

# C Community Development Committee

For the Metropolitan Council meeting of November 12, 2008

Item: 2008-269

## ADVISORY INFORMATION

**Date Prepared:** November 5, 2008

**Subject:** Land Acquisition for Affordable New Development (LAAND) Initiative Funding Recommendations

### Proposed Action:

That the Metropolitan Council award Land Acquisition for Affordable New Development (LAAND) initiative loans from the Livable Communities Demonstration Account to the four projects listed below, totaling \$3,560,000. Each award amount is a maximum dollar amount and subject to an independent appraisal of properties prior to loan disbursement.

The loan to the Washington County Housing and Redevelopment Authority (HRA) is for the Forest Lake and Woodbury sites. Before processing or executing loan documents for the Washington County HRA, staff shall confirm the status of the Forest Lake property. If the Forest Lake site does not meet the Metropolitan Council's LAAND criteria, the maximum award amount to the Washington County HRA will be up to \$440,000 for the Woodbury site that meets the criteria.

Applicant City	Project Name	Recommended Amount
Minneapolis	Franklin Station/Bystrom Bros. Redevelopment Land Acquisition II	\$500,000
St. Paul	Saint Paul Central Corridor LAAND Program	\$1,000,000
Dakota County CDA	Lakeville Cedar Transit	\$1,000,000
Washington County HRA	Washington Co. Strategic Land Acquisition Project	\$1,060,000
	Total	<b>\$3,560,000</b>

### Summary of Committee Discussion / Questions:

Following the staff presentation, the committee asked questions about, and discussed whether the potential for contamination on the sites should be a factor in information required to evaluate applications for the loan funds and in the evaluations themselves. Staff indicated it would bring to the Committee a discussion of the information to be requested of applicants and the evaluation focus before the next round of applications are submitted if the Council continues the LAAND initiative.

The Committee also raised a question about the potential applicability to the LAAND initiative of the LCA funding agreement restriction recently put in place by the Council for projects located in communities that have not submitted comprehensive plan updates by December 31, 2008. Staff indicated that the restrictions had specifically been made applicable to only LCA grants, and that the policy made no mention of loans made from LCA accounts or the LAAND initiative. Staff indicated it would look into the issue and that it would be reflected in the CDC recommendation if applicable.

After discussion, moved by Committee Member Sanda, seconded by Committee Member Bowles, to approve the staff recommendation, and that before processing or executing loan documents for the Washington County HRA, staff shall confirm the status of the Forest Lake property. If the Forest Lake site does not meet the Metropolitan Council's LAAND criteria, the maximum award amount to the Washington County HRA will be up to \$440,000 for the Woodbury site that meets the criteria.



# Community Development Committee

Business Item

Item: 2008-269

Meeting date: October 20, 2008

ADVISORY INFORMATION	
<b>Date:</b>	October 15, 2008
<b>Subject:</b>	Land Acquisition for Affordable New Development (LAAND) Initiative Funding Recommendations
<b>District(s), Member(s):</b>	All
<b>Policy/Legal Reference:</b>	Livable Communities Act, Minnesota Statutes 473.75
<b>Staff Prepared/Presented:</b>	Guy Peterson, Director, Community Development Division, 651-602-1418 Paul Burns, Manager, Livable Communities Program, 651-602-1106
<b>Division/Department:</b>	Community Development, Housing & Livable Communities

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	Total	<b>\$3,560,000</b>

## Background

As a new effort to help communities in their efforts to achieve housing goals, the Metropolitan Council has partnered with Minnesota Housing and the Family Housing Fund on the Land Acquisition for Affordable New Development (LAAND) initiative to provide loan financing to help communities acquire land for future housing projects to address their affordable housing needs. The Council made \$4 million available for the initiative from the Livable Communities Demonstration Account (LCDA) on a one-time basis. The funding initiative prioritizes proposals with land that is close to job growth areas or significant numbers of lower wage jobs, allows for density that is consistent with achieving affordability, minimizes vehicle miles traveled, and implements the Green Communities criteria, Minnesota Overlay or comparable programs in the development process.

