

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 14, 2004

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *ps*

SUBJECT: LOAN OF \$300,000 TO TENANTS' AND WORKERS' SUPPORT
COMMITTEE FOR ACQUISITION OF PROPERTY AT 3801 MT. VERNON
AVENUE

ISSUE: Loan in the amount \$300,000 to the Tenants' and Workers' Support Committee (TWSC) for acquisition of property at 3801 Mt. Vernon Avenue to be used, in part, to provide multi-purpose space for civic participation and multi-cultural social service programs serving the Arlandria and Lynhaven neighborhoods.

RECOMMENDATION: That City Council:

- (1) Authorize the City Manager to enter into a 99-year, interest-free loan agreement with the TWSC to provide \$300,000 in monies for a second trust loan under the general terms and conditions specified in this memorandum; and
- (2) Allocate \$300,000 from the City's FY 2005 Approved Operating Budget General Fund Contingent Reserve Account.

DISCUSSION: During consideration of the FY 2005 Operating Budget, City Council approved the designation of \$300,000 in the General Fund Contingent Reserve account for the purpose of providing a loan to the TWSC to assist in the acquisition of property at 3801 Mt. Vernon Avenue to be used, in part, to provide multi-purpose space for civic participation and multi-cultural social service programs serving the Arlandria and Lynhaven neighborhoods.

City staff provided its initial recommendations on this issue in Budget Memorandum #62 dated April 20, 2004 (Attachment 1). At the preliminary Add-Delete Work Session on April 26, 2004, Council asked for additional information (beyond that contained in Budget Memorandum #62) on the TWSC proposal. That additional information was provided in the May 3, 2004, Budget Memorandum #116 (Attachment 2) which considered possible ways to provide the requested funds to TWSC and accomplish two objectives: (1) to make sure that any transaction creates the

least burden and provides reasonable future flexibility to the TWSC as the property owner, but still protects the City's interests, and (2) to see that TWSC is able to proceed to closing this summer in order to utilize the first trust financing previously arranged with BB&T.

In Budget Memo #116 it was recommended that, in order to provide adequate assurances to the holder of the first deed of trust, and to enable TWSC to use or leverage potential future growth in the property's value, a loan would include the following provisions:

- A. The loan principal (\$300,000) would be due at the earlier of (1) the expiration of the 99 year term of the loan (unless forgiven), (2) the sale or transfer of the property by TWSC, (3) the cessation of TWSC as a non-profit, or its use of the property for uses other than those defined in the loan, or (4) a default by TWSC under its first deed of trust with BB&T.
- B. The loan would be secured by a second deed of trust, and a default under that deed would include the events in clauses (3) and (4) in paragraph A above.
- C. TWSC would continuously use the property to provide multi-purpose space for civic participation and multi-cultural social service programs to serve the Arlandria and Lynhaven neighborhoods, unless City Council were to approve a different use in the future by appropriate resolution.
- D. TWSC would attest that its financial statements are accurate.
- E. TWSC, as owner of the property, would provide income and expense and reserve reports to the City on a semi-annual basis for the first five years of the loan, and thereafter on an annual basis if the City Manager requests such reports to continue.
- F. TWSC would maintain the property and all fixtures and systems in good working order, and pay the real estate taxes in full and on time.
- G. TWSC would be allowed to rent a defined portion of the property to earn ongoing income and cover building operating expenses (including debt service).
- H. The City would have the right of first refusal to purchase the property if TWSC desired to sell the property.
- I. If the TWSC wished to refinance its loan secured by the first deed of trust, or take out a second deed of trust with the City moving to a third deed of trust position, the City's approval would not be unreasonably withheld as long as an independent appraisal concluded that the value of the new loan or loans did not exceed 95 percent of the property's appraised value.

