants and/or seed capital. However, neither party shall be obligated to provide funds for such studies, data analysis, or consultant services.

#### D. Process

1. The parties acknowledge that the participation of and buy-in by a diverse group of stakeholders (government, business, community, non-profit services providers, etc.) in the business plan development process will enhance the chance of adoption and implementation of the land bank business plan. To facilitate such participation, SDCC will seek input from small working groups organized around the following issues:
  - i. Acquisition Strategy
  - ii. Disposition Strategy
  - iii. Capitalization Strategy and
  - iv. Governance.
2. SDCC will consult with RTF in the establishing the composition of the working groups.
3. The parties shall keep each other apprised of any meetings with government agencies, potential funders, investors, and other major stakeholders regarding the land bank. To the extent practical such meetings should be coordinated between the parties.
4. SDCC will provide periodic reports to the RTF on the progress of the business plan.
5. The business plan will be submitted for review to a subcommittee established by RTF for recommendation to the RTF board. RTF will consult with SDCC regarding the subcommittee composition.

#### E. General Terms

1. This MOU is an expression of the intent of the Parties to work together in good faith to carry out the purpose of the agreement but is not intended as a legally binding agreement.
2. Either party can terminate this agreement upon 15 days written notice.
3. This MOU may be modified upon the mutual written consent of the parties.

4. This agreement may be executed in one or more counterparts.
5. This agreement constitutes the first of several MOUs concerning the subject matter. This MOU is limited to the preliminary phase of preparing and adopting a business plan for the concept of land banking.
6. Subsequent MOUs will deal with the rights and duties of the parties, if any, concerning the implementation of the business plan, as ultimately adopted by the RTF.
7. This MOU does not authorize the expenditure of any funds by the RTF concerning the preparation and/or adoption of the business plan. Funding, if any, concerning the implementation of the business plan will be the subject of subsequent agreements between the parties

Executed the date first mentioned above, at San Diego, California.

On behalf of the City-County Reinvestment Task Force  
By: San Diego Housing Commission, a public agency

By: \_\_\_\_\_  
Carrol Vaughan, Interim President and CEO

San Diego Capital Collaborative

By: \_\_\_\_\_  
Barry Schultz, CEO