Staff developed funding criteria based on the direction of the recommendations of the LCDA Work Group, the Council Chair and the Community Development Committee. Implementation details were developed in cooperation with Minnesota Housing and the Family Housing Fund. The application for funds was done through the Minnesota Housing Community Revitalization Fund Standard Application and their Single Family Request for Proposal (RFP). In addition to the Minnesota Housing RFP, staff sent communications to all Livable Communities participating communities and put information on the Council's web site.

The deadline for applications was July 15, 2008. Seven applications were received from metropolitan area communities. They are summarized in the table below:

Project	Municipality	Applicant Partner Organization	Type of Housing	Loan Request
Lakeville Cedar Transit	Dakota County CDA		Medium Density Rental, 40% Affordable	\$1,000,000
Ivy Estates	Forest Lake	Two Rivers Community Land Trust	6 Single Family Detached Ownership Homes	\$300,000
Franklin Steele Commons	Minneapolis	Aeon	2 Bldg., 85 Unit Rental Project, [34 Market Rate, & 51 Affordable (7 Homeless, 30 @ 50%MI, 14 @ 60%MI)]	\$1,753,635
Franklin Station/Bystrom Bros. Redevelopment Land Acquisition II	Minneapolis	Seward Redesign	Mixed Use, 187 Housing Units & 28,000sf commercial -- 27% affordable, with a mix of rental and ownership	\$1,000,000
PPL West 7th Housing	St. Paul	Project for Pride in Living	48 Unit Rental (10 Homeless, All Affordable @ 60%MI)	\$1,461,200
Saint Paul Central Corridor LAAND Program	St. Paul HRA		High Density Rental (but options could include ownership and up to 30% to be affordable)	\$2,000,000
Washington Co. Strategic Land Acquisition Project	Washington Co. HRA		Multifamily (but potential ownership at the Newport site) Forest Lake \$620,000 Newport \$904,000 Woodbury \$440,000	\$1,964,000
			<b>TOTAL</b>	<b>\$9,478,835</b>

After applications were received, staff sent an acknowledgement document to all applicants from the metropolitan area, and asked that they sign the document, acknowledging the following:

1. The Applicant states that neither the Applicant nor any potential developer: (a) currently owns (or has a purchase agreement for) the property for which LAAND loan funds will be used; and (b) has taken formal steps, other than an option, to acquire the property. Property purchased with LAAND loans cannot be developed until at least one (1) year after the loan closing, but development must commence within five (5) years after the loan closing.
2. Before the LAAND loan agreement is executed, the Applicant will secure an appraisal, through an appraiser approved by the Council, of the parcel or parcels that will be purchased with LAAND loan funds
3. LAAND loan agreements and associated documents will be executed at the time the Applicant closes on the purchase of the property.
4. As long as the Applicant owns the parcel or parcels purchased with the LAAND loan funds, the Applicant will be responsible for the property and all holding costs associated with the property until the property is sold for development.
5. When the Applicant sells the property to a developer, the price stated in the purchase agreement between the Applicant and the developer must be based upon another appraisal of the property
6. LAAND loans are interest-free loans. However, in addition to repayment of the loan amount, under some circumstances, the LAAND loan agreement requires the Applicant to pay to the Funders a portion of the amount by which the property value has appreciated since the Applicant purchased the property with LAAND loan funds.
7. If the property purchased with LAAND loan funds is sold for development other than the development identified in the Applicant's application, the Applicant will relinquish any appreciated land value above the appraised value of the property at the time of the LAAND loan.

8. The Applicant must complete its purchase of the property no later than one (1) year after the date the Applicant was awarded a LAAND loan.
9. The LAAND loan agreement is not assignable and the Applicant cannot re-loan LAAND loan funds to a third party. LAAND loan funds cannot be used to supplant other funding already available for the property purchase.

### **Projects Recommended for Metropolitan Council LAAND Loan Funding**

The following projects are listed in alphabetical order by applicant name. The amounts recommended are an “up-to” amount, with the final dollar amount to be determined after an independent appraisal of the properties is conducted.