City staff has met with representatives of the TWSC and BB&T and negotiated a loan agreement that meets these previously listed nine terms and conditions. Other significant provisions of this

loan agreement will include the following:

1. TWSC will reserve at least approximately 1,060 square feet of the property to provide multi-purpose space for civic participation and multi-cultural social service programs serving the Arlandria and Lynhaven neighborhoods.
2. TWSC may rent up to approximately 1,750 square feet of space to earn income and cover operating expenses of the property, including debt service.
3. The remaining approximately 890 square feet of usable space (or more if less is rented) may be used for TWSC administrative offices.
4. If the TWSC proposes to sell or transfer the property, the City would have the right of first refusal to purchase the property. The City Manager would have 30 days after receipt of notice from TWSC to send a letter of intent to TWSC indicating his intention to seek Council approval to acquire the property. Such a letter would not bind the City, but would indicate the City Manager's intent to make a good faith effort to explore the possibility of purchasing the building, and, if warranted, to request that a contract to purchase the property be approved at a regularly scheduled City Council meeting within 120 days from receipt of such notice.

Separately, TWSC has sought a special use permit for the subject property, and the property will be subject to the conditions contained in any special use permit granted by the City. TWSC also is seeking Economic Development Initiative (EDI) funding from HUD that requires the City to perform an environmental review of the project. The City's Office of Housing is processing this request. TWSC is hopeful the EDI funds will be received prior to the closing in late July, but closing will occur even if the EDI funds are not available prior to closing, and the City would provide the funds pursuant to the loan agreement between the City and the TWSC at that time.

Staff recommend that Council allocate \$300,000 from the Contingent Reserve account and authorize the City Manager to enter into a loan agreement with TWSC so that these funds can be provided at the closing of the sale of this property.

FISCAL IMPACT: The Contingent Reserve balance for FY 2005 will be reduced by \$300,000.

ATTACHMENTS:

Attachment 1. Budget Memorandum # 62 dated April 20, 2004

Attachment 2. Budget Memorandum #116 dated May 3, 2004

STAFF:

Bruce Johnson, Director, Office of Management and Budget

Meg O'Regan, Special Projects Coordinator, City Manager's Office

City of Alexandria, Virginia

MEMORANDUM

DATE: April 20, 2004

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: BUDGET MEMO # 62: TENANT AND WORKERS SUPPORT COMMITTEE
REQUEST FOR \$300,000 LOAN TO ACQUIRE 3801 MT. VERNON AVENUE

ISSUE: Consideration of the Tenants and Workers Support Committee's (TWSC) proposal for a \$300,000 ninety-nine year, interest free, loan, secured by a second Deed of Trust, to help finance a multi cultural community center located at 3801 Mt. Vernon Avenue for the Arlandria and Lynhaven neighborhoods.

RECOMMENDATION: That City Council not provide the requested loan to TWSC to help fund the purchase of a building to house the proposed multi cultural community center. With limited exceptions, the City has not provided grants or loans to non-profit organizations for capital purposes. Instead, financial assistance has been directed, almost exclusively, to assisting non-profits with their operating costs. Moreover, prior capital grants or loans have been limited almost exclusively to housing, economic and historic preservation purposes, and almost all of these grants and loans have utilized federal funds, rather than City general funds. If this TWSC request is granted, similar ad hoc capital requests will undoubtedly come from similarly situated non-profits seeking assistance with their capital needs¹.

Alternatively, if Council wishes to provide assistance to TWSC for this purpose, we recommend that it provide the loan on a deferred principal and interest basis. (See below for additional, proposed terms and conditions.)

BACKGROUND

¹ If Council wishes to move into the area of capital grants and loans, then we believe it should do so via a competitive program, open to all non-profits and with a specific criteria, similar to the Community Partnership program.

This memorandum is in response to the request of the former City Council that staff evaluate the TWSC proposal, and of Council Member Andrew Macdonald that staff identify possible sources of funding to assist TWSC in buying a building which will house their offices, other space to be rented on the open market, as well as a multi cultural community center in the Arlandria and Lynhaven neighborhoods.

