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OFFICE OF THE CITY CLERK  
OAKLAND  
2019 JAN 24 PM 5:08

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Michele Byrd  
Director, HCDD

**SUBJECT:** Appropriation and Allocation of  
NSP Program Income

**DATE:** January 7, 2019

City Administrator Approval

Date:

1/24/19

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution:**

- 1) **Authorizing The City Administrator To Accept and Appropriate \$1,911,049.09 In Loan Repayment Funds And Future Repayments From The Neighborhood Stabilization Program Fund Into The Community Development Block Grant Fund To Fund Rehabilitation Projects In Housing and Community Development's Residential Lending And Rehabilitation Programs;**
- 2) **Appropriating \$1.3 Million To Be Used By The Oakland Community Land Trust And Resources For Community Development For The Rehabilitation Of A 15-Unit Affordable Rental Project Located At 2530 9<sup>th</sup> Avenue; And**
- 3) **Authorizing A Substantial Amendment Of The City's Consolidated Annual Action Plan For Fiscal Year 2018/19 To Include The Appropriated Funds And Allocations.**

## EXECUTIVE SUMMARY

The Housing and Community Development Department (HCD) is recommending authorizing the acceptance and appropriation of loan repayments totaling \$1,911,049.09 and future repayments in U.S. Housing and Urban Development (HUD) Neighborhood Stabilization Program (NSP) funds into a Community Development Block Grant (CDBG) fund for rehabilitation projects in HCD's Residential Lending and Rehabilitation Programs. HCD is also recommending appropriating \$1.3 million to the Oakland Community Land Trust (OakCLT) and Resources for Community Development (RCD) to rehabilitate a 15-unit affordable acquisition-rehabilitation housing development located at 2530 9<sup>th</sup> Avenue (the "Property"). HCD is recommending authorizing a substantial amendment of the City's Consolidated Annual Action Plan for Fiscal year 2018/19 to include the appropriation of \$1,911,049.09 of NSP loan repayment funds and future NSP loan repayments to the CDBG fund, \$1.3 million in allocations to OakCLT and RCD, and remaining funds to be allocated for projects currently in HCD's pipeline.

The use of NSP funds for the 9<sup>th</sup> Avenue project will ensure the rehabilitation and preservation of 15 affordable housing units for low- and moderate-income residents. It will also allow for the continued use and reinvestment of NSP program income for the improvement of vacant, blighted, and foreclosed properties in designated target areas throughout the city.

Item: \_\_\_\_\_  
CED Committee  
January 29, 2019

## **BACKGROUND / LEGISLATIVE HISTORY**

Residential Lending and Rehabilitation Services (RLS) administers loan and grant programs for: (i) the repair and rehabilitation of homes occupied by low- and moderate-income homeowner households in community development districts, (ii) access improvements for disabled homeowners and tenants, (iii) the transformation of vacant and blighted residential properties, and (iv) the development of surplus and vacant lots.

The NSP program, authorized under the Housing and Economic Recovery Act of 2008, provides assistance to state, local governments, nonprofits, and consortia to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities.

The Property is a two-building, three-story vacant, uninhabitable apartment complex. It is comprised of 15 three bedroom, one bath units. The Property is a former public housing apartment complex and presents an opportunity to protect affordable housing in a highly desirable residential neighborhood and prevent it from being sold to a market-rate developer on the speculative market.

To date, the City has committed a total of \$1,642,375 in funding (Fund 2830 and Fund 5330, details below) to the Property for site acquisition, which is approximately 22% of total development costs:

- The City has committed \$300,000 to the Property from the Over-The-Counter Site Acquisition and Naturally Occurring Affordable Housing (NOAH) Preservation program, funded from the FY 2017-18 AND FY 2018-19 Low and Moderate Income Asset Fund Balance (Fund 2830).

These loans are capped at a cumulative amount not to exceed \$300,000 per project and carry a simple interest rate of three percent (3%) per annum. Loans are to be repaid as soon as permanent financing is secured or three (3) years from the date of loan closing, whichever is sooner. Also, a loan origination fee equal to three percent (3%) of the loan amount will be charged.

- The project has been allocated an additional commitment of \$1,342,375 from the Site Acquisition program, funded by the Measure KK Housing and Infrastructure Bond (Fund 5330).

Per the commitment letter dated October 6, 2017, "this City loan of \$1,342,375 shall be a long-term residual receipts, deferred interest loan with a simple interest rate of three percent (3%) per annum, and a fifty-five (55) year regulatory agreement." Also, "the City will charge a loan origination fee equal to one and one-half percent (1.5%) of the loan amount."

OakCLT is the sponsor, borrower, and owner. RCD serves as the master/turnkey developer. OakCLT will provide resident training and support to enable the new residents to work toward gaining control of management and decision-making of the Property and incorporate many of the principles of the land trust model.

