CITY OF OAKLAND

AGENDA REPORT

TO:	Edward D. Reiskin City Administrator	**FROM:**	Shola Olatoye Director, Housing & Community Development Department
SUBJECT:	Hamilton Apartments Loan Extension	**DATE:**	November 22, 2021

City Administrator Approval Date: Dec 8, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Amending Two Affordable Housing Loans Authorized By Redevelopment Agency Resolution Nos. 91-38 C.M.S., 95-09 C.M.S., and 97-73 C.M.S. To 2101 Telegraph Avenue Associates, An Affiliate Of Mercy Housing, Inc., For the Hamilton Apartments Project At 2101 Telegraph Avenue To (1) Extend The Term Of The Loans And Regulatory Agreement By Fifty-Five Years; (2) Reduce The Interest Rate Of The Loans From Six Percent To Three Percent Simple Interest; And (3) Update The Repayment Terms And Other Provisions To Be Consistent With Current City Policies.

EXECUTIVE SUMMARY

The Hamilton Apartments (the "Project") is a 93-unit permanent supportive housing rental project located at 2101 Telegraph Avenue, in the structure known as the Old Downtown YMCA. The Project was acquired and rehabilitated with assistance in the form of two loans from the former Redevelopment Agency of the City of Oakland (the "Agency"). One Agency loan has matured. The second loan, as well as the regulatory agreement, will mature and terminate in 2025 and 2027, respectively. Staff recommends that the City Council adopt a resolution amending and extending the terms of the loans and regulatory agreement, in order to support the long-term preservation of the project as affordable housing for vulnerable populations.

BACKGROUND / LEGISLATIVE HISTORY

The Project was originally built in 1909 by the Young Men's Christian Association (YMCA), and operated for many decades as the Hotel Hamilton, a residential hotel with 191 rooms. In 1989, the building suffered extensive damage due to the Loma Prieta earthquake. In response, the Agency adopted Resolution No. 91-38 C.M.S. in 1991 authorizing a loan (the "First Loan") to the San Francisco Fortune Property Partnership in the amount of $130,000 from a Disaster Rehabilitation Loan Fund to pay for rehabilitation-related costs.

In 1995, 2101 Telegraph Avenue Associates (the “Partnership”), which was then affiliated with Catholic Charities Housing Development Corporation of the East Bay (CCHDC), requested Agency funds in order to acquire the Project and convert it to affordable housing. The Agency adopted Resolution No. 95-09 C.M.S., authorizing a loan in the amount of $2,810,416 (the “Second Loan”) in order to acquire and rehabilitate the Project. The 191 Single Room Occupancy units were converted to 93 studio apartments, with each unit having a private kitchen and bathroom. A regulatory agreement was executed (the “Regulatory Agreement”), restricting the Project to Very Low-Income households earning no more than 50 percent of Area Median Income (AMI). In connection with the acquisition, the Partnership also assumed the First Loan.

In 1997, the Partnership encountered financial difficulties, and work was halted midway through construction. Mercy Housing, Inc. (“Mercy”) stepped in informally to oversee the successful completion of the rehabilitation. On December 16, 1997, the Agency adopted Resolution No. 97-73 C.M.S. authorizing 2101 Telegraph Avenue Housing, Inc., an affiliate of Mercy, to be formally substituted into the Partnership as General Partner. The Resolution also converted the First Loan into a 30-year loan to be repaid from residual receipts.

The Project has been operating successfully under Mercy’s control since 1997, and all units, with the exception of one manager’s unit, now provide permanent supportive housing for formerly homeless households. The Project receives Project-Based Section 8 operating subsidies from the Oakland Housing Authority, ensuring that tenants pay no more than thirty percent of their income towards housing expenses. Average actual tenant incomes are 15 percent of AMI currently, and tenants have access to case managers, employment training, an on-site food bank, and other resident services.

Pursuant to California Health and Safety Code Section 34176, the City Council adopted Resolution No. 83680 C.M.S. on January 10, 2012, authorizing the City to retain and assume all of the housing interests and functions of the Agency upon its dissolution. The Redevelopment Agency has since dissolved, and the City has assumed its interest in the First Loan, the Second Loan, and the Regulatory Agreement for the Project.

Mercy intends to preserve the Project as permanently affordable rental housing. There are significant capital needs since it was last renovated in 1997, and Mercy is actively exploring funding scenarios for a rehabilitation. Mercy applied for additional City funds through the 2019-2020 Acquisition, Preservation, and Rehabilitation Notice of Funding Availability (NOFA). On January 21, 2020, the City Council adopted Resolution No. 87995 C.M.S., which awarded a new loan in the amount of $4,820,000 to the Project. However, one precondition to disbursement of funds is that Projects must secure the full balance of their Project financing from other sources. Due to changes in the State’s formula for Low Income Housing Tax Credit (LIHTC) and tax-exempt bond allocations, the Project has been unable to secure the remainder of its financing for the proposed rehabilitation. The path to securing state and federal affordable housing funds for rehabilitation projects remains challenging. Staff may require the Project to reapply for funds in the next applicable NOFA round if the rehabilitation work shows no signs of proceeding.

The First Loan was originally issued as a short-term loan but was later amended to have a term of 30 years, as authorized by Resolution No. 97-73. The Second Loan and Regulatory Agreement both have a term of 30 years, which was standard at the time of issuance. The First

Loan matured in October 2021, the Second Loan will mature in 2025, and the Regulatory Agreement will expire in 2027. Mercy submitted a request to extend the First Loan well in advance of its maturation date, and staff have deferred enforcement of the balance due until Council action could be sought.

