

**CITY OF OAKLAND**  
**COUNCIL AND AGENCY AGENDA REPORT**

OFFICE OF THE CITY CLERK  
OAKLAND

2004 MAR 25 PM 12: 36

TO: Office of the City Manager and Agency Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: April 6, 2004

**RE: A RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$2,018,850 TO OAKLAND COMMUNITY HOUSING, INC. AND COMMUNITY DEVELOPMENT CORPORATION OF OAKLAND FOR THE MLK/BART SENIOR HOMES PROJECT LOCATED AT 3823-3837 MARTIN LUTHER KING JR. WAY, AND CONSOLIDATING AN EXISTING \$52,000 SITE ACQUISITION LOAN WITH THE DEVELOPMENT LOAN, FOR A NEW TOTAL DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$2,070,850**

**AN ORDINANCE AUTHORIZING THE NEGOTIATION OF AN AGREEMENT WITH OAKLAND COMMUNITY HOUSING, INC. AND COMMUNITY DEVELOPMENT CORPORATION OF OAKLAND TO PROVIDE FOR THE TRANSFER AT NO COST OF THE CITY-OWNED LOT AT 3823 MARTIN LUTHER KING JR. WAY FOR ITS INCLUSION IN THE MLK/BART SENIOR HOMES PROJECT**

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**SUMMARY**

On March 9, 2004, the Community and Economic Development Committee heard a report and recommendations regarding uses of \$3.1 million in funds remaining from the City's 2003 Notice of Funding Availability for Rental and Ownership Housing (NOFA). After reviewing the alternatives, the Committee directed staff to bring to the full Council and Agency a resolution to provide \$2,018,850 for a proposal not previously recommended, MLK/BART Senior Homes.

The developers request, and staff recommends, that the City-owned lot at 3823 Martin Luther King Jr. Way be provided at no cost as part of the project site. This lot was acquired by the City in the 1980s for this type of use, and its inclusion in this development has been expected since project planning began.

**FISCAL IMPACTS**

In the March 9, 2004 agenda report addressing unallocated affordable housing funds, staff showed \$3,118,850 available for this fiscal year. The Community and Economic Development Committee approved and forwarded the recommendation that \$1,100,000 go to the Palm Villas

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project, leaving \$2,018,850 (Fund 9580). The Committee moved that these funds be allocated to the MLK/BART Senior Homes project, and directed staff to prepare a Council resolution for that purpose.

The City and Agency are owner or lender for two of the three parcels that make up the project site. For one parcel, the Agency provided a Site Acquisition Loan of \$52,000. When the development loan is closed, that amount will be combined with the \$2,018,850, for a single loan of \$2,070,850.

The City-owned lot at 3823 Martin Luther King Jr. Way will make up approximately half of the project site. Contingent on the same conditions the developer must meet to close the development loan (primarily to arrange other financing), staff recommends that the lot be donated to the project as additional needed subsidy. A City ordinance is included for that purpose.

The lot is presently valued at \$110,000; it was acquired with Community Development Block Grant funds in the 1980s, specifically for affordable housing development. No revenue was anticipated from this sale, and none is shown in the 2003-05 budget. Unlike other sales of lots, no significant savings in maintenance is expected, since the developers have been maintaining this lot.

## **BACKGROUND AND PROJECT DESCRIPTION**

MLK/BART Senior Homes will be 33 units of rental housing for very low-income seniors. The project site is on Martin Luther King Jr. Way, near MacArthur Boulevard and the MacArthur BART station. For additional details, please see Attachment A, Project Summary and Financing Summary.

For all developments assisted with NOFA funds, a majority of project funding must come from outside sources. Because the allocation proposed here is less, by \$492,000, than the developers' original NOFA request, their need for outside funds is greater than before. Funding from other sources must be formally committed before City or Agency funds are provided to a project.

