



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: June 1, 2021

TO: Christine Daniel, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute The Notice Of Exercise Of Option To Acquire 1500 Park Avenue #322 And Any Other Documents Required To Complete The City's Acquisition Of 1500 Park Avenue #322 At A Purchase Price Not To Exceed \$338,200 And To Expend Up To \$16,800 For Repairs, Holding Costs And Any Additional Transactional Costs For A Total Expenditure Not To Exceed \$355,000 From The Affordable Housing Fund (Fund 299) As Appropriated To The Capital Improvement Program For Below Market Rate Unit Acquisition Program (CIP No. # H-06)

RECOMMENDATION

Staff recommends that the City Council adopt the above-entitled resolution authorizing the City Manager to execute the Notice of Exercise of Option to acquire 1500 Park Avenue #322 (the "Property") and any other documents required for the City to purchase the Property, and to expend an amount not to exceed \$355,000 for acquisition, repairs, holding costs and any additional transactional costs from the Affordable Housing Fund (Fund 299).

BACKGROUND

Prior to 2000, the former Emeryville Redevelopment Agency utilized a portion of tax increment revenues to make a loan for the development of a condominium conversion project, located at 1500 Park Avenue (i.e., Emeryville Warehouse Lofts, "Project"). Pursuant to this loan, twenty percent of the condominium units (26 units) in the Project were required to be affordable to persons and families of moderate income at a restricted sales price. The City has lost the affordability restrictions applicable to one of the twenty-six restricted units at Emeryville Warehouse Lofts due to a foreclosure, therefore, 25 units are currently restricted to moderate income households at this Project.

Robert Arias Jr. (the "Seller") purchased unit #322 (the "Property"), a one-bedroom unit, on September 18, 2003 for \$206,000 as a moderate-income homebuyer. To ensure long-term affordability of the Property, the City required that a Resale Restriction and Right of First Refusal (the "Agreement") be recorded against the Property. The Agreement will expire on September 20, 2028, and annually the Seller must confirm that they still reside

in the Property as their principal place of residency. The City received a notice of intent to sell the Property from the Seller on April 21, 2021.

The Agreement states that the City has 60 days upon receipt of a Notice of Intent to Sell to exercise its Right of First Refusal to purchase or assign its right to purchase to an income-eligible homebuyer in order to retain the affordability restriction. Upon exercising the City's right, the unit must close escrow within 90 days. If the City purchases the Property, it can resell the Unit to a qualified buyer and retain the Property in its Below Market Rate (BMR) Homeownership portfolio. If the City does not exercise its Right of First Refusal, the City's right to purchase terminates and the owner may sell the unit to any buyer for an unrestricted price. Additionally, if this were to happen, the Agreement attached to the Property would terminate and the Property would no longer be a part the City's BMR homeownership portfolio.

If the City elects to purchase the Property, the City would be able to retain the Property as a part of the BMR homeownership portfolio by selling the unit to a new income-eligible homebuyer with a new affordability period. It is particularly critical for the City to retain its existing BMR ownership units because there is no new supply currently anticipated and the cost to retain an existing unit is much less than building a new unit. New homeownership BMR units are typically produced when units are set aside in new project developments through the City's Affordable Housing Program. There have been no new condominium projects built in Emeryville since the Adeline Place project in 2009, and the several hundred housing units currently in the development pipeline are planned or proposed as rental units.

DISCUSSION

Inspection of Property

On May 10, 2021, staff, in conjunction with Hello Housing, completed an inspection of the Property to ensure the Property is in good condition. The City issued a letter to the Seller stating the items to be completed by the Seller as a part of the resale process. No extensive repairs are required for the Property. The Seller has indicated to staff that he intends to have the work completed as outlined in the report and will notify the City when they are ready for a final inspection. Upon completion of the second inspection, if any work outlined in the report is not completed to the satisfaction of the City, the City will deduct the cost of completing any outstanding work from the maximum resale price.

Maximum Resale Price

The Agreement specifies that the resale price of the Property must be fixed at the lower amount arrived at via the following two methods:

1. Fair market appraised value, if there is substantial chance that the fair market appraised value is less than method # 2.
2. Original acquisition price of \$206,000 plus the cost-of-living increase as measured by the Consumer Price Index plus the depreciated value of capital improvements made by the Seller minus the cost of any deferred maintenance remaining at close of escrow.

