



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: April 1, 2025

TO: LaTanya Bellow, City Manager

FROM: Chadrick Smalley, Community Development Director

SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Commit To A Permanent Financing Development Loan In An Amount Not To Exceed \$12,757,855 Between The City Of Emeryville And EAH Inc., A California Nonprofit Public Benefit Corporation, For The Development Of Affordable Housing At 4300 San Pablo Avenue And To Authorize The City Manager To Execute The Second Amendment To The Lease Disposition And Development Agreement By And Between The City Of Emeryville And EAH, Inc. For 4300 San Pablo Avenue (CEQA Determination: Exempt Pursuant To California Government Code Section 8698.4(a)(4) And State CEQA Guidelines Sections 15268(a), 15269(c), 15332, And 15061(b)(3))**

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution authorizing the City Manager to execute a commitment letter in an amount not to exceed \$12,757,877 and execute the Second Amendment to the Lease Disposition and Development Agreement between the City and EAH, Inc. for the development of a 100% affordable intergenerational housing project, located at 4300 San Pablo Avenue, for the purposes of modifying the income targeting requirement to state that the units will serve households between 30%-60% of Area Median Income ("AMI") with no less than 14 of the units serving households at 30% AMI.

BACKGROUND

On September 17, 2019, the City Council adopted Resolution No. 19-137 authorizing staff to release a Request for Qualifications/Proposals (RFQ/P) for the design and development of an affordable senior or intergenerational rental housing development at 4300 San Pablo Avenue (the "Property").

On July 21, 2020, the City Council adopted Resolution No. 20-85 selecting EAH, Inc. ("EAH") as the first-choice developer for the design and development of the Property and authorized the City Manager to execute an Exclusive Right to Negotiate Agreement ("ERN") with EAH for the purpose of negotiating a Lease Disposition and Development Agreement ("LDDA") for development of the Property. On September 6, 2022, the City Council adopted the second reading of Ordinance No. 22-007 authorizing execution of the LDDA and, on October 26, 2022, the LDDA was executed.

The LDDA provides for the development of 68 units and 7,000 square feet of amenity space within a 5-story building with a courtyard at the second level. The development will serve both Transition Aged Youth (“TAY”) and Senior populations, with a maximum of 14 units set aside for TAY, one unit for an on-site manager, and the remaining 54 units for seniors. The LDDA currently provides that the affordable units will serve households earning between 20% and 60% of AMI, with no less than 35 units for households earning no more than 30% of AMI. Additionally, the LDDA establishes the conditions precedent for the conveyance of the leasehold interest, which requires EAH to: (1) obtain all financing necessary for the development of the project, (2) obtain a building permit, (3) close on all financing, and (4) meet all other pre-disposition requirements to close on the ground lease (i.e. start construction) within two years of executing the LDDA.

On March 2, 2021, the City Council adopted Resolution 21-13 adopting the Affordable Housing Bond Administrative and Expenditure Plan, which allocated the Emeryville base allocation (\$2,519,198) of Alameda County Measure A-1 funding to the 4300 San Pablo Avenue project (“Project”). On October 27, 2021, the Alameda County Community Development Agency approved the commitment of the Measure A-1 funds to the Project, which required commencement of construction within three years (i.e., October 27, 2024).

Measure A-1 funds also require at least 20% of the units to serve extremely low-income households at or below 20% of AMI.

On December 5, 2022, the Community Development Department issued entitlements for the project through a streamlined Zoning Compliance Review process.

Since late 2022, EAH has been awaiting the release of a Notice of Funding Availability (“NOFA”) for Project Based Vouchers (“PBV”) from the Housing Authority of Alameda County (“HACA”). PBV is needed to subsidize the rents, at a minimum, for the extremely low income (30% AMI) units. Unfortunately, HACA had delayed the release of the NOFA four times and in August 2024, announced that they had a funding shortfall in 2024 and was projecting a funding shortfall in 2025, and therefore would not be issuing a NOFA for PBV nor could they commit to when a NOFA would be released in the future.

In November 2023, the City requested an extension from the Alameda County Community Development Agency (“CDA”), on the Measure A-1 construction commencement deadline and on October 8, 2024, the Alameda County Board of Superiors approved Resolution 2024-487 extending the Measure A-1 requirement for construction to commence to April 30, 2027.

Due to the inability to access PBV, the LDDA was administratively amended to extend the requirement to close on the ground lease (i.e. start construction) from two years to four years (October 27, 2026), to allow the developer time to assemble funding and make project changes needed for feasibility. This extension was memorialized in the First Amendment to the LDDA, which was executed on November 18, 2024.

