



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Shola Olatoye
Director, Housing and
Community Development

SUBJECT: Affordable Housing Funding for Mark
Twain Homes

DATE: January 4, 2021

City Administrator Approval 

Date: January 20, 2021

RECOMMENDATION

Staff Recommends The City Council Adopt A Resolution Authorizing A Consolidated Affordable Housing Loan To Mark Twain Partners, LP, An Affiliate of Oakland & The World Enterprises, Inc., And Memar Properties, Inc. In An Amount Not To Exceed \$4,776,000 For The Mark Twain Homes Acquisition, Rehabilitation And Preservation Project And Making California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

Oakland & the World Enterprises, Inc. (the Developer) and Memar Properties, Inc. (the Co-Developer) are seeking to jointly acquire and rehabilitate, through their affiliate Mark Twain Partners, LP, an existing housing development located at 3525 Lyon Street (the Project) to consist of one-hundred and nine (109) 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.

On January 21, 2020, the City Council adopted resolutions pertaining to two Notices of Funding Availability (NOFAs) issued in August 2019. One of the NOFAs was for Acquisition, Rehabilitation and Preservation projects, and the Project applied for funding through this NOFA and met threshold requirements. However, it had not attained a final California Environmental Quality Act (CEQA) clearance at that time and so was not able to be recommended for funding.

On February 18, 2020, the City Council approved increasing the Project's \$50,000 predevelopment loan by \$300,000 to facilitate continued site control and predevelopment activities, including attaining CEQA clearance. In addition, based on the review and scoring of the Project pursuant to the 2019 NOFA, Housing and Community Development (HCD) staff proposed that should the Project be successful in obtaining CEQA clearance, staff would return

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to the City Council with a recommendation to fund the amount requested in the Project's NOFA application through a consolidated loan.

BACKGROUND / LEGISLATIVE HISTORY

In 1980, the owner of the property at that time 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 authorized two loans in the amounts 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 (CUP). During these hearings, Planning Department staff confirmed that the property contained 104 bedrooms, but only 68 separate dwelling units, as defined in the Planning Code. The CUP was amended to state that "any additions or alterations 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, 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 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.

On February 18, 2020, pursuant to City Council Resolution No. 88039, the City Council approved an increase of predevelopment funding by \$300,000 to a total amount of \$350,000 to facilitate continued site control and predevelopment activities, including attaining CEQA clearance.

On November 30, 2020, the Developer proposed to increase the unit count to 109 to enable the Project to compete for State Low Income Housing Tax Credits. The increase in units would not affect the building footprint and it would result in additional low-income housing.

As a result of a new state law (Assembly Bill 1763), which went into effect on January 1, 2020, projects that propose to construct 100 percent affordable housing and that are within one-half a mile of a major transit stop are allowed additional residential, density and development incentives beyond the existing provisions of the State Density Bonus Law to provide additional affordable housing. This law facilitated an administrative review of Project plans that will be completed before January 19, 2021.

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 (4) buildings and 109 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 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 sixty-eight (68) dwelling units to 102 dwelling units, which was not permitted under the then applicable zoning regulations. This resulted in the Project scoring fewer points than the other five applicants. It also impeded the Developer's ability to obtain a CEQA clearance prior to the City Council action on the NOFA awards when presented on January 21, 2020. As a result, staff were unable to recommend a funding award due to absence of CEQA clearance.

The increased predevelopment loan provided to the Developer in February 2020 enabled them to enter into an Option Agreement to facilitate retaining site control and to carry out the architectural work needed for a submittal to the Planning Bureau to attain CEQA clearance. Assembly Bill 1763, which became effective on January 1, 2020, provided a new mechanism for the Developer to receive increased residential density on the site through a Planning application for Regular Design Review, which was reviewed and approved by Planning staff on January 7, 2021. At that time, the Project was determined to be exempt from CEQA.

Staff recommends awarding funds in the aggregate amount of \$4,776,000 as requested in the Project's NOFA application. By taking this action, the City Council will ensure that this critically important development project can move forward. The Project 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 fifty-five (55) years.

Policy Alternatives

If the City Council does not authorize the proposed resolution, the developer would lose site control. This outcome could result in the displacement of existing residents and/or the continuation of substandard housing.

FISCAL IMPACT

In addition to the prior loan awards, which will be assumed by the new ownership entity, new project financing will be \$4,776,000.

The prior predevelopment loan in the amount of \$350,000 was funded from the Affordable Housing Trust Fund (Fund 1870, Project 1000393, Org 89929, Task 499111, Award 20354). This amount will be consolidated with additional funds in the amount of \$4,426,000 for a total loan of \$4,776,000. The new loan, which will be an amended and restated loan to the new owner, will be funded entirely with Measure KK Bond Funds (Fund 5333, Project TBD, Org 89929), and the \$350,000 in Fund 1870 predevelopment loan funds will be returned to that Fund for use in other projects.

PUBLIC OUTREACH / INTEREST

The Developer and Co-Developer have conducted meetings on-site with current tenants of the property. The tenants have expressed strong support for the acquisition.

COORDINATION

This report and resolution have been reviewed by the Office of the City Attorney and by the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic:

- Development 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:

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

Race and 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. The Project will target extremely low-income households who have the fewest options and face significant barriers in finding stable housing in Oakland.
- The proposed rehabilitation will include accessibility upgrades, increasing access to housing for persons with disabilities.
- The proposed rehabilitation will prevent displacement by deepening the affordability of the Project.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Under California Environmental Quality Act (CEQA), the City is required to review possible environmental impacts of all projects prior to a definitive commitment of funding, unless the project is exempt from CEQA review.

Staff has determined that the Project is exempt from CEQA pursuant to the following CEQA exemptions: Section 15332 of the State CEQA Guidelines: Infill development; Section 15183 of the State CEQA Guidelines: Projects consistent with the General Plan or Zoning; Section 15183.3 of the State CEQA Guidelines: Streamline for Urban Infill Projects; Public Resources Code Section 21159.23: affordable low-income housing.

ACTION REQUESTED OF THE CITY COUNCIL

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For questions regarding this report, please contact Christia Katz Mulvey, HCD, at 510-238-3623.

Respectfully submitted,

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