Last year the developers were unsuccessful in an application for assistance under the HUD Section 202 Supportive Housing for the Elderly Program. A funding allocation from the Agency, along with the donation of land, will probably improve their chances when they reapply this year. The 202 program allows rents to be set low enough to serve very low-income seniors, as well as providing funding for on-going supportive services. (Council should be aware that as a condition of these funds, HUD will require the City to give up some control over the project, including many remedies for defaults. In the past, HUD has insisted that the City agree that it may not declare a default without prior approval; that HUD will control much of the disbursement of the City's loan funds; and that while the City may require developers to adhere to its employment programs, it may not enforce those programs prior to completion of HUD's funding.)

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**ACTION REQUESTED OF THE REDEVELOPMENT AGENCY AND CITY COUNCIL**

Staff recommends that the Redevelopment Agency approve the proposed resolution, to allocate up to \$2,018,850 for the development of MLK/BART Senior Homes at 3823-3837 Martin Luther King Jr. Way.

Staff recommends that the City Council approve the proposed ordinance, authorizing an agreement to provide for the transfer of the City-owned lot at 3823 Martin Luther King Jr. Way to the developers of the MLK/BART Senior Homes project, for its inclusion in the project.

Respectfully submitted,

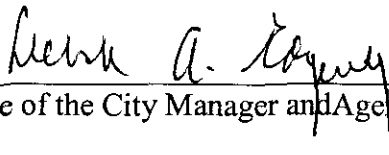


for

DANIEL VANDERPRIEM  
Director of Redevelopment, Economic  
Development and Housing

Prepared by:  
Roy L. Schweyer, Director,  
Housing and Community Development  
Jeffrey D. Angell  
Housing Development Coordinator

APPROVED AND FORWARDED TO THE CITY  
COUNCIL AND REDEVELOPMENT AGENCY



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**Attachment A**

**MLK/BART Senior Homes  
Project Summary**

<b>Address/Location</b>	3823-3837 Martin Luther King Jr. Way
<b>Developer</b>	Oakland Community Housing Inc. and Community Development Corp. of Oakland
<b>Type of Construction</b>	New
<b>Number of Units</b>	33
<b>Resident Type</b>	Senior
<b>Total Development Cost</b>	\$6,650,184 / \$201,521 per unit
<b>Agency Site Acquisition Loan</b>	\$52,000
<b>City Land Contribution</b>	\$110,000
<b><i>Current Allocation of Local Funds</i></b>	<b><i>\$2,018,850</i></b>
<b>Total City/Agency Funds Requested</b>	\$2,180,850
<b>Total City/Agency Funds per Unit</b>	\$66,086
<b>Total City/Agency Funds as Percent of Total Cost</b>	32.8%

	<b>AFFORDABILITY LEVEL</b>				
	<35% AMI	<50% AMI	<60% AMI	<80% AMI	<100% AMI
1 Bedroom	32				

**Description of Project:**

MLK/BART Senior Homes is a 33-unit rental development proposed for three contiguous parcels on MLK way, very near the MacArthur BART station. Two of the parcels are vacant; one of these is now owned by the City and will be contributed to the project; the third parcel has a small apartment building in poor condition. The developers will apply for major assistance from the U.S. Department of Housing and Urban Development, under the Section 202 Supportive Housing for the Elderly Program. The 202 program allows rents to be set low enough to serve very low-income seniors, as well as providing funding for on-going supportive services.

**MLK BART Senior Homes**  
**Financing Summary**

**Development Cost**

	<b>Total</b>	<b>Per Unit</b>	<b>% of Total</b>
Acquisition	\$ 713,500	\$ 21,621	11%
Off-site Improvements	\$ -	\$ -	0%
Hard Costs	\$ 4,420,000	\$ 133,939	66%
Soft Costs	\$ 825,636	\$ 25,019	12%
Carrying Costs	\$ 72,000	\$ 2,182	1%
Syndication Costs	\$ -	\$ -	0%
Capitalization of Reserves	\$ 15,048	\$ 456	0%
Developer Fee	\$ 574,000	\$ 17,394	9%
Furnishings/Other	\$ 30,000	\$ 909	0%
<b>Total Development Costs</b>	<b>\$ 6,650,184</b>	<b>\$ 201,521</b>	<b>100%</b>

