



# City of Emeryville

INCORPORATED 1896

1333 Park Avenue

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September 25, 2019

Resources for Community Development  
220 Oxford Street  
Berkeley, CA 94704

**Re: 3600, 3610, 3620 San Pablo Avenue – Acquisition Loan Terms and Commitment**

The City of Emeryville (“City”) is very pleased to be able to assist Resources for Community Development (“RCD”) in the acquisition of the 3600, 3610 and 3620 San Pablo Avenue for 3600 San Pablo Development site (“Site”). This letter confirms that the City has been authorized to prepare acquisition loan documents with RCD in the amount of \$2,000,000 for the Site.

The following sets forth the terms and conditions under which the City may provide the loan for the Site:

**1. Project Site**

3600 San Pablo Avenue includes three parcels (3600, 3610 and 3620 San Pablo Avenue) totaling .39 acres. The properties are currently occupied by a warehouse and retail space, the Emeryville Citizens Assistance Program (“ECAP”) food distribution program, and a vacant restaurant.

**2. Project Attributes**

This commitment of financing is for acquisition of 3600, 3610 and 3620 San Pablo Avenue, which will be redeveloped along with Bay Bridge Apartments (1034 36<sup>th</sup> Street) into a 100% Affordable Housing Project with ground floor office space (“Project”). The Project is proposed to have the following attributes:

- Unit Configuration: new construction of approximately **54** total units, consisting of 14 studio units, 11 one-bedroom units, 14 two-bedroom units, and 14 three-bedroom units (including 1 unrestricted one-bedroom manager’s unit);
- Affordability: **14** units with rents not more than 30% of 30% Area Median Income (“AMI”), **24** units with rents not more than 30% of 50% of AMI, and **15** units with rents not more than 30% of 60% AMI and **1** manager's unit;
- Target Population: The Project will include **14** permanent supportive housing units, which will be targeted to formerly homeless households.

- Commercial Space: The Project will provide approximately 3,600 square feet of ground floor commercial space, to be provided for the ECAP. ECAP will be required to pay operating and maintenance costs, but will not be required to pay rent, which is currently subsidized by the City.
- Leveraging of Other Funds: It is anticipated that RCD will seek additional financing for both the acquisition of the Site and development of the Project. The City is not guaranteeing or committing any additional funding resources to the Project at this time. If additional funds are needed from the City, RCD will submit an application for funding at that time.

### 3. Terms of Loan

- Loan Amount: Not to exceed \$2,000,000.00
- Interest Rate: Maximum simple interest rate of 3% per year (interest to be determined prior to loan closing)
- Loan Term: The Loan shall be for a term of 3 years. The City Manager shall have the option to allow an extension of the loan, not to exceed 5 years from closing. Any extensions may be conditioned on the borrower submitting an updated proposal for approval by the City. If the borrower meets the Development Milestones and obtains additional financing in order to proceed with the development of the Project, the Loan term upon closing of all construction financing may be extended to a 55 year term.
- Loan Proceeds: Loan proceeds may be used for the acquisition of the Site only.
- Repayment: The acquisition loan is intended to be repaid with permanent Project financing, which may or may not include City fund sources. The City Manager shall have the option to convert the loan to permanent financing if permanent financing is awarded by the City for the Project through a Notice of Funding Availability or other process with repayment to be on terms and conditions determined at such times as the loan is converted to permanent financing.
- Security: The loan will be secured by a deed of trust, recorded against the Site. In certain cases, the City may agree to take a subordinate lien position to other financing in regards to its deed of trust. Conditions of such an agreement, which must protect the City's right to cure defaults under other loan agreements and, if curing default, the City's right to transfer the property to an alternate owner without acceleration of other financing, must be negotiated well before other financing is scheduled to close.
- Covenant: A 75-year covenant will be recorded against the property that will require use of the property wholly or in part for low income housing. Low income rental housing



required by the covenant shall provide an affordable rent for households with incomes up to 60% of AMI and must include at least 14 permanent supportive housing units. The covenant shall continue and shall remain in first position when the loan is repaid or discharged prior to the end of the affordability period. However, the City Manager may release the covenant, wholly or in part, in connection with a sale of the property approved by the City Manager, if the property is not in housing use and the City Manager determines that development of low income housing is infeasible and that the loan must be repaid. **The City does not subordinate its regulatory agreement to other private lenders.**

- Recourse: Loan will have full recourse to RCD, but may be converted to a nonrecourse loan if the loan is converted to permanent financing.
- Default: In the event of a Default, interest on the Loan will begin to accrue, as of the date of Default and continuing until such time as the Loan is repaid in full or the Default is cured, at the rate of ten percent (10%) per annum compounded. Provision to cure default will be outlined in the loan documents.

