



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Shola Olatoye
Director, HCDD

SUBJECT: Longfellow Corner Exclusive
Negotiation Agreement (ENA)
Extension

DATE: November 16, 2020

City Administrator Approval 

Date: December 10, 2020

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator Or Designee To Amend An Existing Exclusive Negotiation Agreement Between The City And Longfellow Corner L.P., An Affiliate Of Resources For Community Development, For the Development Of The City-Owned Real Property Located At 3823-3829 Martin Luther King Jr. Way, To Extend The Term By An Additional Eighteen Months From December 12, 2020, To June 12, 2022, With One Administrative Option To Extend The Term An Additional Six Months To December 12, 2022, To Allow The Parties To Negotiate The Terms Of A Lease / Disposition And Development Agreement, And Related Documents For Future Consideration By the City Council.

EXECUTIVE SUMMARY

The City owns two contiguous parcels located at 3823-3829 Martin Luther King Jr. Way, totaling approximately 9,400 square feet (0.22 acres) with frontage on Martin Luther King Jr. Way, between W. MacArthur Boulevard and Apgar Street. The developer, Resources for Community Development (RCD), owns two contiguous parcels (3801-3807 Martin Luther King Jr. Way) next to the City-owned sites. In partnership with the City of Oakland, RCD is interested in a long-term ground lease for the City-owned and RCD sites to develop a mixed-use ground floor commercial and 100 percent affordable housing project to be commonly known as Longfellow Corner. The project proposes to include seventy-seven (77) affordable housing units, with just over 2,000 square feet of community commercial space. The proposed project will set aside housing for households with incomes between 20 percent and 60 percent of the area median income (AMI) including thirty-two (32) Permanent Supportive Housing units (PSH) for homeless households.

The subject sites are blighted, vacant, and undeveloped and may have environmental concerns. To better understand the extent of these environmental concerns, as well as to determine a path forward towards any necessary remediation, the land is currently under environmental review. The Department of Toxic Substances Control (DTSC) will be the lead oversight agency. The DTSC's environmental review analysis will guide how the City decides to proceed with property disposition; specifically whether to execute: 1) a Lease Disposition and Development

City Council
December 15, 2020

Agreement (LDDA) following the City's acquisition of RCD's two contiguous sites and the long-term lease of all four parcels to RCD; or 2) a Disposition and Development Agreement (DDA) for the sale of the City's two contiguous sites to RCD.

On December 11, 2018, the City entered an Exclusive Negotiation Agreement (ENA) with Longfellow Corner L.P., an affiliate of RCD per City Council Resolution No. 87468 C.M.S. The ENA sets the framework for a period of environmental review and exclusive negotiations for potentially entering into a LDDA. Staff is now asking to include an option for a Disposition and Development Agreement (DDA) to keep options open as the negotiations move forward. Under an L/DDA, the City's Housing and Community Development Department (HCD) proposes to allow RCD to manage the City-owned sites by keeping the land secure, free and clear of illegal dumping and debris and potentially approve a predevelopment loan secured against the RCD property until the land is ready for redevelopment. The target for new construction activity, contingent upon financing being committed, is 2022. The current ENA is set to expire on December 12, 2020. To support RCD in its ongoing environmental due-diligence, staff is seeking authorization to extend the ENA for an 18-month period with an optional six-month administrative extension.

BACKGROUND / LEGISLATIVE HISTORY

In 1990, the City of Oakland purchased 3823 Martin Luther King Jr. Way using Community Development Block Grant funding to initiate neighborhood revitalization through affordable housing development.

In January 2017, the City foreclosed on the land at 3829 Martin Luther King Jr. Way. The land was owned by a developer in default for not securing additional funds to develop a new affordable housing infrastructure project. The land was secured by a former Redevelopment Agency developer loan to the prior owner.

On July 19, 2016, the City Council adopted Resolution No. 86335 C.M.S., placing the Measure KK Infrastructure and Housing Bond on the November 2016 ballot. On November 29, 2016, the City Council approved Ordinance No. 13403 C.M.S., enacting the City of Oakland Affordable Housing and Infrastructure Bond Law, which identified the purchase of vacant underutilized property for newly constructing long-term affordable housing opportunities for extremely-low to low-income residents of the City of Oakland, as an eligible use for the City's affordable housing bond funds.

On June 19, 2017, the City Council approved Resolution No. 86774 C.M.S., which was subsequently amended by City Council Resolution No. 86814 C.M.S. adopted on June 29, 2017, authorizing the issuance of the first tranche of Measure KK housing bond funds in an amount not to exceed \$55 million. The authorization included funds for acquiring vacant and underutilized land to developers who propose to serve extremely-low to low-income households.

RCD, a local non-profit affordable housing developer, is the owner of two contiguous parcels located at 3801-3807 Martin Luther King Jr. Way next to the City-owned land. On February 9, 2018, RCD acquired the contiguous land with the use of Measure KK Site Acquisition Funds (\$3,175,000). The purchase extended from a vision to combine the parcels with the neighboring

City-owned land to develop a long-term affordable housing project affordable to extremely-low to low-income individuals and families, including a set aside of PSH for homeless households.