The TWSC proposal was first described in a memorandum to City Council from then Mayor Kerry Donley dated June 18, 2003 (Attachment 1). It referred specifically to a different site which TWSC has since determined is not a viable option. TWSC has now entered into a contract to purchase a new site located at 3801 Mount Vernon Avenue for \$1.2 million.

The building to be acquired would be used for three purposes (1) as administrative office space for TWSC (750 to 850 square feet); (2) as a community multi-purpose room and teen lounge (700 to 800 square feet); and (3) as commercial office rental space (about 1700 square feet). The community center activities planned by the TWSC would be a child care center, a teen program, a health education program with screenings, and information and referral on various human services programs.

TWSC has requested this loan to fund part of their capital costs only. A bank (BB&T) has agreed to a 25 year loan to TWSC of \$820,000. The loan will be interest free for the first 2 years. During that period TWSC will pay down \$210,000 in principal in two separate payments, after which the loan will carry interest at a rate of prime plus 1 percent. At today's rates this equates to an interest rate of 5.0 percent. TWSC has obtained an estimate of renovation costs of approximately \$84,000 and is planning to raise \$100,000 for this purpose. TWSC plans to raise \$25,000 as an immediate capital reserve for any major structural repairs or improvements that might be needed in the future and to pay \$271 dollars in the first year, escalated annually by inflation of approximately 2.2 percent, to this capital reserve fund.

The annual building costs (operating, maintenance and debt service, exclusive of any capital reserve payment) start at approximately \$66,000 a year, and rise to approximately \$88,000 a year in year 10. These costs will be carried mostly by rental income earned from leasing approximately half the building to commercial tenants. The remainder of the operating costs of the building would be covered by TWSC in the form of implicit or explicit rental payments.

FINANCIAL ANALYSIS

Although TWSC is a well-established non-profit organization with a successful fund-raising history, there remains some uncertainty about the ability of the TWSC to operate and maintain this property over time. There are three types of uncertainty: (1) the uncertainty of achieving the estimated rental revenue from renting half of the property, (2) the uncertainty of TWSC being able to cover the remaining operating, maintenance and debt service costs of the building (the building costs) with independent funding from its own operating budget, and (3) the uncertainty of any major, unexpected capital repairs or improvements.

TWSC supplied a detailed analysis of the prospective cash flow and operating costs of the building prepared by Jon Dapogney, a financial consultant to, and member of TWSC (Attachment 2). The Office of Management and Budget and other City staff reviewed this analysis and has the following observations:

Reliance on Rental Income: The majority of the building costs will be paid by rental income. The percentage of estimated, available rental revenue ranges from 59 percent to 78 percent of building costs in the first three years. This range is due to the fluctuation in debt service and rental payments from the repayment of some principal and the expiration of a below market lease of space to the current owner of the property. Thereafter, the ratio of available rental revenue to these building costs ranges from 72 percent to 75 percent.

Initially, the financial analysis shows a small surplus in all but 2 of the first 10 years of the loan assuming a \$27,000 rental payment by TWSC itself for its space in the building. After costs and rent stabilize in years 4 through 10, the financial analysis shows a net surplus of between approximately \$3,500 and \$6,600 a year.² Should the space to be leased be vacant for more than ordinary periods assumed in the financial analysis, the amount of building costs that would have to be covered by TWSC would increase from the approximately \$22,000 a year assumed in the financial analysis.

Reliance on Grant Funding for TWSC: The ability of TWSC to cover these costs through its explicit or implicit rental payments requires an examination of their operating budget. The TWSC operating budget for the period July 2004-June 2005 provided to the City shows expenses of \$689,183, and includes \$25,000 in rental expenses for their current offices in Alexandria and on Leesburg Pike, as well as the establishment of \$48,083 in operating reserves. Sixty-one percent of the organization's expenses are dedicated to salaries.

