



AGENDA REPORT

TO: Jestin D Johnson
City Administrator

FROM: Sofia Navarro
Interim Director,
Economic and Workforce
Development Department


SUBJECT: Loan for East 12th Street
Remainder Parcel 1

DATE: December 26, 2023

City Administrator Approval

Date:

Jan 12, 2024


Jestin Johnson (Jan 12, 2024 01:16 PST)

RECOMMENDATION

Staff Recommends That The City Council Approve A Resolution Appropriating \$4,000,000 From A Ground Rent Loan Payment; Authorizing A \$4,000,000 Loan To East 12th Street Housing, L.P. Funded By The Ground Rent Loan Payment For The Development Of 91 Units Of Affordable Housing On A Portion Of The 12th Street Remainder Property Located At East 12th Street And 2nd Avenue; and Adopting California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

The City of Oakland (City) owns vacant land near Lake Merritt and 12th Street, which will be developed into affordable housing in two phases. On February 1, 2023, the City of Oakland (City) entered into a Lease Disposition and Development Agreement (LDDA) with East 12th Street Housing, L.P., a California limited partnership (Developer), an affiliate of the East Bay Asian Local Development Corporation (EBALDC), for the development of the first phase, a 91-unit affordable housing project (Project), on a portion of the Property referred to as Parcel 1 (see **Attachment A** and **Attachment B**).

Prior to the start of construction, the City will enter into a 99-year ground lease (Lease) with the Developer. Per the terms of the Lease, the Developer will pay \$1 per year in base rent, plus residual receipts rent over a term of 55 years, based on the appraised \$4 million fair market value (FMV) of Parcel 1, the "Ground Rent Loan". The Developer has secured all Project funding, including financing from the California Department of Housing and Community Development's (HCD) Affordable Housing and Sustainable Communities (AHSC) program.

The Developer now proposes to use a portion of the AHSC funds and Limited Partner (LP) equity funds to prepay the \$4 million Ground Rent Loan in a lump sum to the City at closing in February 2024, instead of making residual receipt payments over the term of the loan. Approximately \$2.8 million will come from AHSC funds and \$1.2 million from the LP equity funds. The Developer has

CED Committee
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further requested that the City then lend the \$4 million back to the Project. The Developer is asking for this modification to the rent payment structure and for the new City loan to leverage an additional \$2 million of AHSC funds to close a financing gap for the Project. The loan would be repaid from residual receipts over the 55-year term.

The full prepayment of the rent in February 2024 will not have a financial impact on the City because the Developer's \$4 million payment will in turn be provided as a loan to the Project to close a financing gap. The original legislation approving the LDDA with the Developer does not include an authorization to make the proposed loan to the Developer. Therefore, staff is recommending that the City Council approve the proposed loan.

BACKGROUND / LEGISLATIVE HISTORY

The Property is comprised of approximately 40,271 square feet (0.925 acre), is bounded by East 12th Street on the east, by 2nd Avenue and Oakland Unified School District (OUSD) property on the south, by open space to the west and by Lake Merritt Boulevard to the north. As described in more detail below, the Property is now being developed as two air right parcels, with two separate projects and leasehold interests.

On February 1, 2023, pursuant to Ordinance [No. 13724 C.M.S.](#) the City entered into an LDDA with Developer for the development of the first phase - a 91-unit affordable housing project on Parcel 1.

On May 16, 2023, pursuant to Resolution No. [89715 C.M.S.](#), the City entered into an Exclusive Negotiation Agreement with Satellite Affordable Housing Associates, California nonprofit public benefit corporation, for development of an 83-unit affordable housing development as the second development phase on the balance of the Property referred to as Parcel 2.

On April 16, 2019, City Council authorized Resolution [87626 C.M.S.](#), for the City to apply for, accept, and appropriate loan and grant funds under the state of California's AHSC program for the 91 units of affordable housing on Parcel 1. The Developer subsequently secured AHSC funding of approximately \$18.1 million from HCD for the Parcel 1 Project.