**Sources of Funds**

<b>Sources</b>	<b>Total</b>	<b>% of Dev. Cost</b>
City Land Contribution	\$110,000	2%
HUD 202	\$3,833,600	58%
AHP	\$160,000	2%
Agency Site Acquisition Loan	\$52,000	1%
Total City/Agency Funds Requested*	\$2,018,850	30%
<b>Total</b>	<b>\$6,174,450</b>	<b>93%</b>
<b>Shortfall</b>	<b>\$492,000</b>	<b>7%</b>


\* Includes previous City/Agency development funds, if any.

**Projected Loan Repayment**

	<b>Total</b>	<b>Cumulative</b>	<b>% of Total City Loan Repaid</b>
Years 1-30	\$ -	\$ -	0%
<b>Total</b>	<b>(no repayment)</b>		<b>0%</b>

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APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
AGENCY COUNSEL

REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND

RESOLUTION No. \_\_\_\_\_ C.M.S.

**A RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$2,018,850 TO OAKLAND COMMUNITY HOUSING, INC. AND COMMUNITY DEVELOPMENT CORPORATION OF OAKLAND FOR THE MLK/BART SENIOR HOMES PROJECT LOCATED AT 3823-3837 MARTIN LUTHER KING JR. WAY, AND CONSOLIDATING AN EXISTING \$52,000 SITE ACQUISITION LOAN WITH THE DEVELOPMENT LOAN FOR A NEW TOTAL DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$2,070,850**

**WHEREAS**, the City of Oakland's Consolidated Plan for Housing and Community Development indicates that there is a need for affordable rental housing, and has identified this activity as a priority; and

**WHEREAS**, the Redevelopment Agency has previously provided a \$52,000 loan (the "Site Acquisition Loan") to Community Development Corporation of Oakland ("CDCO") through the Agency's Affordable Housing Site Acquisition Loan Program as authorized by Redevelopment Agency Resolution No. 00-55 C.M.S., dated July 25, 2000, to be used to acquire a site at 3829 Martin Luther King Jr. Way; and

**WHEREAS**, the Site Acquisition Loan was for a term of 3 years, with a simple interest rate of 6.19 percent per year; and

**WHEREAS**, on August 8, 2003, the Redevelopment Agency and the City of Oakland jointly issued a Notice of Funding Availability ("NOFA") soliciting applications for funding for affordable housing developments; and

**WHEREAS**, CDCO and Oakland Community Housing, Inc. ("OCHI") (together, the "Developers") submitted a proposal in response to the NOFA to develop a 33 unit housing project known as MLK/BART Senior Homes on three contiguous sites, including the site acquired with the Site Acquisition Loan (the "Project"); and

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**WHEREAS**, 32 Project units will be rented at prices affordable to households earning no more than 80% of area median income, with at least 40% of the units affordable to households earning 60% of area median income, and at least 20% of the units affordable to very low income households; and

**WHEREAS**, the Project is consistent with the Agency's Project Development Guidelines, and Developers meet the Agency's Threshold Developer Criteria; and

**WHEREAS**, the Project will increase and improve the supply of low and moderate income housing available in the City of Oakland, is an eligible use of the Agency's Low and Moderate Income Housing Fund under California Health and Safety Code Sections 33334.2 and 33334.3, and will benefit the redevelopment project areas in the City of Oakland by providing affordable housing opportunities within the community that will enhance the economic viability and redevelopment potential of the project areas; and

**WHEREAS**, no other reasonable means of private or commercial financing of the Project at the same level of affordability and quantity are reasonably available to Developers other than the Low and Moderate Income Housing Fund; and

