

CITY OF OAKLAND  
REDEVELOPMENT AGENCY  
SUPPLEMENTAL AGENDA REPORT

OFFICE OF THE CITY CLERK  
OAKLAND  
2005 NOV -9 PH 7:16

TO: Office of the City Administrator / Agency Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: November 15, 2005

RE: **A SUPPLEMENTAL REPORT ON:**

**REDEVELOPMENT AGENCY AND CITY RESOLUTIONS: (1) AUTHORIZING THE SALE OF REAL PROPERTY LOCATED ON SAN PABLO AVENUE, 18<sup>TH</sup> STREET, 19<sup>TH</sup> STREET, AND TELEGRAPH AVENUE, ADJACENT TO THE FOX THEATER, TO RESOURCES FOR COMMUNITY DEVELOPMENT FOR ITS DEVELOPMENT AS AFFORDABLE HOUSING, (2) AUTHORIZING A PREDEVELOPMENT AND DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$2,864,400, AND (3) AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE PROJECT**

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This Supplemental Report has been prepared in response to questions raised by the Community and Economic Development Committee at its meeting on November 8, 2006, and provides further explanation of the reasons for the proposed \$1.4 million predevelopment loan and the standby commitment of an additional \$400,000 in subsidy for potential cost increases.

The Cooperation Agreement between the Agency and the Coalition for Workforce Housing (the Coalition) requires that the Agency transfer the affordable housing site to a developer by September 2006.

The Agency's lease with the Oakland School for the Arts (OSA) gives the Agency the right to terminate the lease after June 2006. However, OSA is planning to relocate to the Fox Theater building once rehabilitation work is completed. Because the Agency is not yet ready to start work on the Fox Theater, the building will not be available for OSA until after June 2006. The anticipated date for relocation of the school is at the end of the 2006-07 school term (June 2007).

Resources for Community Development (RCD) and the Coalition have both agreed to an extension of time for the property transfer until September 2007. However, this delay creates a number of obstacles to RCD leveraging other funding for the project, including funds for predevelopment costs. As a result, staff has negotiated with RCD to advance \$1.4 million of Agency funds that have already been committed to the project. These funds would be provided in the form of an unsecured predevelopment loan, which will convert to a secured loan once the property is transferred. The delay also has the potential to increase the final development cost of the project. Both of these issues are discussed in greater detail below.

**J-14.5**

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**1. Why does RCD need a predevelopment loan in the amount of \$1.4 million?**

Financing of the Fox Court project is dependent on RCD securing funds from either the State's Multifamily Housing Program (MHP) or the Low Income Housing Tax Credit program. Because both these programs are highly competitive, RCD must maximize the number of points it qualifies for when applying for these funds.

The MHP program awards points based on site control (ownership), land use entitlements, and readiness to start construction. Because the Agency will not be transferring the site to RCD until September 2007, RCD will not qualify for site control points. As an alternative, RCD can demonstrate readiness by completing 50 percent of the construction drawings prior to applying for MHP funds. The cost of this is estimated at \$770,000. The remaining \$630,000 would be used by RCD to pay for additional design work to ensure a faster start of construction.

The MHP program, which was funded by Proposition 46, is nearly out of funds. The 2006 funding round is expected to exhaust these funds. If RCD does not secure MHP funds, it will seek funding from the tax credit program.

Like the MHP program, the tax credit program is highly competitive and awards points based on project readiness. To qualify for these points, RCD must be able to start construction within 150 days of receiving a tax credit award. This will require RCD to apply for credits in 2007, and will only be possible if the site is transferred, and construction drawings are substantially complete and have been submitted to the City for permit review.

**2. Under what circumstances would the predevelopment loan be forgiven?**

The agreement negotiated between Agency staff and RCD states that if the Agency does not transfer the site to RCD by January 1, 2008, RCD may terminate the Disposition and Development Agreement and the predevelopment loan will be forgiven. RCD is reluctant to assume responsibility for repayment of a \$1.4 million loan if the project cannot go forward solely because of circumstances within the Agency's control and not within RCD's control. Thus, forgiveness will only be triggered by the Agency's inability to deliver the site.