The following increased costs and reduced funding sources have hindered the developer from being able to secure the financing necessary to develop the Project:

- Increased Costs
 - Project has incurred an 8% increase in construction costs since the developer was awarded this project in 2020.
- Reduced Funding Sources
 - Inability to obtain PBVs hinders the Project from being able to serve households at 20% AMI, which jeopardizes the ability to utilize the \$2,519,198 in Alameda County Measure A-1 Bond funds and eliminates the ability for the Project to carry debt without producing a negative cash flow.
 - The Project Site is no longer located in a HUD-designated Difficult Development Area (“DDA”), which are areas with high land, construction and utility costs relative to the AMI, therefore the project no longer qualifies for a 130% boost in federal tax credits and state tax credits.
 - In the current funding notice for the Round 3 Multifamily Housing Program (“MHP”), the California Department of Housing and Community Development (“HCD”) removed the ability for projects where 45% of the units serve special needs populations to receive an additional funding allocation of \$25,000 per unit, in contrast with Round 2 MHP funding cycle.
 - HCD has identified in the current funding calendar that all MHP funds are anticipated to be awarded by the end of this year, removing the ability to access these funds in the future unless new funds are reauthorized by the Legislature.

DISCUSSION

Development Funding Request

Over the past year, staff have worked with EAH over to determine an alternative financing plan to ensure the Project is both financially feasible and competitive in securing currently available financing resources . In order to be competitive for the Round 3 MHP application, due April 15, 2025, staff recommends the City issue a conditional letter of commitment for an amount not to exceed \$12,757,588 in construction and permanent financing for the Project, contingent upon the award of MHP funds. Simultaneously, the City would request that the Alameda County Board of Supervisors (“BOS”) authorize a waiver of the Measure A-1 Bond requirement that 20% of units serve households at 20% AMI, so that the Project can retain the use of the City’s Measure A-1 allocation. If the BOS approves the waiver, and the Project is successful in receiving an award of MHP funds, the City will reduce its financial commitment to \$10,238,657. Subsequently, if EAH is successful in securing Low Income Housing Tax Credits and other funding sources necessary to complete the Project, staff will prepare a permanent loan agreement for the City Council’s approval.

Second Amendment to Lease Disposition and Development Agreement

Per Exhibit C of the LDDA the Project will serve Transitional Age Youth (TAY) and Senior populations, with a maximum of 20% of the units (14 units) set-aside for TAY, 80% for Seniors (54 units), and one manager unit. Under the current provisions of Exhibit C

(Scope of Development), the units will serve households between 20% and 60% of AMI, with no less than 51% (35 units) serving Extremely Low-Income households (30% of AMI). The proposed second amendment would revise this provision of Exhibit C to provide that the units will serve households between 30% and 60% of AMI, with no less than 14 of the units serving Extremely Low-Income households. Additionally, the revisions provide that if EAH is able to secure PBV, the developer must make a good faith effort to increase the number of units serving ELI households so that at least 20% of the units serve households at 20% AMI.

ENVIRONMENTAL REVIEW

This project is exempt from environmental review under California Government Code Section 8698.4(a)(4), which applies to actions taken by a City that has declared a shelter crisis to provide financial assistance to a homeless shelter; State CEQA Guidelines Section 15269(c), which applies to specific actions necessary to prevent or mitigate an emergency; State CEQA Guidelines Section 15332, which applies to in-fill development projects; and the “general rule” at State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment.

FISCAL IMPACT

As outlined above, staff recommends a loan commitment letter be signed by the City Manager in the amount of \$12,757,588. If EAH is successful in receiving an award of MHP and Low-Income Housing Tax Credits for the Project, staff will develop a permanent loan agreement for City Council approval.

The Affordable Housing Bond Expenditure and Administration Plan allocates \$8,319,804 in Measure C Affordable Housing Bond proceeds (Fund 284) to the Development Opportunities Program. The purpose of the Development Opportunities Program is to make funds available to permit strategic acquisition or development of properties for very low to moderate income units. Additionally, the Affordable Housing Bond Expenditure and Administration Plan allocated \$4,050,000 in Measure C funds to the Special Needs Housing Opportunity program. The purpose of the Special Needs Housing Opportunity Program is to incentivize the creation of Below Market Rate units for Special Needs Populations (i.e. TAY). Lastly, as of June 30, 2024, the City has \$1,640,717 in unobligated Low Income Housing Asset Funds (“LIHAF”) (Fund 298) which must be used to support the development of affordable housing. Collectively, the City has access to \$14,010,521 in affordable housing resources to support the funding commitment.

	Measure C (Fund 284)	LMIHAF (Fund 298)
Development Opportunity	8,319,804	
Special Needs Housing	4,050,000	
Unobligated Funds		1,640,717
Subtotal Available	12,369,804	1,640,717
Grand Total Available	14,010,521	

CONCLUSION

Staff recommends that the City Council adopt the attached resolution authorizing the City Manager to execute the financing commitment letter and the second amendment to the LDDA to support the development of 4300 San Pablo Avenue.

PREPARED BY: Valerie Bernardo, Economic Development & Housing Manager

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



LaTanya Bellow, City Manager

ATTACHMENTS

- Draft Resolution, including
 - Exhibit A: Letter of Financing Commitment
 - Exhibit B: Second Amendment to Land Disposition and Development Agreement