On May 11, 2018, HCD staff released a Request for Proposals (RFP): A Notice of Development Opportunity, seeking qualified respondents to plan, design, construct, market, sell, and/or operate an affordable housing project to be located at 3823-3829 Martin Luther King Jr. Way. In response to the RFP, RCD presented the strongest proposal for development, illustrating an efficient use of all four parcels to build the most affordable units while eliminating blight at the site.

On December 11, 2018, the Oakland City Council approved Resolution No. 87483 C.M.S., a resolution setting forth Oakland's public lands policy framework which prioritizes the use of City property to address its housing and shelter inequities and allow for zero-cost and discounted conveyances for projects that provide a benefit to the public including housing primarily for low-income and low-asset residents. The City-owned sites at 3823-3829 Martin Luther King Jr. Way are among the City's public lands portfolio designated for below market rate housing.

In addition, on December 11, 2018, the Oakland City Council approved Resolution No. 87468 C.M.S, authorizing the City of Oakland to enter into an ENA with RCD or its affiliate. The City executed the ENA with Longfellow Corner L.P., the RCD affiliate, to allow the developer to begin environmental due diligence and to negotiate with the City an LDDA. The City Council established a general policy giving preference for long-term ground leases over outright fee sale on development projects, adopted December 9, 2014 pursuant to City Council Resolution No. 85324 C.M.S. The LDDA, subject to City Council approval, would set forth terms and conditions for potentially conveying the RCD parcels to the City, the merger of all four parcels, the leasing of the land to RCD, and the development of the housing project.

On August 9, 2019, City HCD staff released a Notice of Funding Availability (NOFA) for fiscal year 2019-2020. The NOFA was provided for the new construction of affordable rental, homeownership, and PSH projects. It was intended to partially fill the gap between development costs and financing available from other public and private sources. It sought the creation of new affordable rental and ownership units, projects targeting people experiencing homelessness, those in need of PSH, and projects closer to the start of construction with the aid of additional funds from the City.

On September 11, 2019, the City of Oakland Planning Bureau approved land use zoning entitlements, including necessary clearance under the California Environmental Quality Act (CEQA) for the 77-unit project.

Pursuant to City Council Resolution No. 87994 C.M.S., approved on January 21, 2020, RCD received a \$4,264,000 NOFA funding award in response to their NOFA submittal for extremely-low to low-income housing across 3801-3807 and 3823-3829 Martin Luther King Jr. Way.

ANALYSIS AND POLICY ALTERNATIVES

Exclusive Negotiation Agreement (ENA)

Staff recommends authorizing an 18-month extension, plus an additional six-month optional extension, to the existing ENA, which is set to expire on December 12, 2020. The ENA was originally approved to allow for the commencement of environmental due diligence and for the developer to negotiate an LDDA with the City. The LDDA would contemplate terms and conditions for potentially conveying the RCD parcels to the City, for the merger of all four parcels, the leasing of the land to RCD, and the development of the housing project.

Extending the authorized term of the ENA will allow staff more time to coordinate with RCD to properly perform its environmental due diligence and to determine the City's path for conveying the City-owned land through a land lease or land sale for long-term affordable housing purposes.

Environmental Assessment and Proposed Remediation

Roux Environmental Consulting & Management has been hired by RCD to prepare and implement a sampling and analysis plan to include all four parcels. The investigation will further evaluate subsurface environmental conditions at the site to plan for potential remediation and corrective actions. More field investigations may be necessary to assess the best approach for remediating the land. The likely remediation activities will be evaluated in more detail in a Removal Action Workplan (RAW) – *pending*.

DTSC will require both RCD and the City to submit a more detailed evaluation of proposed activities in a RAW, potentially subject to further field investigations and DTSC review and approval.

FISCAL IMPACT

There is no fiscal impact on the City for the development and execution of an ENA extension. Per the ENA, the RCD, at its sole cost, shall pursue obtaining all regulatory approvals for the project and will not have any claim against the City for reimbursement. RCD will bear all costs associated with or complying with all permit and processing fees related to the project as well as any necessary regulatory approvals granted to RCD. RCD will commit sufficient financial resources required to undertake and fulfill its obligations under the ENA.

Staff is not currently requesting approval of funding for predevelopment costs. However, upon execution of either an LDDA or a DDA, staff anticipates a request from the developer for predevelopment funding for costs such as those incurred in preparing the project for tax credit financing. Staff will review such a request for funding to ensure they are reasonable and appropriate for the level of affordability provided.

PUBLIC OUTREACH / INTEREST

RCD first met with District 1 Councilmember Dan Kalb in June 2017 to identify community stakeholders, individuals and groups to connect with about Longfellow Corner. RCD received a list of relevant organizations in the area, consisting of the Neighborhood Crime Prevention Council (NCPD) Beat 6X and the Longfellow Community Association. Meetings were conducted with both groups including neighbors of the project site, such as the owner of Marcus Bookstores and the owner of the MLK Café. The owner of the MLK Café is also the owner of the residential apartment building next to the City-owned sites.