OakCLT and RCD applied for additional funding through the City's Multifamily Housing Rehabilitation and Preservation Notice of Funding Availability (NOFA) 2017-19 process; however, the Property was not awarded funding due to the limited resources available for the program. The NOFA rehabilitation program had \$10 million available for projects, which was awarded to the top three ranked projects. At the time, the Property was ranked number seven. Currently, the project has been placed in the pipeline and could be awarded funding from current NSP program income through the proposed City Council action.

In the staff report accompanying Resolution No. 87016 C.M.S. ("NOFA Affordable Housing Funding," December 5, 2017), staff determined that the Property, as an existing 15-unit apartment building, was "categorically exempt from CEQA," with no expansion of existing use as the result of the renovation. The project met the conditions of CEQA Guidelines Section 15301(d)(existing facilities) and Section 15332 (In-fill development project). In addition, the Project also meets the exemptions set forth at Sections 15061(b)(3)(Projects which will have no impact on the environment), and Section 15183 (Projects consistent with Community Plan, General Plan, or Zoning), each of which is a separate and independent basis for CEQA exemption.

The City Council has approved, through multiple Housing Action Plans, the allocation of Residential Lending and Rehabilitation Services (RLS) program income back to RLS for the purpose of recycling the funds for additional rehabilitation projects (e.g., Resolution No. 85623 C.M.S., "Appropriation of Residential Rehab Program Income," May 26, 2015).

Also, HUD's Notice of Neighborhood Stabilization Program: Changes to Closeout Requirements Related to Program Income (81 Federal Register 38730) published June 14, 2016, allows NSP program income to be transferred to the CDBG program if: (i) HUD is notified in writing prior to the transfer and (ii) the property complies with the statutory NSP 25% set-aside requirement for low-income housing. The 25% set-aside requirement has been satisfied per HCD's quarterly report to HUD, "January 1, 2015 thru March 31, 2015 Performance Report." HUD notification and approval is in progress, as the agency is currently closed due to the lapse in Congressional Appropriations for Fiscal Year 2019.

## **ANALYSIS AND POLICY ALTERNATIVES**

For the past 41 years, the City's Housing Rehabilitation programs have been available to low- and moderate-income homeowners residing in the seven community development districts. These programs have allowed the City to fund improvements to older and deteriorating housing stock as well as enhance the quality of life of low- and moderate-income households.

The rehabilitation of the Property will provide four (4) units for households at or below thirty percent (30%) of area median income (AMI), one (1) unit for households at or below fifty percent (50%) percent of AMI, and ten (10) units for households at or below sixty percent (60%) of AMI.

By ensuring that the rehab needs of the Property are fully funded, continued increases in labor and material costs, the extremely high incidence of lead hazards in Oakland housing stock, and the cost of permit fees will not impede the process of bringing uninhabitable units back into service for occupancy by low- and moderate-income households. Many RLS applicants must take out multiple loans to cover the cost of rehabilitating their property and in some instances,

qualified applicants have only been able to repair the most critical items, leaving many necessary repairs unaddressed, due to high construction costs and unavailability of funding.

The RLS division of HCD is requesting the appropriation of \$1.3 million from NSP loan repayments for the rehabilitation and preservation of the Property. The City Council's approval of the resolution for the appropriation and use of \$1.3 million of NSP loan repayments will allow for the allocation of funds for the rehabilitation of the Property, a priority project in need of critical health and safety repairs, and would allow for the immediate disbursement of the funds to ensure the City maintains existing funding commitments secured by OakCLT and RCD.

### **FISCAL IMPACT**

The proposed City Council action accepts and appropriates \$1,911,049.09 from NSP program income and any future NSP program income (Fund 2108, Org 89939, Account 48716, Project 1000276 (G368130), Program NB32) into the HUD-CDBG fund (Fund 2108, Org 88949), of which \$1,300,000 would be allocated for the rehabilitation of the Property (Fund 2108, Org 88949, 2530 9<sup>th</sup> Avenue) and residential rehabilitation projects currently in the pipeline (Fund 2108, Org 88949, Project(s) to be Determined).

### **PUBLIC OUTREACH / INTEREST**

This item did not require any additional public outreach other than the required posting on the City's website. The substantial amendment to the City's Consolidated Annual Plan for Fiscal Year 2018/19, which will be presented in a subsequent staff report, will require public notice and a 30-day comment period.

### **COORDINATION**

This report has been compiled by HCD in consultation with the Office of the City Attorney to ensure the legality of the funding commitment resolutions. The Budget Bureau was consulted to confirm funding amounts and location.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** Providing families with affordable housing helps provide financial stability for low- and moderate-income households, which could free some household income to be spent on other goods and services in Oakland. The use of NSP program income to fund this project will expand the affordable housing inventory in Oakland, generate construction and professional services jobs, and generate property and sales taxes, building and planning permit fees, and direct revenue for local businesses and suppliers.