If the Agency is prepared to transfer the site, but RCD has not secured the necessary project financing as required in the Disposition and Development Agreement, the predevelopment will have to be repaid. However, it is unlikely that RCD has the necessary assets to make this payment.

While staff believes that RCD and the Fox Court project will be highly competitive for both State and City/Agency funds, there is no guarantee, and thus there is the risk that the predevelopment loan will not be repaid. However, there is no other way to move the project forward. If another developer had been selected, the same circumstances would likely have arisen.

**3. Has the Agency made any unsecured predevelopment loans to a housing project in the past?**

The Agency does not normally provide unsecured predevelopment loans of the same magnitude as the \$1.4 million proposed for RCD to a housing developer. The Agency does operate a small predevelopment loan program that provides no more than \$75,000 per project. Most for-profit developers have sufficient working capital to pay for project predevelopment expenses. Non-profit developers, which by their nature do not have substantial amounts of working capital, are able to borrow funds for predevelopment costs if they own the project site and can therefore use it as security for a predevelopment loan.

As described above, RCD's request for the predevelopment loan arises from unique circumstances that are driven by site availability and the project development schedule agreed to by the Agency and the Coalition for Workforce Housing.

There are a few instances in which the Agency opted to provide unsecured development financing to a developer. In 1998 the Redevelopment Agency provided Keating Housing Initiatives with an unsecured loan of \$390,000 and a grant of \$390,000 for the development of Old Town Square. As is the case with Fox Court, the Redevelopment Agency owned the site and Keating was unable to secure predevelopment financing from other sources. When the project moved forward, this predevelopment loan was converted into a secured loan.

In 1995, the Redevelopment Agency provided an unsecured loan to CREDO Housing for predevelopment costs on a proposed Downtown Gateway Project. This project did not move forward because the developer went bankrupt - this loan is uncollectible.

Prior to the mid-1990s, the Agency did provide a number of affordable housing loans to developers prior to all financing being in place. Only one project failed to go forward.

**4. What is the purpose of the \$400,000 construction cost increase contingency loan and who could pay for it other than the Agency?**

As noted above, delays in delivering the project site to RCD will result in higher project development costs because of rapidly escalating construction costs. Staff is recommending that if the Agency is unable to deliver the site by September 2007, the Agency would provide up to \$400,000 to RCD to cover project cost increases caused by the Agency's delay. These funds would be provided only if RCD documents that costs have increased as a result of the delay.

With regard to a possible alternative source of funds to cover the additional \$400,000 that would otherwise be payable by the Agency to RCD, the lease between the OSA and the Agency provides for the possibility that if the OSA should fail to vacate the Property by June 30, 2006 (or any agreed-upon extension thereto), then the OSA may be liable "for consequential or other damages connected with the Agency's inability to timely prepare and deliver the Premises to the Coalition

pursuant to the Cooperation Agreement”. Hence, the Agency could pursue the OSA to repay the Agency for the additional \$400,000.

**5. In the past, what other projects have received project subsidies equivalent to the funding requested by RCD.**

RCD is requesting the following funding assistance from the Agency and City:

<b>Funding Type</b>	<b>Amount</b>
Land Grant	\$3,900,000
Pre-approved Agency Assistance	\$2,464,400
Construction Cost Overrun Contingency Loan	\$400,000
Notice of Funding Availability (NOFA) funding request	\$3,750,000
<b>Total</b>	<b>\$10,514,400.00</b>
Total Development Costs (TDC)	\$27,400,000
<b>Percentage of Agency/City Assistance in relation to TDC</b>	<b>38.4%</b>

RCD’s funding request is within the Agency’s and City’s guidelines that limit the maximum loan amount to forty percent (40%) of the total development costs of the project’s affordable units. RCD’s anticipated request for funding assistance (including the land grant and already committed Agency funds) is also within the range of funding approved in previous years (see table in Attachment 1).

