



CITY OF OAKLAND

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Maraskeshia Smith
Assistant City Administrator

SUBJECT: Mark Twain Homes Amended and
Restated Predevelopment Agreement

DATE: January 27, 2020

City Administrator Approval

Date:

2/5/20

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator Or His Or Her Designee To Amend And Restate An Unsecured Predevelopment Loan Agreement With Oakland And The World Enterprises, Inc., To Increase The Total Loan Amount From \$50,000 To \$350,000 Using Affordable Housing Trust Funds (Fund 1870) For Predevelopment Activities Associated with the Affordable Housing Project Located At 3525 Lyon Street, To Be Known As The Mark Twain Homes; And Making California Environmental Quality Act Findings For This Action.

EXECUTIVE SUMMARY

Oakland and the World Enterprises, Inc. (the Developer) and Memar Properties, Inc. (the Co-Developer) are seeking to jointly acquire and rehabilitate an existing housing development located at 3525 Lyon Street (the Project) to consist of 102 units, to be commonly known as the Mark Twain Homes. The Project was first utilized for senior housing in the 1970s and 1980s, and has been subject to at least three affordable housing regulatory agreements since the mid-1990s. Since that time, the Project has experienced a tumultuous ownership history and is now in need of significant capital repairs. The Project was not eligible to receive a recommendation for funding in the 2019 Notice of Funding Availability (NOFA) due to not having obtained a final California Environmental Quality Act (CEQA) determination. The proposed amended and restated predevelopment loan agreement will allow the Developer to retain the ability to acquire an option agreement for the Project and fund the predevelopment activities necessary to obtain a final CEQA determination, including the preparation of working drawings, which is currently an ineligible use of funds. In addition, based on the review and scoring of the Project pursuant to the 2019 NOFA, if the Project is successful in obtaining CEQA clearance, staff proposes to return to the City Council with a recommendation to fund the amount requested in the Project's NOFA application.

City Council
February 18, 2020

REASON FOR URGENCY

The proposed resolution is urgent because the Purchase and Sale Agreement that the Developer has with the existing owner is set to expire. However, given the need for additional time to work towards obtaining CEQA clearance, the Developer intends to enter into an option agreement, which is a permitted use of predevelopment loan proceeds. The property is subject to a Conditional Use Permit with conditions of approval that do not allow for more than 71 units at the property. Discovery of this condition, as well as the language from a 1997 staff report relating to ensuring compliance with the Conditional Use Permit, resulted in City staff concluding that the Project would increase the unit count of the building from 71 units to 102 units, which was not permitted under the zoning for the property. Thus, CEQA clearance could not be provided prior to the City Council action on the NOFA awards presented on January 21, 2020. Changes in state law effective January 1, 2020 now allow for this increase in density for the Project, and thus creates a path for a CEQA Determination for the project. While staff were legally unable to recommend a funding award due to absence of CEQA clearance, the provision of predevelopment funding to maintain site control while the Project advances to its CEQA clearance is an action the City Council can take to facilitate this critically important development project that will prevent displacement of existing residents, physically improve existing deteriorated housing serving a vulnerable population, provide vital supportive services to the residents, and extend the affordability term by 55 years.

BACKGROUND / LEGISLATIVE HISTORY

In 1980, the owner of the property applied for and received a Conditional Use Permit (CM80-148) to increase density beyond what is allowed under the zoning in exchange for restricting the use of the property to senior housing.

On June 14, 1994 the City of Oakland's former Redevelopment Agency adopted Resolution No. 94-35 C.M.S. authorizing two loans in the amount of \$250,000 and \$400,000 for the rehabilitation of the Project. These loans are connected to a Regulatory Agreement associated with the Project dated May 31, 1996.

In 1997, the City of Oakland Planning Commission held several hearings to review compliance with the conditions of approval under the 1980 Conditional Use Permit. During these hearings, Planning staff confirmed that the property contained 104 bedrooms, but only 68 separate dwelling units, as defined in the Planning Code. The Conditional Use Permit was amended to state that "any additional or alteration to the facility that results in the creation of any additional bedrooms, or in a total of more than 71 dwelling units, shall require approval by the Planning Commission."

In 2019, Housing and Community Development (HCD) staff approved a request by the Developers for predevelopment loan funds in the amount of \$50,000 to conduct predevelopment activities associated with the Project, and on October 2, 2019, a Predevelopment Loan Agreement was executed.

On September 29, 2019, HCD received an application for funding pursuant to the City's 2019 NOFA for Acquisition, Rehabilitation and Preservation projects in the amount of \$4,776,000 to acquire and rehabilitate the Project.

On January 1, 2020, state law (Assembly Bill 1763) went into effect, allowing for projects that propose to construct 100 percent affordable housing and that are within one-half a mile of a major transit stop to not be subject to regularly applicable residential restrictions.