**Environmental:** The developers will encourage contractors to use green building techniques, including energy-efficient design, use of recycled building materials, and water-conserving fixtures and landscaping. The proposed project is near public transit, enabling residents to

reduce dependency on automobiles and further reduce any adverse environmental impacts of development.

**Social Equity:** Oakland's neighborhood-level environment is improved by rehabbing foreclosed and sometimes blighted properties in low-income, under-served communities, allowing these communities to benefit from the economic growth opportunities the Bay Area is experiencing. Allocation of NSP program income to this project will provide affordable rental housing for low- and moderate-income residents, allowing these residents to maintain housing that is safe and healthy, thus advancing housing equity. This is especially important for long-term Oakland residents.

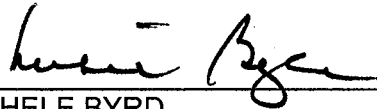
**ACTION REQUEST OF THE CITY COUNCIL**

Staff requests that the City Council adopt the Resolution:

- 1) Authorizing The City Administrator To Accept and Appropriate \$1,911,049.09 In Loan Repayment Funds And Future Repayments From The Neighborhood Stabilization Program Fund Into The Community Development Block Grant Fund To Fund Rehabilitation Projects In Housing and Community Development's Residential Lending And Rehabilitation Programs;
- 2) Appropriating \$1.3 Million To Be Used By The Oakland Community Land Trust And Resources For Community Development For The Rehabilitation Of A 15-Unit Affordable Rental Project Located At 2530 9<sup>th</sup> Avenue; And
- 3) Authorizing A Substantial Amendment Of The City's Consolidated Annual Action Plan For Fiscal Year 2018/19 To Include The Appropriated Funds And Allocations.

For questions regarding this report, please contact Loyd Ware, Manager of Residential Lending and Rehabilitation Services, at (510) 238-6197.

Respectfully submitted,



MICHELE BYRD  
Director, Housing and Community Development  
Department

Reviewed by:  
Loyd Ware, Manager  
Residential Lending and Rehabilitation Services

Prepared by:  
Sandra Williams, Program Analyst I  
Residential Lending and Rehabilitation Services

FILED  
OFFICE OF THE CITY CLERK OAKLAND CITY COUNCIL  
OAKLAND

  
City Attorney

2019 JAN 24 PM 6:08 RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND APPROPRIATE \$1,911,049.09 IN LOAN REPAYMENT FUNDS AND FUTURE REPAYMENTS FROM THE NEIGHBORHOOD STABILIZATION PROGRAM INTO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM TO FUND REHABILITATION PROJECTS IN HOUSING AND COMMUNITY DEVELOPMENT'S RESIDENTIAL LENDING AND REHABILITATION PROGRAMS;**

**APPROPRIATING \$1,300,000.00 TO BE USED BY THE OAKLAND COMMUNITY LAND TRUST AND RESOURCES FOR COMMUNITY DEVELOPMENT FOR THE REHABILITATION OF A 15-UNIT AFFORDABLE RENTAL PROJECT LOCATED AT 2530 9<sup>th</sup> AVENUE; AND**

**AUTHORIZING A SUBSTANTIAL AMENDMENT OF THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR FISCAL YEAR 2018/19 TO INCLUDE THE APPROPRIATED FUNDS AND ALLOCATIONS.**

**WHEREAS,** the City of Oakland received funds under the U.S. Department of Housing and Urban Development (HUD) Neighborhood Stabilization Program (NSP) to provide for the housing needs of low- and moderate-income residents; and

**WHEREAS,** NSP has generated \$1,911,049.09 in unallocated repayments of loans originally funded with NSP funds; and

**WHEREAS,** the transfer of NSP program income at any time before, at the time of, or after closeout into the CDBG program is permitted by HUD; and

**WHEREAS,** the rehabilitation of the Property is an eligible activity for CDBG funds; and

**WHEREAS,** there is a need to assist developers and owners of affordable housing in the acquisition, rehabilitation, and/or development of properties, including existing multifamily housing properties, vacant land, or nonresidential properties, in order to create additional opportunities for affordable housing and maintain currently restricted units; and

**WHEREAS,** the transferred NSP program income is an eligible source of project funding since the Program will increase, improve, and preserve the City's supply of housing affordable to households with incomes at or below 60% of AMI; and

**WHEREAS**, the proposed rehabilitation of the 15-unit housing development located at 2530 9<sup>th</sup> Avenue (the "Project") will remove blight and provide decent housing to low, very low, and extremely low-income households, i.e. households earning 30-60% of area median income (AMI); and