Method #2 calculates to a maximum resale price of \$338,200, assuming that the seller adequately addresses all necessary deferred maintenance items as outlined in the inspection report. Based on a 2020 Real Estate Market Report provided by a local real estate company, the average sales price of a one-bedroom unit sold in Emeryville in 2020 was \$475,000; therefore, staff has determined that there is not a substantial chance that the fair market appraised value of this Unit is less than the amount calculated via method #2 and will not order an appraisal of the Unit. Therefore, staff has determined that the maximum resale price for this Unit is \$338,200.

Closing and Holding Costs

In addition to the maximum resale price, the City will be responsible for the closing costs (e.g. title report, escrow agent fee, recording costs, etc.) and holding costs (e.g. homeowner assessments, prorated property taxes, utilities, insurance, etc.) associated with the acquisition of this Unit. The majority of the City's outlay will be recouped once the Property is resold to an income-eligible buyer.

Staff has assumed a six-month holding period to allow for marketing of the unit, selection of an income-eligible buyer through a lottery process, and close of escrow. Based on experience, BMR units in this Project tend to go into contract relatively quickly. The estimated closing and holding costs are as follows:

Closing Costs (2% of Purchase Price)	\$6,800 (rounded)
Holding Costs (6 months)	\$6,600
Insurance	\$500
Utilities	\$1,200
HOA Dues	\$2,800
Property Taxes	\$2,100
<u>Contingency (1% Purchase Price)</u>	<u>\$3,400 (rounded)</u>
Total	\$16,800

Resale of Property

Upon the acquisition of the Unit, the City will engage with Hello Housing, the City's BMR Homebuyer Consultant, to coordinate a lottery to resell the Unit at an affordable purchase price to an income-eligible buyer. Staff will then bring an agenda item to the City Council to authorize the resale of the Unit and execution by the City Manager of the related resale restriction agreement to ensure long-term affordability.

FISCAL IMPACT

The City's Capital Improvement Plan ("CIP") includes a Below Market Rate (BMR) Unit Acquisition Program Project (Project H-06). The purpose of the program is to acquire BMR units at risk of losing their resale restrictions with respect to affordable pricing and income eligibility of the purchasing household. The Fiscal Year 2021-2022 Budget includes \$1,578,343 from the Affordable Housing Fund (Fund 299) for this program.

On March 2, 2021, the City Council adopted the Affordable Housing Bond Administration and Expenditure Plan (the "Plan"), via Resolution No. 21-13, which recommended that the City retain \$400,000 in appropriations from Fund 299 and appropriate \$1,178,373 from future proceeds from the issuance of the Measure C Housing Bond to support the Acquisition of BMR Homebuyer Units Program as outlined in the Plan.

The appropriation of funds as outlined in the Plan will occur in fiscal year 2021-2022; however, the funding needed for this action (\$355,000 including acquisition (\$338,200) and holding costs (\$16,800)) is currently appropriated in Fund 299 in support of the CIP Project H-06. It is anticipated that the City will expend these funds in fiscal year 2021-2022.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has been in communication with the Seller regarding the resale of the Property and has transmitted the inspection report and maximum resale price letter to the Seller. Additionally, the City notified the Seller in writing of the maximum resale price, that the City was interested in exercising its right of first refusal to purchase the unit, and would be presenting the item for City Council consideration on June 1, 2021.

CONFLICT OF INTEREST

None.

CONCLUSION

Staff recommends that the City Council approve the attached resolution authorizing the City Manager to execute the Right of First Refusal to acquire 1500 Park Avenue #322 from the Seller at an amount not to exceed \$338,200 and expend up to \$16,800 in closing, repair and holding costs, for a total expenditure not to exceed \$355,000, in an effort to retain the Property in the BMR Homeownership Portfolio.

PREPARED BY: Valerie F Bernardo, Community & Economic Development Coordinator II

REVIEWED BY: Chadrick Smalley, Economic Development and Housing Manager

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

Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution including Attachment A, Right of First Refusal