



## City Council Report

**Date:** January 23, 2020  
**To:** City Council  
**Through:** Natalie Lewis, Deputy City Manager  
Ruth Giese, Community Services Director  
**From:** Michelle Albanese, Housing & Community Development Director  
**Subject:** Transfer of a CDBG Funded Property to A New Leaf, Inc.  
(Hobson Property: Closest major cross streets are E. University Drive and N. Hobson) (District 4)

### Purpose and Recommendation

The purpose of this report is to seek Council approval for a resolution authorizing: (a) the transfer of a City-owned property encumbered by federal funding to A New Leaf, Inc.; and (b) the City Manager to enter into documents necessary for the transfer. The transfer of the property is recommended by the Community Services Department as the transfer meets the City Council approved Criteria for the Disposition of City Property Encumbered by CDBG, HOME, or NSP Funding to Nonprofit Agencies.

### Background

The City owns several properties acquired, constructed or improved using federal funds awarded by the U.S. Department of Housing & Urban Development (“HUD”) from the following programs - Community Development Block Grant (“CDBG”), HOME Investment Partnership Program (“HOME”), and the Neighborhood Stabilization Program (“NSP”). Many of these properties are leased to nonprofit agencies for the purpose of benefiting households of low- and moderate-income persons.

Historically, City Council has approved the transfer of ownership of many of the HUD funded properties to the nonprofits who lease them when the nonprofits meet certain criteria and agree to continue to provide services benefitting the community for a specified length of time. On August 28, 2017, City Council approved Resolution No. 11018 amending the City’s property transfer, sale and lease policy for HUD funded properties: “Criteria for the Disposition of City Property Encumbered by CDBG, HOME, or NSP Funding to Nonprofit Agencies” (the “Policy”). The Policy outlines procedures and criteria for the City to utilize when a nonprofit agency, who is currently leasing HUD funding encumbered property from the City, requests the property ownership be sold or transferred to the nonprofit; a copy of the Resolution and Policy is included with this

Council Report as *Exhibit A (Resolution 11018)*. Some of the key components of the Policy for the sale/transfer of property are:

- Non-profit agencies must have leased the property for at least ten years, or other period of time City Council determines to be reasonable.
- Prior to bringing approval for a property transfer to City Council, a request to transfer the property must be reviewed by City staff to ensure the nonprofit has utilized the property in accordance with its lease and that the property was maintained in a decent, safe, and sanitary condition. City staff may also look at the viability and stability of the nonprofit agency, including the nonprofit's compliance with projects receiving public financial assistance.
- The City will hold a thirty-day public comment period to notify affected citizens who utilize the services offered at the property of the possible transfer.
- The transfer and future use of the property must be in compliance with applicable HUD regulations, including ensuring the use of the property continues to benefit the community for a specified length of time. The periods of time in which a property is encumbered by HUD program requirements are known as the "continued use period" for CDBG properties, and as the "period of affordability" for HOME and NSP properties.
- A nonprofit may request the City seek a waiver from HUD to reduce the length of time required for a property to be encumbered by HUD program regulations, and the request must specifically be approved by HUD in order for the City to change the length of time for the use requirements.

## Discussion

In September 2017, A New Leaf submitted a written request to have three City-owned properties transferred to A New Leaf. These properties were all acquired and/or improved with CDBG program funds and are currently leased by A New Leaf. The properties requested to be transferred are listed below and details about each are in the attached *Exhibit B (HUD Waiver Request)*. In order to ensure the safety of the residents and participants participating in the programming at two (2) of the properties, the exact address of the locations do not appear in this Council Report, but the legal description is set forth in the accompanying Resolution.

- A. Main Property. Closest major cross streets are Mesa Drive and Main Street.
  1. The property is utilized by A New Leaf as transitional housing for single women who are overcoming homelessness, domestic violence and/or learning to live independently.
  2. September 2017 appraisal valued the property at \$166,000.
- B. Hobson Property. Closest major cross streets are E. University Drive and N. Hobson.
  1. The property is utilized by A New Leaf as a domestic violence shelter.
  2. September 2017 appraisal valued the property at \$121,000.
- C. University Property (217 W. University). Closest major cross streets are E. University Drive and Country Club.

