



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: February 1, 2022

Subject: Disposition, Development and Loan Agreement – Rodeo Senior Housing - Phase 2

RECOMMENDATION(S):

1. OPEN public hearing, RECEIVE testimony, and CLOSE public hearing.
 2. ADOPT Resolution No. 2022/38 approving and authorizing the Director of Conservation and Development to execute a Disposition Development and Loan Agreement (DDLA) between the County and La Loma Rodeo EAH, LLC., (the “Borrower”) for the sale of real property in Rodeo fronting the north side of Willow Avenue, between 710 Willow Avenue and the I-80 westbound on-ramp, to the Borrower for the development of 67 high-density senior residential units and a community space, and the loans of \$4,450,000 in Housing Successor Low Moderate Income Housing Funds (LMIHF).
 3. APPROVE and AUTHORIZE the Conservation and Development Director to execute various legal documents in connection with the loan and grant, including the DDLA, Predevelopment Component Promissory Note and Assignment of Collateral Documents.
 4. FIND that the actions related to the adoption of the resolution are within the scope of the Mitigated Negative Declaration previously prepared and adopted by the County under the California Environmental Quality Act for the General Plan Amendment #18-0007, and that
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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **02/01/2022** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Candace Andersen, District II
Supervisor

Diane Burgis, District III Supervisor

Karen Mitchoff, District IV
Supervisor

Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 1, 2022

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Maureen Toms,
925-655-2895

cc:

no new environmental analysis is necessary.

5. AUTHORIZE staff to file a Notice of Determination with County Clerk and pay the filing fee.

FISCAL IMPACT:

There is no impact on the County's General Fund. The property is a housing asset under Health and Safety Code section 34176 and was acquired using the former Contra Costa County Redevelopment Agency's Low and Moderate Income Housing Fund (LMIHF). The total County cost is anticipated to be \$4,450,000 from the LMIHF. The financing and other terms of the proposed disposition of the County housing asset are fully described in the attached "Summary 33433 Report".

BACKGROUND:

The recommended action is the adoption of a resolution by the Board to sell Housing Successor owned property, make a loan to La Loma Rodeo EAH, LLC. of LMIHF for the development of Rodeo Senior Phase 2 apartments in Rodeo, and to inform the public of these actions through a document known as the "33433 Summary Report." The development includes the disposition of Housing Successor owned property in Rodeo fronting the north side of Willow Avenue, between 710 Willow Avenue and the I-80 westbound on-ramp, and the development of 67 high-density senior residential units and a community space (the "Project").

The Property is an undeveloped .98-acre portion of a 2.11-acre parcel acquired in the late 1990's by the former redevelopment agency (Former Agency). A 2.11-acre site was subdivided into two parcels, to develop the northern parcel into a 50-unit senior housing project, known as the Rodeo Gateway Apartments. The Developer owns and manages the adjacent 50-unit Rodeo Gateway Apartments. The remaining vacant .98-acre parcel to the south is the subject of this DDLA. The County, as housing successor, is charged with continuing to implement the affordable housing objectives of the former redevelopment agency. County staff analyzed the potential uses of the Property and determined that the Property is suitable for development of affordable housing. The County intends to convey the property to the developer under the terms of the DDLA and provide a loan for the land purchase, predevelopment, and construction of the development. The sales proceeds generated from the disposition of the Property will be paid over time and used by the County to fund affordable housing objectives of the former redevelopment agency, in compliance with Health and Safety Code Section 34176.1.

Former Agency acquired the Property using the Former Agency's low and moderate housing fund, which was established pursuant to Health and Safety Code Section 33334.2. As such, the Property has been identified as a "housing asset" pursuant to Health and Safety Code Section 34176. The Oversight Board of the Contra Costa County Successor Agency and the California Department of Finance have approved such identification and the Property was transferred to the County for development as affordable housing. Under Health and Safety Code Section 34176, all rights, powers, duties, obligations, and housing assets (as defined in Section 34176(e)) transfer to the entity that retains the housing assets and functions previously performed by the Former Agency, which in this instance is the County.

Under Health and Safety Code section 33334.2 and section 34176.1, the housing assets must be used for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, lower income household. Under Health and Safety Code section 33430, the Housing Successor may for the purposes of redevelopment, sell, lease, exchange, subdivide, transfer, assign, pledge, encumber, or otherwise dispose of any real or personal property or any interest in property. In addition, under Health and Safety

Code Section 34176.1(e), the County has both the authority and obligation to dispose of real property acquired using moneys from the Former Agency's Low and Moderate Income Housing Fund within five years of the date it acquires the property interest in the housing asset.