The proposed legislation would authorize a new 55-year term for both the First and Second Loan and the Regulatory Agreement. Fifty-five years is the current standard term for affordable rental housing agreements, per Oakland Municipal Code Section 15.62.020 and California Health and Safety Code Sections 33334.3(f)(1)(A).

ANALYSIS AND POLICY ALTERNATIVES

The City routinely provides extensions to affordable housing loans if they will preserve a project's affordability and fiscal viability. The extension of the loans and Regulatory Agreement strongly promotes the City's goal of **housing, economic, and cultural security**. Adoption of the resolution would support the smooth functioning and responsible long-term stewardship of the Project.

A reduction in the interest rate of the loans from 6 percent to 3 percent would make a rehabilitation more feasible or allow for a larger scope of rehabilitation, which would again support the City's goal of housing security. The City has made a simple 3 percent interest rate on loans a standard underwriting practice for the last twenty years, so this request would simply update the loans to be consistent with current policies.

Amending and restating the loan documents may entail other changes in order to reflect the City's current policies. For example, the City's standard procedures and requirements for reserve accounts, insurance policies, and loan subordination have all been refined and updated in the years since the loans were executed.

Policy Alternatives

There are no alternatives that would effectively maintain affordability protection for existing tenants – the two alternatives below would result in financial hardship for the property and/or risk tenant displacement.

Do not extend the First Loan. If the First Loan is not extended, it will be due immediately and payable with interest. This will be a financial hardship on the Project, and will likely impact the Partnership's ability to perform routine maintenance and provide services to tenants.

Extend the First Loan but not the Second Loan at this time. If the Second Loan is not extended, it will be due and payable in full upon expiration in 2025. The City Council could choose to defer an extension of the Second Loan until closer to the expiration date. If Council does not authorize an extension of the Second Loan prior to the expiration date, the Project will experience major financial hardship. A default and foreclosure are significant possibilities under this scenario. If the Project does manage to stave off foreclosure, it would still be unlikely to qualify for state and federal rehabilitation funds without the City's support, and may not be able to be preserved for the long-term as deeply affordable housing.

If the loans are not extended at all, the Partnership would have no incentive to extend the Regulatory Agreement, and the City's affordability restrictions would expire in 2027, leaving existing tenants vulnerable to displacement.

For the reasons discussed above, staff does not recommend any of the policy alternatives.

FISCAL IMPACT

If the loans are extended, the outstanding balance will be repaid over time from residual receipts, rather than in full immediately (for the First Loan) and in 2025 (for the Second Loan). The outstanding balance of the First Loan as of December 21, 2021 is $127,641.38 in principal and $230,825.86 in interest. The outstanding balance of the Second Loan as of December 21, 2021 is $2,810,416.00 in principal and $4,100,769.88 in interest. No new funds will be awarded or disbursed in connection with this transaction.

If the Regulatory Agreement is amended and restated, the City may begin collecting an annual monitoring fee from the Project. This fee is currently set at $140 per unit per year, subject to changes in the City's Master Fee Schedule. The City would collect an additional $12,880 per year under the current fee schedule.

If the loan repayment terms are updated to reflect current City practices, the Partnership may retain a portion of excess cash flow (typically 50 percent) as an incentive management fee, with the balance being paid to the City and other Project lenders. The City has adopted this policy as a best practice for encouraging prudent fiscal management of the Project. The fiscal impact for these specific loans is uncertain, but likely not more than $10,000 per year.

The net fiscal impact of this loan extension could be a small increase in fee revenue. However, the results could vary based on future changes to the Master Fee Schedule and Project cash flow.

PUBLIC OUTREACH / INTEREST

Mercy performed tenant outreach in connection with its 2019-2020 NOFA application, including resident meetings on August 27 and September 25, 2019. The public also had the opportunity to comment on the Project when NOFA funds were awarded at the City Council meeting on January 21, 2020.

COORDINATION

City Housing and Community Development Department (HCDD) staff have collaborated with the Office of the City Attorney and the Budget Bureau to prepare this agenda report and proposed resolution.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

Mercy successfully intervened in 1997 to oversee the completion of the original rehabilitation of the Project. HCDD staff have performed regular inspections of the Project and found it to be in compliance with the City's standards for maintenance and tenant income certifications.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed action will improve the financial strength of the Project and facilitate a rehabilitation of the project in the coming years, which would generate construction and professional services employment in Oakland. Providing permanent supportive housing to formerly homeless households directly reduces homelessness, thereby lowering the cost of police, fire, and emergency services. The central location of the Project provides close proximity to transit, services, and employment opportunities for the low-income residents.

Environmental: The Project is a compact, historic, centrally-located building with no onsite parking facilities. By supporting the preservation of the project, the City is enabling residents a light carbon footprint.

Race & Equity: No race and equity analysis was performed. The Race and Equity indications are as follows: the Project directly improves outcomes of racially and socially marginalized groups by providing permanent supportive housing to formerly homeless households. Fifty-six percent of current Project tenants are African American. The proposed resolution would prevent displacement and enable these residents to continue living and thriving in downtown Oakland.

ACTION REQUESTED OF THE CITY COUNCIL

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For questions regarding this report, please contact Brian Warwick, Housing Development Coordinator IV, at 510-238-6984.

Respectfully submitted,

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