1. The property is utilized by A New Leaf as an information technology center for their agency's programs.
2. September 2017 appraisal valued the property at \$350,000.

In January 2018, at the request of A New Leaf, the City submitted a waiver request (*Exhibit B*) to HUD seeking HUD's approval of A New Leaf's request that, if the properties are transferred, A New Leaf be permitted to have shortened continued use period requirements on the properties, minimizing the period of time the properties have to meet CDBG requirements after a transfer. On June 19, 2019, the City received the response from HUD to the waiver request containing guidance on the property transfer and the minimum requirements necessary, including a modified minimum CDBG continued use period of ten years (*Exhibit C – HUD Response Letter*). As such, to meet HUD requirements, a transfer of the properties to A New Leaf would require a ten-year continued use period for the properties, during which the properties must be used to serve low- and moderate-income households and meet the requirements of a CDBG eligible activity.

After discussions with City management and members of City Council, as well as direction from City Council at the January 23, 2020 study session meeting the Community Services Department recommends one of the requested properties, the Hobson Property, be approved for transfer to A New Leaf at the fair market value of the property based on a current appraisal that will be performed following City Council's approval of the transfer, and that the transfer: (a) be subject to the requirements in the HUD waiver that mandate a ten-year continued use period for the Hobson Property during which time the property must be used for a CDBG eligible activity serving low- and moderate-income persons; and (b) be secured by a forgivable promissory note, with full forgiveness of the note for the entire fair market value of the property occurring at the end of the ten-year continued use period so long as A New Leaf meets certain requirements related to the property, including the CDBG use restrictions. The ten-year continued use of the Hobson Property will be ensured by the terms of a deed of trust on the property securing the promissory note, as well as a right of reverter and deed restrictions for the ten-year period.

A New Leaf has been an active nonprofit agency in Mesa for over 47 years, providing a variety of services to assist homeless persons, domestic violence victims, and disadvantaged youth. A New Leaf has leased the Hobson Property for well over the ten-year requirement and has kept the property in good physical condition. Staff reviewed the programming offered by A New Leaf at the property and the use of the Hobson Property by A New Leaf has benefitted the community by serving households of low- and moderate-income persons, one of the CDBG National Objectives, and has met the requirements of CDBG eligible activities. Based on City staff's review, A New Leaf has demonstrated their ability to properly maintain the property, including A New Leaf having made various improvements to the property using its own funds. A New Leaf has demonstrated that it is a financially stable nonprofit agency, capable of maintaining the Hobson Property and continuing to provide the services to the community after a transfer of the property.

In accordance with the Policy, the public was given an opportunity to comment on the transfer and change of use. The public comment period was for thirty days and included two public meetings held on August 26, 2019 and September 5, 2019. A representative of A New Leaf was present at the public meetings. There were no participants at the public meetings and the City received no written or oral comments from the public.

The Community Services Department has reviewed A New Leaf's request and recommends Council approve a resolution authorizing: (a) the transfer of the Hobson Property to the ownership of A New Leaf; and (b) the City Manager to enter into any agreements related to the transfer of the property.

### **Alternatives**

Staff's recommendation is the City transfer the Hobson Property as outlined above. In the alternative, the City could:

1. Sell the Hobson Property to A New Leaf for the current fair market value and reimburse the CDBG grant per HUD regulations.
2. Require A New Leaf to provide additional consideration for the transfer of the Hobson Property, such as decreasing the amount of forgiveness under the promissory note, so long as the consideration still requires that the transfer require a continued use period of ten years for the property per HUD's waiver exception (*Exhibit C*).
3. Continue to lease the Hobson Property to A New Leaf.

### **Fiscal Impact**

The Hobson Property was purchased and/or improved with CDBG funds, making the fiscal impact to the City minimal. However, if the Hobson Property is not used or disposed of in accordance with CDBG program use requirements, this can result in a repayment by the City to the U.S. Treasury of the then current fair market value of the property from the City's general funds, representing the amount of the CDBG funds invested in the property.

### **Coordinated With**

The Community Services Department has reviewed the proposal and supports the property transfer and consulted with the City Attorney's Office.