The DDLA provides for the conveyance of certain real property and the construction of the Project provided certain conditions are met. The DDLA provides La Loma Rodeo EAH, LLC. with site control prior to the submittal of various funding applications. The DDLA also provides the allocation of funds for pre-development activities. Developer desires to borrow Four Million Four Hundred Forty Five Thousand Dollars (\$4,450,000) from the County (the "Loan") to assist in the purchase of the Property and construction of the Improvements. The Loan consists of Nine Hundred Eighty Thousand Dollars (\$980,000) of seller carry-back funds (the "Seller Carry-Back Component"); One Million Dollars (\$1,000,000) to fund predevelopment costs (the "Predevelopment Component"); Two Million twenty Thousand Dollars (\$2,020,000) to fund construction of housing units, and Four Hundred Fifty Thousand Dollars (\$450,000) to fund construction of the Community Improvements (the "Community Component"). The County, as housing successor to the Former Agency, has LMIHF's which must be used in compliance with the Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.) as amended by California Health and Safety Code Section 34176.1. Section 33433 of the Health and Safety Code requires the County to hold a public hearing prior to approving the sale of property acquired with former Redevelopment Agency funds.

The close of escrow is expected to occur in 2023. Implementation of the DDLA will provide 67 new residential units for seniors, thereby contributing to the community's supply of housing affordable to very low- and low-income senior households. The project allows the County, as Housing Successor, to fulfill its legal obligation for affordable housing production, dispose of housing assets and use funds from the LMIHF. The proposal also directs staff to enter into a separate agreement for the minimum 1,250 sq. ft. community space.

County legal documents for the Housing Successor include the DDLA, a promissory note, a deed of trust and security agreement, and a regulatory agreement. The loan will have a three percent interest rate and 55-year term, which is typical for these types of loans. There may be some annual loan payments if the project has surplus cash flow. Otherwise, the loan is deferred for 55 years. The loan documents are attached in their substantially final form and will be executed in a form approved by County Counsel.

In 2019, the State Legislature adopted amendments to the Surplus Lands Act under Assembly Bill 1486. Under Government Code §54266, "No provision of this Article 8 [or the Surplus Lands Act] shall be applied when it conflicts with any other provisions of statutory law." The transfer of the Property is subject to the legislated requirements under Health and Safety Code Section 33334.2, 34176.1, 333430, and 33433, which collectively conflict directly with the terms of the Surplus Lands Act Government Code

§54220 et. seq., as amended by State Assembly Bill 1486.

Pursuant to California Government Code §54221(b)(1), the County is nonetheless declaring the Property exempt surplus land. Under Government Code §54221(f)(1)(A) “exempt surplus land” is defined to include land that is transferred pursuant to Government Code §25539.4. In this instance, the County has authority to transfer the Property as contemplated in the DDLA because, as required under Government Code Section 25539.4, the County is authorized to use the Property to provide housing affordable to persons of low or moderate income because: (a) not less than 80% of the area of the real property will be used for the development of housing; (b) more than 40% of the units developed on the Property will be affordable to households with incomes equal to or below 75% of the Area Median Income (AMI); and (c) the property will be subject to recorded regulatory agreement binding the Developer and their successors in interest to ensure that the dwelling units produced for persons and families of low or moderate income at the Property will be restricted to remain continually affordable to those persons and families for not less than 55 years. In this instance, 97% of the Property will be used for affordable housing and the County intends to record a regulatory agreement ensuring that not less than 31 units (or 47% of the units) to be constructed at the Property) will be made available to households with annual incomes at or below 30% of AMI.

CEQA

The actions related to the adoption of the resolution are within the scope of the Mitigated Negative Declaration adopted by the County on November 19, 2019 under the California Environmental Quality Act for the General Plan Amendment #18-0007, and no new environmental analysis is necessary.

CONSEQUENCE OF NEGATIVE ACTION:

If the DDLA is not approved, the project will not proceed.

ATTACHMENTS

Resolution 2022/38

Disposition Development and Loan Agreement

H&S Code 33433 Summary Report

Predevelopment Promissory Note

Predevelopment Component Assignment

Adopted Mitigated Negative Declaration

Mitigation Monitoring Program

Form-Promissory Note

Form of Memo DDLA

Form of Housing-Reg. Agreement

Form of Grant Deed

Form of Notice Afford. Restrictions

Form of County Deed of Trust