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

**WHEREAS**, per the CEQA Guidelines, this action is exempt from environmental review for the reasons stated below; and

**WHEREAS**, the U.S. Department of Housing and Urban Development (HUD) requires that the City prepare and submit a draft substantial amendment to the Consolidated Annual Action Plan for fiscal year 2018-2019 as a condition for appropriating NSP program income to CDBG funds; and

**WHEREAS**, amendments to the City's Consolidated Annual Action Plan require public notice and a 30-day public comment period; now, therefore be it

**FURTHER RESOLVED**, That the City Council hereby authorizes the acceptance and appropriation of current funds received from the repayment of loans made under the NSP program to CDBG to fund grants and loans made under a City residential rehabilitation program; and be it

**FURTHER RESOLVED**, That the City Council hereby appropriates and allocates the sum of \$1,911,049.00 from NSP program repayment funds (Fund 2108, Org 89939, Account 48716, Project 1000276 (G368130), Program NB32) to CDBG fund (Fund 2108, Org 89939, Project(s) to be Determined) for use by any residential rehabilitation program within the same fund; and be it

**FURTHER RESOLVED**, That the City Council hereby authorizes the City Administrator or his or her designee to provide a loan or loans in an aggregate amount not to exceed \$1,300,000 to the Oakland Community Land Trust and Resources for Community Development, or to an affiliated entity approved by the City Administrator or his or her designee, under the CDBG program, to be used to rehabilitate the Project, approved by the City Administrator; and be it

**FURTHER RESOLVED**, That the loan funds shall be reserved for a period of no more than nine (9) months from the date of this Resolution, and the making of the loan for the property shall be contingent on Developer's success in securing commitments for full funding for the rehabilitation of the property, or other assurances of adequate funding the City Administrator or his 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 for the Project shall be contingent on Developer's submission of specific property information, rehabilitation plans, budgets, and other materials evidencing that the rehabilitation of the Project is financially feasible and is consistent with the CDBG program goals and guidelines; and be it

**FURTHER RESOLVED,** That loan term and interest rates shall be determined by the City Administrator in his or her discretion within the terms of the CDBG program and as the City Administrator or his or her designee determines are in the best interests of the City; and be it

**FURTHER RESOLVED,** That as a condition of the loan(s), the City will require that appropriate restrictions on occupancy, sale, and resale be recorded against the assisted properties; and be it

**FURTHER RESOLVED,** That the loan(s) shall be secured by deeds of trust on the assisted properties; and be it

**FURTHER RESOLVED,** That the making of the loan(s) shall be contingent on and subject to such other appropriate terms and conditions as the City Administrator or his or her designee may establish, and be it

**FURTHER RESOLVED,** That the City Council hereby authorizes the City Administrator or his or her designee in his or her discretion to subordinate the priority of any of the City's recorded interests in the assisted properties to a lien or encumbrance of another private or governmental entity providing financial assistance to the property, if the City Administrator or his 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 City's investment in the assisted properties in the event of default is reasonably protected, and (3) subordination is in the best interests of the City; and be it

**FURTHER RESOLVED,** That all loan documents shall be reviewed and approved by the City Attorney's Office for form and legality prior to execution, and copies will be placed on file with the City Clerk; and be it

**FURTHER RESOLVED,** That the City Council hereby appoints the City Administrator and his or her designee as agent of the City to conduct negotiations, execute documents, administer the loan(s), extend or modify the repayment terms, and take any other action with respect to the loan(s) and the assisted properties consistent with this Resolution and its basic purpose; and be it

**FURTHER RESOLVED,** That the City Council hereby authorizes the appropriation of any future funds received as the result of loan repayments under the NSP program to CDBG for an unallocated project(s) to be decided within the respective fund from which the loan originated for use by any residential rehabilitation program within the same fund; and be it

**FURTHER RESOLVED:** the City Council hereby finds and determines that CEQA exemptions 15061(b)(3) (Projects which will have no impact on the environment), 15301 (Project involving Existing Facilities), 15183 (Projects consistent with a Community Plan, General Plan, or Zoning), and 15332 (Infill) apply to this project, each of which is a separate and independent basis for CEQA exemption; and be it

**FURTHER RESOLVED,** That the City Council hereby authorizes and directs the City Administrator or designee to prepare and submit the substantial amendment to the Consolidated Annual Action Plan for Fiscal Year 2018/19, and consider public comments received; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes and directs the City Administrator or designee to take any actions necessary to execute and submit the documents mentioned above to HUD and any other materials that may be required to secure HUD approval of the appropriation of NSP program income to CDBG funds; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator or designee to take any other action with respect to the projects and the allocation of NSP program income to CDBG funds consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO

AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California