For the same period, July 2004-June 2005, the projected revenue is \$691,000, of which \$614,000, or 89 percent, is from grants including \$56,000 in City grants. The remaining \$77,000, or 11 percent, is from contracts and service agreements as well as members dues and donations. TWSC acknowledges that 2003 was a "difficult" one financially and that it spent down its operating reserves in 2002 and 2003 and had to furlough 2 full-time staff and institute employee cost sharing on health insurance. Nevertheless, TWSC is optimistic on future grant possibilities given (1) its recent receipt of national awards and recognition from the Ford Foundation and the Robert Wood Johnson Foundation, (2) its expanded services putting it into "new funding streams" from additional grant sources, and (3) the visibility and growth expected

²It should be noted that the cash flow for the building improves after the third year when the current landlord's rental payments to TWSC increases to market rate. However, at this time, debt service costs also will change. Under the terms of the first loan, which is interest only for the first two years, a principal payment of \$105,000 is due July 31, 2005 and another principal payment is due July 31, 2006. At that time, TWSC is obliged to pay both interest and principal payments for the remainder of the 25 year term of the loan.

from opening the subject facility itself on Mt. Vernon Avenue.

The TWSC operating budget does not include \$25,000 to establish a building reserve fund in 2004. TWSC has indicated it proposes to raise this sum from donors.

Attachment 3 provides a list of potential grant funding sources provided by TWSC.

Funding Unexpected Capital Repairs or Improvements: In addition to the initial \$25,000 capital reserve fund contribution, the financial analysis provided to the City shows a yearly payment to this fund of \$271 escalated by inflation, an amount equal to approximately \$0.05 a square foot per year. General Services has indicated that \$0.15 per square foot per month is a more realistic capital reserve payment, but an initial \$25,000 reserve, if acquired by donation, would represent an adequate amount of protection against any extraordinary repairs. We note that an independent appraisal report made available to the City notes that the building is in good overall condition, particularly given the age of the property. A walk through by a City code enforcement official identified several Building Code issues based on proposed uses (handicapped accessibility, exits, and mechanical systems) that the applicant appears to be able to solve with the \$100,000 in renovation funds discussed above. A special use permit is required and Planning and Zoning Department staff is examining these issues in preparation for a docket item scheduled for June 12, 2004.

POTENTIAL SOURCES OF FUNDING

If City Council should choose to fund this \$300,000 loan in a non-competitive fashion, it would have to do so through the City's Capital Improvement Program (CIP). Either (1) the cash capital contribution in the CIP would have to be increased by \$300,000 with an offset of savings in the operating budget during the Add/Delete process, or (2) some other CIP project planned for FY 2005 would have to be deleted, or (3) Council would have to use some of the contingent reserve.

RECOMMENDED TERMS AND CONDITIONS OF ANY LOAN

Should Council choose to approve this loan we recommend that the Council direct the City Manager to seek the following conditions to be negotiated as part of the Second Deed of Trust that we believe would be necessary to protect the city's interests. They are as follows:

- A. Principal and deferred interest will be due at the earlier of (1) the expiration of the 99 year term of the first loan (unless forgiven), (2) the sale of the property by TWSC or its subsidiary, or (3) the cessation of TWSC as a non-profit and the transfer of its assets (or its subsidiary's assets) to another entity. The interest rate proposed to be charged should be the true interest rate paid when the City borrowed funds in January 2004, 3.74 percent, as this represents the effective cost of this loan to the City.