- **Dakota County Community Development Agency, Lakeville Cedar Transit.** This loan application is for \$1,000,000 for land acquisition of ten acres for one of two priority land acquisition sites for affordable housing adjacent to the Bus Rapid Transit (BRT) park and ride site along Cedar Avenue in Lakeville. The County’s application indicated that at least 40% of the medium density housing would be affordable (approximately 50 units) at 60% of median income. The staff recommendation is up to \$1,000,000 in Metropolitan Council LAAND funds, the full amount of the request.
- **Minneapolis, Franklin Station/Bystrom Bros. Redevelopment Land Acquisition II.** This loan application for Metropolitan Council funding is for \$500,000 for land acquisition for part of the 4 acre Bystrom development, which is near the Franklin LRT station on the Hiawatha Light Rail corridor. The site is adjacent to the bike trail along the Hiawatha LRT line, 24<sup>th</sup> Avenue on the South, Snelling Avenue to the East and 22<sup>nd</sup> Street and Cedar Avenue on the North. The overall concept for the Bystrom site is to build 187 housing units and 28,000 square feet of commercial space in mixed-use, mixed-income buildings. The application indicates a minimum of 27% of the housing units will be affordable, a mix of rental and ownership. The staff recommendation is up to \$500,000 in Metropolitan Council LAAND funds, half the amount requested in the application. Staff from Minnesota Housing will be recommending their Board approve providing a loan for the remaining \$500,000 of this request.
- **St. Paul HRA, Central Corridor LAAND Program.** This loan application is for \$2,000,000 for land acquisition for affordable housing near the Central Corridor Light Rail Transit future alignment along University Avenue. The City has two Acquisition Strategies. Acquisition Strategy #1: If full funding is awarded, acquire one or more of the opportunity sites the City has identified along the Corridor; or Acquisition Strategy #2: If partial funding is awarded, acquire contiguous single-family parcels, creating opportunity for new development at greater density, within the Invest Saint Paul Target Area (an area generally bordered by I-94 on the South, Lexington Avenue on the West, Minnehaha Avenue on the North and Rice Street on the East). The application indicates a minimum of 30% of the development will be affordable. The staff recommendation is up to \$1,000,000 in Metropolitan Council LAAND funds, half the amount of the request. Staff anticipates the remainder of the loan request will be funded by the Family Housing Fund.
- **Washington County HRA, Forest Oak, Forest Lake; Bill’s Auto, Newport; 94/494 Corridor, Woodbury.** This loan application is for \$1,964,000 for land acquisition at three locations in Washington County: land in the Headwaters PUD in Forest Lake, for a 36 unit multifamily rental tax credit building (100% affordable), for a price of \$620,000; a site in Newport formerly used as an auto salvage yard, body shop and three residences, to be developed for home ownership and possibly rental units, for \$904,000; and a yet-to-be determined site in Woodbury along the 494/94 corridor to be developed into rental units, for \$440,000. The staff recommendation is up to \$1,060,000 in Metropolitan Council LAAND funds, to be directed to the Forest Lake and Woodbury sites. This would be a little over half the request. However, due to prior purchase agreements between the developer partner and the property owner(s), the applicant has not to date been able to confirm whether the Forest Lake site will be able to meet the Metropolitan Council’s criteria. The Metropolitan Council’s LAAND initiative is intended to help acquire for future development properties that currently are not owned by or under the control of applicants (or developer partners), and not currently planned for development.

Therefore, if the Forest Lake project is awarded LAAND loan funds, staff will confirm the status of that property before processing or executing any loan documents. If the Forest Lake site does not meet the Metropolitan Council's LAAND criteria, the maximum award amount will be up to \$440,000 for the parcel that meets the criteria.

### **Projects Not Recommended for Metropolitan Council LAAND Loan Funding**

The following projects could not meet the Council's acknowledgment form because they could not meet either condition (a) or (b) of the first article, and/or the ninth article of the acknowledgment form.