ANALYSIS AND POLICY ALTERNATIVES

The Lease currently calls for rental payments to the City to be structured as follows: first, there will be a base rent of \$1 per year to be prepaid for the 99-year term in the amount of \$99 on the Lease commencement date; and second, there will be additional rent payments equal to annual debt service on a loan in the amount of the Property's \$4 million FMV from the City to the Developer (Ground Rent Loan). The Ground Rent Loan has a term of fifty-five (55) years from permanent loan conversion and a simple interest rate of three percent (3%).

The Developer has now asked to use a portion of the AHSC funds to prepay the \$4 million Ground Rent Loan in a lump sum to the City at closing in February of 2024, instead of making residual receipt payments over the term of the loan. The Developer has further requested that the City lend a new loan in the amount of the \$4 million lump sum Ground Rent Loan payment

back to the Project. The Developer is asking for this modification to the rent payment structure and a new City loan to secure an additional \$2 million of AHSC funds to close a financing gap resulting from higher than anticipated construction costs for the Project. Staff is proposing that the new City loan have the same terms approved by Council (Ordinance No. [13724](#) C.M.S.) for the Ground Rent Loan with a term of 55 years with 3% simple interest to be paid from residual receipts.

Whether the rent is satisfied through the Ground Rent Loan or the proposed new loan, the Developer would make any rent payments to the City from the Project's residual receipts on a pro-rata basis with other public lenders providing financial assistance, in accordance with the provisions of Section 8314 of the Uniform Multifamily Regulations (Cal. Code Regs. Title 25, Division 1 Chapter 7, Subchapter 19).

“Residual Receipts” means “Project cash flow remaining after payment of required Project expenses and fees, including, without limitation, debt service, operating expenses, required reserves, and payment of developer fees, asset management fees, and partnership management fees in amounts to be specified.”

If the City does not approve the loan request, the Developer will have a \$2 million financing gap because of higher than anticipated construction costs and would have to seek this funding from the City or from other sources. Having to secure additional project financing would be challenging for the Developer as all projects with a tax-exempt bond allocation or a 4% federal/state tax credit reservation must begin construction 180 days from the date of funding approval by California Tax Credit Allocation Committee (CTCAC), and/or the California Debt Allocation Committee (CDLAC) as applicable. The Developer received its funding commitment in August of 2023 and must therefore start construction in February of 2024, or the Project will no longer be eligible for these monies and not be able to move forward.

Approval of the recommended actions would advance the Citywide priority of **housing, economic, and cultural security** by providing 91 units of affordable housing available to low-income households.

FISCAL IMPACT

Approving the new City loan will not result in any new fiscal impacts to the City.

The Developer will use AHSC funds to prepay a Ground Rent Loan of \$4 million (based on the FMV of Parcel 1) and make a one-time prepayment of \$99.00 based on \$1.00 per year for the 99-year Lease term. In turn, the City will use the amount of the lump sum Ground Rent Loan payment to make a new \$4 million loan to the Developer to ensure that the Project meets its full funding requirement for construction. The \$4 million loan will be repaid from the Project's residual receipts on a pro-rata basis with other public lenders providing financial assistance. The \$4 million loan will have a 55-year term starting from permanent loan conversion and will carry a simple annual interest rate of three percent (3%).

To do this, the City will need to accept and appropriate \$4 million in revenue and expenditures for spending. The revenue will be accepted in account Land Rental: Misc. Account (44219) and the Expenditure budget will be appropriated in Non-Grant Loan Expenditure Account

58312, in City Entity (1), Miscellaneous Capital Projects Fund (5999), Central District Redevelopment Organization (85245), Downtown Redevelopment Program (SC13), in a new Project to be established.

Then future loan payments from the Project will be accepted and deposited in City Entity (1), Miscellaneous Capital Projects Fund (5999), Central District Redevelopment Organization (85245), Land Rental: Misc. Revenue Account (44219), Downtown Redevelopment Program (SC13), in a new Project to be established.