- B. TWSC would attest that their financials are accurate.
- C. TWSC will provide income and expense and reserve reports to the City on a semi- annual basis for the first five years of the loan, and thereafter on an annual basis if the City Manager requests such a reports to continue.
- D. The second Deed of Trust to be held by the City will be known to the holder of the first trust (BB&T).
- E. A cross default provision which will state that any default of the first Deed of Trust constitutes a default of the City's second Deed of Trust and grants the City the right to foreclose under its second Deed of Trust.
- F. TWSC will bear any and all relocation costs required by HUD for the use of EDI (Economic Development Initiative) funds.
- G. That the property will be continuously used as a community center to serve the Arlandria and Lynhaven communities unless City Council approves a different use in the future by appropriate resolution.
- H. TWSC will maintain the property and all fixtures & systems in good working order and pay the real estate taxes in full and on time.
- I. A portion of the site will be rented to provide ongoing income to TWSC and that the same amount of commercial square footage on the ground floor will be maintained.

Staff: Meg O'Regan, Special Projects Coordinator
Bruce Johnson, Director, Office of Management and Budget

Attachments

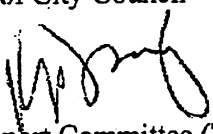


City of Alexandria, Virginia ³⁰
 301 King Street, Suite 2300
 Alexandria, Virginia 22314



Kerry J. Donley
 Mayor

(703) 838-4500
 Fax (703) 838-6433

DATE: June 18, 2003
 TO: The Honorable Members of City Council
 FROM: Mayor Kerry J. Donley 
 RE: Tenants' & Workers' Support Committee (TWSC)
 3308 Mt. Vernon Avenue

About a year ago we attended a community meeting in Arlandria sponsored by the Tenants' & Workers' Support Committee (TWSC), where this group and a number of citizens expressed their desire to have a community center in Arlandria which would address the needs of citizens in that area. Specifically, they requested that a portion of the former Datatel site be granted to them for such a building. At the conclusion of that meeting, I committed to initiate a dialogue, together with the City Manager, with the TWSC about their specific proposal, and to explore concerns about a community center and how it might be established in this part of the community.

During the past months the City Manager and I have held a number of meetings with various representatives of the TWSC to discuss their issues. We directly addressed the matter of the Datatel site, and after considerable discussion, we did not concur with the proposal of a community center at this site, since it would adversely affect the approved redevelopment plan for this area, which is the product of considerable work by neighborhood stakeholders. In the meantime, both the Planning Commission and the City Council have formally approved both the redevelopment plans for the Datatel site and the necessary amendments to the Master Plan.

TWSC then embarked on a search and evaluation of other sites in the immediate area where a center might be feasible. Some sites were rejected for the most part due to availability and zoning considerations. One site remains potentially viable and, I believe, subject for further review and analysis.

Attached is a description of a site located at 3308 Mt. Vernon Avenue which potentially could serve as a community center for the neighborhood. Additionally, there is a TWSC description of programming which could be provided at the center for nearby residents. Proposed programming would include community health promotion, teen activities, parental education, computer training, human services, and workforce development. Admittedly, the list of programming is ambitious, but I feel it warrants further analysis to determine what services truly can be housed at such a facility and what services can efficiently be delivered at this center.

"Home Town of George Washington and Robert E. Lee"

The new building that TWSC proposes to construct will house not only these services, but also the offices of the TWSC. The community center is proposed to comprise approximately 1700 square feet, and the TWSC offices are proposed to occupy approximately 1300 square feet. However, our attention and involvement should be focused solely on the community center portion and its proposed programming.

As further outlined in the attachment, the City is being asked to take on a financial role in the acquisition and construction of the facility. It is requested that the City provide Second Deed of Trust financing for the proposed building. According to the pro forma provided by the TWSC, the total cost of acquisition and construction is \$787,500, and the various financial sources would be as follows:

\$105,000	Downpayment by TWSC
155,000	Capital Fundraising Campaign
227,500	Commercial Loan - First Deed of Trust
<u>300,000</u>	<u>City of Alexandria - Second Deed of Trust</u>
 \$787,500	 Total Proposed Financing

It should be noted that our discussions with the TWSC have been conducted under the premise that none of the operating costs of the facility would be borne by the City, and would be entirely the responsibility of the TWSC. Additionally, the City has not been asked, nor should it consider, to act as an endorser or guarantor for any financial component of the transaction.