- **Forest Lake, Ivy Estates Development.** This loan application is for \$300,000 to acquire a 1.23 acre lot with six pad-ready lots in a platted subdivision in Forest Lake. Two Rivers Community Land Trust (CLT) intends to construct six housing units and sell them to families with incomes less than 60% of area median income. LAAND funds would allow Two River CLT to purchase the lots now at a discount, but provide them time to raise additional gap and construction financing. The expectation is that needed funds will be raised within two years and homes will be begun to be built within five years. The City of Forest Lake did not sign the Metropolitan Council's acknowledgement form for this proposal, because the city did not feel they could take on the loan themselves (acknowledgment article 9). Staff anticipates this loan request will be funded by Minnesota Housing.
- **Minneapolis, Franklin Steele Commons,** This loan application for Metropolitan Council funding is for \$1,753,635 for land acquisition for part of the final phase of the Portland Gateway development, on the northwest corner of Franklin and Portland Avenues in the Ventura Village neighborhood of South Minneapolis. The joint applicant, along with the City is Aeon (formerly Central Community Housing Trust). The development will include two buildings with 85 units of mixed income housing, and 7 units dedicated to housing homeless. There will be 7 efficiencies, 10 one bedroom, 44 two bedroom and 24 three bedroom apartments. 51 units will be affordable to 30-60% area median income households. The City of Minneapolis did not sign the acknowledgement form for this proposal. They did not feel they could meet the first acknowledgment article.
- **St. Paul, Project for Pride in Living West Seventh Housing.** This loan application is for \$1,461,200 for land acquisition of 6 parcels of land along and near West 7<sup>th</sup> Street in St. Paul to develop a 48 unit affordable multi-family rental project, through Project for Pride in Living. All units will be reserved for families at 60% of area median income. 12 units are 1 bedroom and affordable at 50% of area median income or less. The City of St. Paul did not sign the acknowledgement form for this proposal. They could not meet the tests in the first acknowledgment article.

### **Rationale**

This program is another tool to help communities address their affordable housing needs. The number of applications received for a new program like this after a relatively short period of availability is an indication of the timeliness of such a program.

### **Funding**

The Community Development Committee recommended and the Metropolitan Council approved the 2008 LCA Annual Fund Distribution Plan on April 9, 2008. The approved Distribution Plan included the funding amount of \$4 million for the LAAND program.

### **Known Support / Opposition**

Signed acknowledgements were received from eligible communities for all the projects staff is recommending for funding. No opposition to any of the proposed projects was presented to staff during the application review process.



## Land Acquisition for Affordable New Development (LAAND)

### INITIATIVE DESCRIPTION

#### Overview

The Land Acquisition for Affordable New Development (LAAND) initiative of Minnesota Housing, the Metropolitan Council and the Family Housing Fund provides statewide financing to encourage communities to meet their affordable housing need. Intended to be a flexible source of funding, initially through the consolidated RFP and perhaps eventually on a pipeline basis, to meet communities' affordable housing needs by producing affordable new developments, the LAAND initiative integrates local control with statewide priorities. The funding initiative prioritizes land that is close to job growth areas or significant numbers of lower wage jobs, allows for density that is consistent with achieving affordability, minimizes vehicle miles traveled, and implements Green Communities criteria, Minnesota Overlay or comparable program in the development process.

#### *Eligible Applicants*

Eligible applicants include local units of government, their housing or development agencies and nonprofit organizations. Some funding sources have other limitations on eligible recipients.

#### *Affordability Targets*

Projects constructed on land acquired through the loan program shall have a minimum of 20 percent of housing units developed for affordable units. Units shall be affordable to families earning 60 percent of area median income (AMI) in the Metro area and 80 percent of AMI in Greater Minnesota.