PUBLIC OUTREACH / INTEREST

The Developer has held several meetings about the Project with nearby stakeholders to solicit input and share information. On November 9, 2023, the Developer held a meeting at Dewey Academy with stakeholders for the surrounding schools, including La Escuelita, MetWest High School, United Nation Child Development Center, and the Peralta Community College District, including Laney College. The Developer also hosted a community-wide meeting Wednesday, December 13, 2023, at Dewey Academy. The Developer again invited the surrounding schools and the larger community, and handed out flyers to the surrounding schools so that parents and staff were aware and could attend. The Developer held a third community meeting on December 18th at La Escuelita.

The Developer also met with OUSD staff on November 2, 2023, and will continue to keep them apprised of the Project's progress and activities.

COORDINATION

The Economic and Workforce Development Department has coordinated on this agenda item with the City Administrator's Office, the Housing and Community Development Department, the Office of the City Attorney, and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: Developer's proposed Project will transform vacant underutilized land into a residential development that will provide much-needed affordable housing units and further stimulus to the local economy. Development of Parcel 1 is expected to generate construction jobs and permanent jobs.

Environmental: Development of Parcel 1 is expected to maximize the potential use of Parcel 1 while being environmentally sensitive with its design, use of materials and operations. The proposed development is near multiple transportation options, which will encourage residents to use BART and AC Transit and reduce automobile reliance, decreasing the use of fossil fuels and resulting greenhouse gas emissions. Additionally, as part of the AHSC grant award, Oakland Department of Transportation (OakDOT) will receive \$1,065,053 for pedestrian improvements along 10th Street and International Boulevard and a new bike share station, in

partnership with Motivate, an operations and logistics support organization in the micro-mobility industry. Bike share passes in the form of a reloadable clipper cards will be provided to residents at East 12th Street.

Race & Equity: The Project falls under the Housing component of Oakland's Equity Indicators Report specifically by providing 23 residential units for the formerly homeless population and providing deeply affordable housing for low-income residents, who are disproportionately people of color nationally and in the Bay Area. Residential units at the Project will only be made available to households earning between thirty percent (20%) and eighty percent (80%) of Alameda County's Area Median Income (AMI). The Project also falls under the Civic and Neighborhood component of Oakland's Equity Indicators Report because the Project will bring investment to an underserved neighborhood, reducing blight through a high-quality development. The Project will also provide improved pedestrian access to the 12th Street area with funds provided by the states AHSC program.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On February 1, 2023, pursuant to Ordinance No. 13724 C.M.S., the City Council found and determined, on a separate and independent basis, (1) that pursuant to Government Code Section 65651(b)(2), the City's review and approval of the Parcel 1 Project, which consists of affordable housing, including approximately 30 percent supportive housing, does not constitute a "project" for purposes of CEQA (Section 21000 et seq. of the Public Resources Code) and therefore shall not be subject to CEQA review, and (2) that the anticipated environmental effects of the Project have been adequately evaluated by the Lake Merritt Station Area Plan Final Environmental Impact Report (Final EIR) (certified November 2014); the Project is consistent with a Community Plan, General Plan or Zoning under Section 15183 of the State CEQA Guidelines (Projects consistent with a Community Plan, General Plan or Zoning); and the Project complies with Section 15183.3 of the State CEQA Guidelines (Streamlining for Infill Projects); further, the Project is exempt from CEQA under the following Sections of the State CEQA Guidelines: Section 15601(b)(3) (Common Sense Exemption), Section 15268 (Ministerial Projects), and Section 15332 (In-Fill Development Projects).

ACTION REQUESTED OF THE CITY COUNCIL

City Staff Recommends Approval Of A Resolution Appropriating \$4,000,000 From Ground Rent Loan Payment; Authorizing A \$4,000,000 Loan To East 12th Street Housing, L.P. Funded By The Ground Rent Loan Payment For The Development Of 91 Units Of Affordable Housing On A Portion Of The 12th Street Remainder Property Located At East 12th Street And 2nd Avenue; and Adopting California Environmental Quality Act Findings.

For questions regarding this report, please contact Jens Hillmer, Development Area Manager, at 510-238-3317.

Respectfully submitted,



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Attachments (#):2
Attachment A: 12TH Street Remainder Rendering
Attachment B: 12th Street Remainder Site Location

ATTACHMENT A



12th Street Remainder Parcel 1

ATTACHMENT B

Location of 12th Street Remainder Parcel 1