RCD’s estimated funding request is the result of a number of factors:

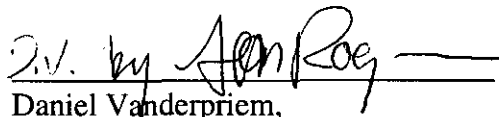
- Construction costs have been escalating rapidly in recent years and RCD’s budget is based on a projection of construction cost in 2007-08 when the project is expected to start construction.
- The cost of land in the downtown is significantly higher than land prices in other parts of Oakland.
- The Fox Court project is providing affordable housing to low and very low income individuals and families. Fifty percent of Fox Courts’ units will be targeted to households earning less than 50 percent of the area’s median income (AMI), including 27 units targeted at 35 percent of AMI. Making the units affordable to lower income levels increases the required subsidy; comparison of this project’s subsidy requirements to other projects should take into account the affordability levels of each project.
- The Cooperation Agreement required that 50 percent of the units provide 3 and 4 bedrooms to accommodate larger families, which are in short supply in Oakland. The cost increase resulting from a higher proportion of larger units is not fully offset by the slightly higher rents that are charged on larger units. RCD’s per bedroom assistance amount is within the range of previous per-bedroom funding assistance provided to other affordable housing projects (see Attachment 1).

It should also be noted that the anticipated subsidy request for the Wood Street Project's affordable rental housing component could be as high as \$8.5 million for 100 units.

Finally, a number of projects funded in the late 1980s and early 1990s utilized subsidy amounts that, in current dollars, would equal or exceed the subsidies in the Fox Court project, often with affordability at higher levels than Fox Court.

Based on the foregoing, staff recommends that the City Council approve the resolutions as recommended in the original staff report.

Respectfully submitted,



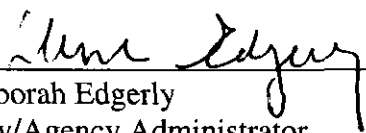
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APPROVED AND FORWARDED TO  
THE CITY COUNCIL/REDEVELOPMENT  
AGENCY

  
Deborah Edgerly  
City/Agency Administrator

Attachment

**5-14.5**

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**Attachment 1**

**Comparison of City/Agency Assistance and Development Cost**

Project Name	Address	No. of Units	No. of Bdrm	City/Agency Funds	Per Unit Assistance	Per Bdrm Assistance	Total Dev Cost	Per Unit Dev. Cost	Per Bdrm Dev. Cost	Year Complete	Year Funded
Stanley Avenue	6006 International Blvd.	24	56	\$ 2,033,167	\$ 84,715	\$ 36,307	\$ 6,172,490	\$ 257,187	\$ 110,223	2003	2000
Oak Park Homes	2616 E. 16th St.	35	75	\$ 3,419,000	\$ 97,686	\$ 45,587	\$ 9,180,492	\$ 262,300	\$ 122,407	On-Going	2000, 2002
Seven Directions	2946 International	38	82	\$ 4,505,600	\$ 118,568	\$ 54,946	\$ 14,777,745	\$ 388,888	\$ 180,216	On-Going	2004
Madison and Fourteen	160 14th Street	79	96	\$ 6,995,453	\$ 88,550	\$ 72,869	\$ 28,737,048	\$ 363,760	\$ 299,344	On-Going	2005
Fox Courts*	Behind Fox Theater (bet 18 <sup>th</sup> /19 <sup>th</sup> )	80	176	\$ 10,514,400	\$ 131,430	\$ 59,741	\$ 27,400,000	\$ 342,500	\$ 155,682	On-Going	N/A

\* City/Agency Funds include land cost of \$3,900,000 and up coming NOFA request of \$3,750,000

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