#### Land Acquisition and Development

Recipients shall use the LAAND funds to acquire sites for affordable housing that are consistent with the community's future affordable housing needs and the stated strategic growth goals. Land costs in the area of the proposed project must be an impediment to affordable housing development. Development of the land for affordable housing may not commence within one year of execution of the loan agreement, but must commence within five years of execution of the loan agreement. If an applicant is awarded funding, it may work with a developer of their choice to develop the site and determine its own structure for the transfer of ownership, if applicable. The applicant shall submit updated plans three years from the date of the funding award that describe the number of units anticipated for the site and verify that all comprehensive plan, zoning, or other regulatory changes have been or will be implemented in preparation for development.

## Funding Requirements and Priorities

Location of the land to be acquired must be consistent with the following strategic growth concepts:

- a) the land is within the MUSA line or in the next staging area for MUSA expansion or an area of local wastewater service expansion prior to 2020 as reflected in the community's comprehensive plan (seven-county metropolitan area only),
- b) capital improvements (infrastructure) must be programmed to coincide with the development of the site,
- c) adjacent land must also be planned for development prior to 2020, including land guided for commercial development ,
- d) housing developed on the acquired land must meet the density requirements of the Green Communities criteria, Minnesota Overlay, and
- e) affordable housing must facilitate economic integration either within the planned development on the site purchased with the loan or in the broader community.

Development sites meeting one or more of the following priorities will be given greater consideration for funding:

Sites located within one-half mile of a transitway in the 2030 Transitway System – Northstar, Northwest, Cedar Avenue, I-35W, Central, Red Rock, Rush Line, Southwest, I-394, Hiawatha; or within one-half mile of a local bus route; or within one-half mile of a park-and-ride facility on an express commuter bus or express bus route;

Financial or in-kind contributions by local unit of government or employers that improve the affordability of the housing to be developed; or

Sites proximate to employment centers, or in areas of expected job growth, or with low wage jobs as a greater share of local employment as compared to the regional average in the Metropolitan Area or the statewide average if outside of the Metropolitan Area.

## Funding

Minnesota Housing, the Metropolitan Council, and the Family Housing Fund have collaborated to develop the parameters for funding the land acquisition. Funding beyond the fall 2008 consolidated RFP has not yet been secured. A minimum of \$4 million is available for land acquisition activities in the Metropolitan area through the Livable Communities Act Demonstration Account, which may only go to LCA-eligible metropolitan communities.

The funder will take a security interest in the land acquired.

## Revolving Loan - Repayments

At a minimum, the principal loan amount shall be repaid into a revolving fund for additional land acquisition loans.

Repayment of the appraised value of the site is required at the time of sale of the land. The appraisal must be completed prior to construction and take into consideration the value of the land, based on the land being planned and zoned for the contemplated development.

If the value of the land has appreciated since the original purchase with funds, the proceeds from the sale of the land shall be distributed in sequence as follows:

- 1) the principal amount of the loan shall be repaid to the funders,
- 2) a portion of the appreciated value equal to the portion of the total units in the development that are attributable to affordable units shall be retained by the developer,
- 3) if available, ten percent (10%) of the appreciation shall be repaid to the funders for additional land acquisition loans,
- 4) if available, the balance of the appreciation shall be used to: a) provide funds for additional land acquisition loans, b) provide gap financing for the affordable units, if needed, and/or c) help defray site correction costs, if any. The specific uses of the balance of the appreciation in value shall be determined by the parties to the land at the time of the sale of the land. If no agreement is reached, the balance of the appreciation in value shall be repaid to the funders.

If the value of the land at the time of sale has not appreciated or has depreciated since the loan was issued and the land was acquired, the loan amount or the appraised value at the time of sale, whichever is less, must be repaid to the funders. Any deficiency in the loan will be forgiven.

If the land is not developed within the required time frame, or the required number of affordable units are not developed, the recipient of the loan must repay the loan plus all appreciation in value

## **Long – Term Affordability**

A seven (7) year minimum period of affordability is required for homeownership units. The affordability term for rental housing projects will be determined by the source of permanent financing for the development. The affordability implementation mechanisms are local choice. Highest priority will be given to applicants who require the longest term of affordability of the units.