Recommendation: I recommend that the City Council request that the City Manager undertake a further analysis of this proposal, and return in the fall with a recommendation for consideration by the new City Council. At this stage of the consideration of the project, I support it as a way to build a multi-cultural, multi-purpose center in the Arlandria community. I view the City's involvement in this project similarly to the role we play in our homeownership programs where we act as a lender for acquisition of real property in a structured transaction which might not otherwise occur without our participation.

While I am asking for your preliminary approval and request for further analysis by our staff, our action tonight in no way obligates the next City Council, which takes office on July 1, 2003. There are still a number of issues which must be resolved, such as further engineering and potential zoning variances, and an assessment of programming and the financial viability of the transaction (both construction and operating). Your approval would likely enable the TWSC to keep the location under contract and allow us to continue to work constructively toward a community center in Arlandria.

June 18, 2003
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Fiscal Impact: Possible loan to the TWSC in the amount of \$300,000 for site acquisition and construction of a community center in Arlandria. No participation in operating expenses is envisioned as part of this proposal. The loan to the TWSC is proposed to take the form a Second Deed of Trust at 0% for a term of 99 years.

Attachments

cc: Phil Sunderland, City Manager

Attachment 2

[illegible]

Appendix C: Capital campaign donors and revenue projections

<u>Confirmed Financial Sources</u>		Amount	Date Approved
TWSC Building Fund:	\$	105,000	9/03
HUD Economic Development Funds:	\$	98,500	1/04
Eugene and Agnes Meyer Foundation:	\$	75,000	11/03
BB&T Bank – loan commitment:	\$	820,000	1/04
<u>Pending/Requested Financial Sources</u>			Expected Notification Date
City of Alexandria	\$	300,000	5/04
Morris and Gwendolyn Cafritz Foundation	\$	75,000	6/04
<u>Projected Grant Requests</u>			Date of Request
Kresge Foundation	\$	250,000	4/15/04
Philip Graham Fund	\$	75,000	5/1/04
Mark/Catherine Winkler Foundation	\$	50,000	4/04
Collis-Warner Foundation	\$	50,000	4/04
Clark-Winchcole Foundation	\$	25,000	4/04
Washington Forrest Foundation	\$	25,000	5/04
<u>Projected Donations</u>			Expected by
Individual Donations	\$	50,000	12/04
Business/Corporate Donations	\$	25,000	9/04
In-kind Donations	\$	25,000	9/04

City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 3, 2004

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: BUDGET MEMO #116: ADDITIONAL INFORMATION ON TENANT AND WORKERS SUPPORT COMMITTEE REQUEST FOR \$300,000 LOAN TO ACQUIRE 3801 MT. VERNON AVENUE

At the preliminary Add-Delete Work Session on April 26, 2004, Council asked for additional information (beyond that contained in Budget Memo #62) on the Tenants and Workers Support Committee's (TWSC) proposal for a \$300,000 ninety-nine year, interest free loan, secured by a second deed of trust, to help finance a multi cultural community center at 3801 Mt. Vernon Avenue for the Arlandria and Lynhaven neighborhoods. Councilwoman Woodson had suggested consideration of a different sort of contractual relationship in which the City provided the \$300,000 to TWSC to acquire the property as part of a partnership with the Departments of Human Services and Recreation, Parks and Cultural Affairs.

Based on City Council's discussions at the Add-Delete Work Session, we again considered possible ways to provide the requested funds to TWSC and accomplish two objectives: (1) to make sure that any transaction creates the least burden and provides reasonable future flexibility to the TWSC as the property owner, but still protects the City's interests, and (2) to see that TWSC is able to proceed to closing this summer in order to utilize the first trust financing already arranged with BB&T.