**WHEREAS**, the Agency by agreement with the City is the Lead Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

**WHEREAS**, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; and

**WHEREAS**, funds are available from the Agency's Low and Moderate Income Housing Fund to assist the Project; now, therefore, be it

**RESOLVED:** That the Redevelopment Agency hereby authorizes the Agency Administrator or her designee to provide an additional loan in an amount not to exceed \$2,018,850 to Community Development Corporation of Oakland and Oakland Community Housing, Inc., or to an affiliated entity approved by the Agency Administrator or her designee, to be used for development of the Project; and be it further

**RESOLVED:** That loan funds shall come from the Agency's Low and Moderate Income Housing Fund (Fund 9580); and be it further

**RESOLVED:** That the loan is contingent on the availability of sufficient funds in the Low and Moderate Income Housing Fund to cover the loan; and be it further

**RESOLVED:** That the Agency hereby authorizes the Agency Administrator or her designee to convert the \$52,000 Site Acquisition Loan to CDCO into a long-term development loan and to consolidate it with the Agency's development loan authorized by this Resolution into a single development loan for a total amount not to exceed \$2,070,850; and be it further

**RESOLVED:** That the consolidation of the Site Acquisition Loan shall be contingent on the closing of the Agency's development loan, and shall be contingent on and subject to such other appropriate terms and conditions as the Agency Administrator or his or her designee may establish; and be it further

**RESOLVED:** That the loan shall be for a maximum term of 55 years, with an interest rate of 3% percent per year, with repayment to the Agency from surplus cash flow from the Project and other available funds during the term of the loan with the balance due at the end of the term, or on such other repayment terms and schedule as the Agency Administrator or her designee determines are in the best interests of the Agency and the Project; and be it further

**RESOLVED:** That as a condition of the loan, the Agency will require that the units remain affordable for a minimum period of 55 years, and other appropriate restrictions on Project occupancy, rents and operations be recorded against Project improvements; and be it further

**RESOLVED:** That the loan shall be secured by a deed of trust on the Project land and/or improvements; and be it further

**RESOLVED:** That the loan funds will be reserved for a period of no more than 12 months from the date of this Resolution, and the loan shall be contingent on Developers' success in securing remaining commitments for full Project funding, or other assurances of adequate Project funding the Agency Administrator or her designee deems sufficient within his or her discretion, within this reservation period; and be it further

**RESOLVED:** That the making of the loan shall be contingent on and subject to such other appropriate terms and conditions as the Agency Administrator or her designee may establish; and be it further

**RESOLVED:** That the Agency hereby authorizes the Agency Administrator or her designee in her discretion to subordinate the priority of the Agency 's deed of trust and/or recorded restrictions to a lien or encumbrance of another private or governmental entity providing financial assistance to the Project, if the Agency Administrator or her designee determines that (1) an economically feasible alternative method of financing the Project on substantially comparable terms and conditions but without subordination is not reasonably available, (2) the Agency's investment in the Project in the event of default is reasonably protected, and (3) subordination is in the best interests of the Agency; and be it further

**RESOLVED:** That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines, based on the information provided in the staff report accompanying this Resolution, that this action complies with CEQA because the Project is exempt from CEQA pursuant to Section 15280 (lower-income housing projects) and Section 15332 (infill development projects) of the CEQA Guidelines; and be it further

**RESOLVED:** That the Agency Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this Project; and be it further



**RESOLVED:** That the Agency hereby appoints the Agency Administrator and her designee as agent of the Agency to conduct negotiations, execute documents, administer the loan, extend or modify the repayment terms, interest rate and other contract provisions, and take any other action with respect to the loan and the Project consistent with this Resolution and its basic purpose; and be it further

**RESOLVED:** That all loan documents shall be reviewed and approved by Agency Counsel for form and legality prior to execution, and copies will be placed on file with the Agency Secretary.

IN AGENCY, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2004

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND CHAIRPERSON DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
CEDA FLOYD  
Secretary of the Redevelopment Agency  
of the City of Oakland

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