## **Costs Related to Acquisition**

Costs of appraisals and environmental assessment of the site can be included in the loan amount. Other costs related to land acquisition or holding, such as taxes, insurance, site maintenance, etc. will be the responsibility of the recipient of loan funds. Holding costs paid by the recipient will be considered local contribution or leverage for purposes of evaluation of the proposal under the Economic Development and Housing Challenge program for the use of LAAND funds. Costs of demolition and removal of existing structures on the site and soil correction are not costs that can be included in the loan amount, but they may be addressed in the distribution of appreciated land value at the time of sale and development.



## Evaluation

Following development of the affordable housing component, the funders will evaluate the savings resulting from the earlier acquisition of land for development. This will be compared to the lost opportunity for development of other housing as a result of the use of funding for land acquisition for future development.

# LAAND INITIATIVE

## Metropolitan Council LAAND Initiative Acknowledgments

Applicant Name: City of \_\_\_\_\_

Project: \_\_\_\_\_

The Metropolitan Council's intent in providing loan funding through the Land Acquisition for Affordable New Development (LAAND) initiative is to provide funds to enable Livable Communities Act (LCA)-eligible communities to purchase land to be held for future affordable housing development. The funds are intended to enable applicants to take advantage of current land prices to acquire parcels that will help them meet their affordable housing needs.

The Applicant states that it is a Livable Communities Act-eligible municipality, metropolitan-area county or development authority<sup>1</sup> and acknowledges the following in connection with its application for a LAAND Initiative loan:

1. The LAAND Initiative is intended to help defray land costs and hold land for affordable housing development. The Applicant states that, to the best of its knowledge, neither the Applicant nor any potential developer: (a) currently owns (or has a purchase agreement for) the property for which LAAND loan funds will be used; and (b) has taken formal steps, other than an option, to acquire the property. LAAND Initiative guidelines state that property purchased with LAAND loans cannot be developed until at least one (1) year after the loan closing, but development must commence within five (5) years after the loan closing.
2. Before the LAAND loan agreement is executed, the Applicant will secure an appraisal of the parcel or parcels that will be purchased with LAAND loan funds. The Applicant must use Metropolitan Council-approved appraisers. The loan amount will not exceed this appraisal.
3. LAAND loan agreements and associated documents will be executed at the time the Applicant closes on the purchase of the property.
4. As long as the Applicant owns the parcel or parcels purchased with the LAAND loan funds, the Applicant will be responsible for the property and all holding costs associated with the property until the property is sold for development.
5. When the Applicant sells the property to a developer, the price stated in the purchase agreement between the Applicant and the developer must be based upon another appraisal of the property. If the Applicant is also the developer, the Applicant will not begin development of the land until the Applicant has obtained another appraisal to determine the value of the property at the time of development.

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<sup>1</sup> Pursuant to Minnesota Statutes section 473.253, subdivision 2, Livable Communities Demonstration Account funds must be distributed to "municipalities," metropolitan-area counties or "development authorities." Accordingly, the Applicant must be: (a) a statutory or home rule charter city or town participating in the LCA Local Housing Incentives Account program; (b) Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington County; or (c) a housing and redevelopment authority, economic development authority or port authority in the metropolitan area.

6. LAAND loans are interest-free loans. However, in addition to repayment of the loan amount, under some circumstances, the LAAND loan agreement requires the Applicant to pay to the Funders a portion of the amount by which the property value has appreciated since the Applicant purchased the property with LAAND loan funds.
7. If the property purchased with LAAND loan funds is sold for development other than the development identified in the Applicant's application, the Applicant will relinquish any appreciated land value above the appraised value of the property at the time of the LAAND loan.
8. The Applicant must complete its purchase of the property no later than one (1) year after the date the Applicant was awarded a LAAND loan.
9. The LAAND loan agreement is not assignable and the Applicant cannot re-loan LAAND loan funds to a third party. LAAND loan funds cannot be used to supplant other funding already available for the property purchase.

The individual signing this acknowledgement states that he/she is duly authorized to execute this acknowledgment on behalf of the Applicant.

By: \_\_\_\_\_  
*Signature of Authorized Representative*

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_