There are four possible ways, generally, to provide \$300,000 of City-controlled funds to assist TWSC in its efforts to acquire the building. The City may:

1. Make a loan from City CIP funds as a second Deed of Trust with foreclosure and repayment required under certain conditions;
2. Make a loan from City-controlled CDBG funds as a second Deed of Trust with foreclosure and repayment required under certain conditions;

3. Make a non-competitive grant based on certain representations by TWSC as part of a grant application, but with no conditions that would require repayment or provide redress to the City if those conditions were not kept; and
4. Make a non-competitive grant to TWSC, which is accompanied by a grant agreement that requires the Committee to continue using the acquired property in a defined manner and/or to provide certain services for a defined period of time to City residents, and that enables the City, if such requirements are not met, to bring an action for breach of the agreement against TWSC.

Based on an assumption that Council wishes to provide the requested funds to TWSC, we recommend option 1 for the following reasons:

- A CDBG grant has a number of restrictions that would apply to TWSC's use of the property. Most importantly, because of federal requirements, which include steps to enable other non-profits to respond to the potential availability of CDBG funds, such a grant could not be given in time for TWSC to close on the property in time to use the funds committed by BB&T for the first deed of trust this summer.
- A non-competitive grant to TWSC, with no conditions, establishes an even more potentially problematic precedent than the one addressed in Budget Memo #62, and would lead other non-profits to seek similar grants to help them acquire or renovate and repair property that they use or propose to use. Without conditions, the City would have no redress if the acquired property were used for purposes other than those specified in the grant application.
- A grant agreement with TWSC provides at least an ongoing legal relationship that would provide a basis for attempting to enforce a quid pro quo agreement between the City and TWSC. However, the more likely default by TWSC on the terms of the contract – the cessation of TWSC's operations as a non-profit, or its use of the property for purposes other than those set out in the agreement – would provide little avenue for meaningful redress by the City. In these cases, TWSC would be financially insolvent or, as an organization almost completely dependent on grant funding, would quite likely be unable to satisfy a legal judgment payable to the City for breach of this agreement.

In Budget Memo #62 we recommended that if City Council should choose to provide funds to TWSC, it do so in the form of a loan to the TWSC that would be secured by a second deed of trust on the Mt. Vernon Avenue property. Such a loan, in order to provide adequate assurances to the holder of the first deed of trust, and to enable TWSC to use or leverage potential future growth in the property's value, would include the following provisions:

- A. The loan principal (\$300,000) would be due at the earlier of (1) the expiration of the 99 year term of the loan (unless forgiven), (2) the sale or transfer of the property by TWSC, (3) the cessation of TWSC as a non-profit, or its use of the property for uses other than those defined in the loan, or (4) a default by TWSC under its first deed of trust with BB&T.
- B. The loan would be secured by a second deed of trust, and a default under that deed would include the events in clauses (3) and (4) in paragraph A above.
- C. TWSC would continuously use the property as a community center to serve the Arlandria and Lynhaven communities, unless City Council were to approve a different use in the future by appropriate resolution.
- D. TWSC would attest that its financial statements are accurate.
- E. TWSC, as owner of the property, would provide income and expense and reserve reports to the City on a semi-annual basis for the first five years of the loan, and thereafter on an annual basis if the City Manager requests such reports to continue.
- F. TWSC would maintain the property and all fixtures and systems in good working order, and pay the real estate taxes in full and on time.
- G. TWSC would be allowed to rent a defined portion of the property to earn ongoing income and cover building operating expenses (including debt service).
- H. The City would have the right of first refusal to purchase the property if TWSC desired to sell the property.
- I. If the TWSC wished to refinance its loan secured by the first deed of trust, or take out a second deed of trust with the City moving to a third deed of trust position, the City's approval would not be unreasonably withheld as long as an independent appraisal concluded that the value of the new loan or loans did not exceed 95 percent of the property's appraised value.