#### **4. Source of Funds**

Funds for this project have been reserved from the City's Capital Improvement Program. The project must comply with all restrictions imposed by those programs.

#### **5. Relocation Plan**

State relocation law will apply for projects that will temporarily or permanently displace current business or residential occupants, and relocation assistance and benefits may be required which can add substantially to the project cost. If temporary or permanent relocation of occupants will be required, a plan must be submitted to and approved by the City.

#### **6. Planning, Zoning, Building Permit Approval**

RCD should give the City Contact (see Section 10 below) reasonable notice of all meetings with City Planning and Building staff concerning design and permitting issues.

#### **7. Closing the Loan**

To ensure that City documents are signed in a timely manner, final negotiations must be concluded and documents approved by RCD, City staff, and appropriate attorneys **at least four weeks prior** to any deadlines for loan closing imposed by other lenders or financing programs. Please note that City staff will need to review documents for any other non-City loans prior to the closing of that financing. Please notify the other funders of this requirement and ask them to provide those documents at least a month prior to their closing deadlines. Staff cannot ensure that loan documents for projects that do not meet this timeline will be signed prior to outside deadlines. RCD must provide a written schedule for negotiations and closing when commitments for full project financing are achieved.

In addition to approved loan documents, the following documents (at a minimum) must be approved by City staff prior to loan closing:

1. An opinion by RCD's legal counsel, satisfactory to the City's legal counsel, that RCD is duly formed, validly existing, in good standing under the laws of the State of California, has the power and authority to enter into an Agreement with the City, and shall be bound by the terms of the Agreement when executed and delivered, and that addresses such other matters as the City may reasonably request
2. A copy of appropriate insurance policies naming the City as co-insured.
3. Audited or financially reviewed financial statements for RCD's last three fiscal years.
4. Preliminary Development Budget
5. Preliminary 30-year proforma
6. Title Report
7. Loan documents from the other funding sources closing at the same time

If loans from other funding sources are closing at different times, City staff must also review those documents prior to their closing.

#### **8. Development Milestones**

The following development milestones will be incorporated into the loan documents. Failure to comply with the development milestones may result in a loan default, however the Loan Agreement will outline options to cure default:

- Submission Phase 1 Environmental Assessment to Alameda County Environmental Health Department by April 1, 2020
- Submittal of California 4% or 9% Tax Credit Application by July 1, 2020
- Submittal of Zoning/Planning application to the Emeryville Department of Community Development by October 1, 2020
- Project Entitlements secured by October 1, 2021
- Secure construction and permanent financing by January 1, 2022
- RCD has obtained all permits and approvals necessary for the construction of the Project March 1, 2022

#### **9. Updates**

RCD is required to provide updates to the City's Contact a minimum of once a month regarding relevant progress on the Project including design and permitting, financing, changes to the schedule and budget, and other Project issues.

**10. City Contact Information**

Valerie Bernardo, Housing Coordinator, will be the City's assigned staff on this Project. Please contact Valerie at (510) 596-4354 or [vbernardo@emeryville.org](mailto:vbernardo@emeryville.org) to discuss the timeline for this Project to move forward.

To acknowledge your receipt of this commitment letter, please sign and date the bottom of this page and return within a week of receipt to Valerie Bernardo, Housing Coordinator, 1333 Park Avenue, Emeryville, CA 94608. We are excited to work with RCD as the Project continues to move forward.

Sincerely yours,



Christine Daniel  
City Manager

The foregoing is accepted by RCD:

\_\_\_\_\_  
President & CEO  
RCD

\_\_\_\_\_  
Date