On January 21, 2020, the City Council approved HCD staff recommendations for funding pursuant to said NOFA. This recommendation did not include the Project since the Project did not have CEQA clearance, a requirement of the awarding of public funds.

ANALYSIS AND POLICY ALTERNATIVES

The Developer submitted an application for funding pursuant to the City's Acquisition, Rehabilitation and Preservation NOFA on September 27, 2019, requesting \$4,776,000. The proposal calls for the acquisition and rehabilitation of the Project, which consists of four buildings and 102 occupied units. The scope of work proposed would include modifying the floor plans to eliminate multi-bedroom units and replacing them with full studios with private kitchens and bathrooms. Other upgrades include a seismic retrofit, replacement of wheelchair ramps, and energy-efficient heating, ventilation, and air conditioning (HVAC) upgrades. The Project would provide permanent, supportive housing, including housing for the formerly homeless and individuals with special needs. Supportive services would be provided by Bay Area Community Services (BACS).

The application was reviewed, communication between HCD staff and the Developer ensued to ensure all needed information and clarifications were provided, and the project was scored along with all other applications to the NOFA. The Project did not receive points under the "Discretionary Land Use Approvals" category due to staff determining that the Project included an increase in the unit count of the property from 68 dwelling units to 102 dwelling units, which was not permitted under the applicable zoning regulations. This resulted in the Project scoring fewer points than the other five applicants. These conditions impeded the Developer's ability to obtain a CEQA clearance prior to the City Council action on the NOFA awards presented on January 21, 2020. As a result, staff were legally unable to recommend a funding award due to absence of CEQA clearance.

The Developer received a predevelopment loan for the Project in the amount of \$50,000 in October 2019. Amending this predevelopment loan to increase the amount for partial use as an option payment and to permit the preparation of working drawings as an eligible use under the terms of the Loan Agreement would be the most expeditious means of moving this urgently needed development forward. In addition, based on the review and scoring of the Project pursuant to the 2019 NOFA, if the Project is successful in obtaining CEQA clearance, staff proposes to return to the City Council with a recommendation to fund the amount requested in the Project's NOFA application.

Policy Alternatives

If the City Council does not authorize the proposed resolution, the additional due diligence needed to determine the implications of CEQA for the Project for the proposed acquisition and rehabilitation of the Project may not occur. While the Project will continue to be deed-restricted affordable housing, the physical deterioration will likely continue and the residents may face the risk of displacement.

FISCAL IMPACT

The fiscal impact of this resolution is \$300,000, less any loan origination fees or repayment of principal or interest. Funds would be allocated from the Affordable Housing Trust Fund (City Fund 1870, Org 89929, Project to be determined), which has sufficient funds available. The City would charge simple 3 percent interest. The loan would be due in twenty-four months, with an optional six-month extension. Forgiveness of the loan would be at the City's sole discretion.

PUBLIC OUTREACH / INTEREST

The Developer and Co-Developer have hosted meetings with residents to describe the proposed rehabilitation of the Project and have received letters of support from residents and community members.

COORDINATION

This report was prepared by the Housing and Community Development Department in consultation with the Planning Bureau and the City Administrator's Office. The City Attorney's Office and the Budget Bureau have reviewed and approved this report and legislation.

SUSTAINABLE OPPORTUNITIES

Economic:

- Predevelopment loan funds will generate demand for professional services in Oakland.
- Providing individuals and families with affordable housing helps provide financial stability for low- and very low-income households which could free up income to spend on other goods and services in Oakland.
- The robust resident services included in the proposed rehabilitation will assist the residents in becoming more financially stable and independent.

Environmental:

- If the Project obtains CEQA clearance, the proposed rehabilitation will reduce development pressure on outlying areas and reduce vehicle miles travelled extending the useful life of an existing dense multifamily property.
- If the Project obtains CEQA clearance, the proposed rehabilitation will implement energy-efficient systems and appliances reducing greenhouse gas emissions.

Race & Equity:

- Developer and Co-Developer are minority-owned businesses.
- Affordable housing is a means of ensuring that extremely low-income, low-income and moderate-income households can participate as resident stakeholders in the civic and social life of Oakland. If the Project obtains CEQA clearance, the Project will target extremely low-income households who have the fewest options and face significant barriers in finding stable housing in Oakland.

- If the Project obtains CEQA clearance, the proposed rehabilitation will include accessibility upgrades, increasing access to housing for persons with disabilities.
- If the Project obtains CEQA clearance, the proposed rehabilitation will prevent displacement by deepening the affordability of the Project.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator Or His Or Her Designee To Amend And Restate An Unsecured Predevelopment Loan Agreement With Oakland And The World Enterprises, Inc., To Increase The Total Loan Amount From \$50,000 To \$350,000 Using Affordable Housing Trust Funds (Fund 1870) For Predevelopment Activities Associated with the Affordable Housing Project Located At 3525 Lyon Street, To Be Known As The Mark Twain Homes; And Making California Environmental Quality Act Findings For This Action.

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

Respectfully submitted,



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