RCD has actively stayed in close communication with the MLK Café owner and hosted its last community meeting at the MLK Café (2019). RCD continues to meet with the District 1 Council Office and local stakeholders such as being active with the San Pablo Area Revitalization Collaboration (SPARC) committee for the past several years. The Northwest Community Plan was introduced to RCD by Councilmember Kalb's office. The plan was initiated by the community in 2015 in which several meetings were hosted over years (2015-2016) to create a neighborhood specific plan for the area that would include the Longfellow Corner project site. There has been no activity with this group recently however and RCD plans to be involved with the Northwest Community Plan when discussions are reactivated.

COORDINATION

This staff report and resolution have been reviewed by the Office of the City Attorney and by the Budget Bureau. Additional coordination during this ENA period is now being coordinated with numerous other City departments including Planning and Building, the Real Estate Division of the Economic and Workforce Development Department, and the Public Works Department, including the Environmental Services Division.

SUSTAINABLE OPPORTUNITIES

Economic: Longfellow Corner is located two blocks from the MacArthur Bay Area Rapid Transit (BART) station and will provide residents with excellent access to BART and Alameda-Contra Costa (AC) Transit along Telegraph Avenue and 40th Street. Residents will have efficient access to local and regional employment centers via BART. Creating housing near BART will reinforce the transit-oriented development strategy noted in the Association of Bay Area Governments (ABAG) MacArthur Transit Village Priority Development Area (PDA) and will reduce the financial burden of car ownership. The subject sites are in an area recognized by the California Tax Credit Allocation Committee (TCAC) as "high opportunity". With a high volume of development underway or approved in this neighborhood, it will be important to ensure low-income residents benefit from the value of incoming investment.

Environmental: As an urban infill site, the property will require remediation prior to development. DTSC has agreed to serve as the oversight agency for the environmental investigation, and will oversee RCD's proposed plan for remediation. The City of Oakland and RCD must sign Standard Voluntary Agreements with DTSC, respectively, so DTSC may provide further assistance pursuant to Health and Safety Code chapter 6.8 and its implementing

regulations. The purpose of the agreement is for the City and RCD to investigate, remediate, and/or evaluate a release of hazardous substances at or from the site under the oversight of DTSC.

The City and RCD may be required to initiate more on-site investigations (invasive and/or non) and will be required to submit a more detailed evaluation of proposed remediation activities in a RAW, which will require DTSC review and approval. The review and approval will include public participation.

Race & Equity: Longfellow Corner will have a positive impact on the surrounding community by providing affordable family housing in a neighborhood that has experienced severe displacement. With an influx of market rate housing and upscale retail, market pressures in North Oakland have resulted in sharply rising land values and rents. Adding to the stock of much needed affordable housing in this neighborhood will allow an opportunity for displaced families to maintain their social networks and benefit from up and coming nearby developments. Combining the City-owned real property with the RCD real owned property will transform the four blighted subject parcels into high-quality, professionally maintained affordable housing.

In a historically African-American neighborhood with high displacement, the 77-unit development will be met with local hiring obligations and preferences for Oakland residents. Such requirements are a step towards reversing the inequities that have led to the displacement of long-standing Oakland residents. HCD will mandate as a provision of its funding commitment that the owner/developer comply with the requirements of the City's Local Employment Program for the hiring of Oakland residents and the use of apprentices on publicly-supported projects. Fifty (50%) percent of project work hours on the construction of the project must be performed by Oakland residents, a minimum of 50 percent of all new hires must be Oakland residents, and the first new hire must be an Oakland resident.

In addition, HCD will enforce local business participation requirements in accordance with the City's Local/Small Local Business Enterprise (L/SLBE) Program. The owner/developer must meet a threshold for providing 50 percent of local business participation. Twenty-five (25%) percent for Local Business Enterprises (LBE) and 25 percent for Small Local Business Enterprises. Even more, the housing units will be subject to Oakland preferences where the owner/developer must give preference in the selection of tenant households. When selecting eligible households, preferences must be given to displaced, neighborhood residents, Oakland residents, and workers in accordance with the Oakland Municipal Code (Chapter 15.63, Article I).

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Upon review of the City of Oakland Planning Bureau and as of September 11, 2019, the Longfellow Corner Project received a categorical exemption under CEQA as an infill development {Sec. 15332} and a project consistent with a community plan, general plan or zoning {Sec. 15183(f)}.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator Or Designee To Amend An Existing Exclusive Negotiation Agreement Between The City And Longfellow Corner L.P., An Affiliate Of Resources For Community Development, For The Development Of The City-Owned Real Property Located At 3823-3829 Martin Luther King Jr Way, To Extend The Term By An Additional Eighteen Months From December 12, 2020, To June 12, 2022, With One Administrative Option To Extend The Term An Additional Six Months To December 12, 2022, To Allow The Parties To Negotiate The Terms Of A Lease / Disposition And Development Agreement And Related Documents For Future Consideration By The City Council.

For questions regarding this report, please contact Everett Cleveland Jr., Housing Development Coordinator, at 238-6543.

Respectfully submitted,



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