



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: May 20, 2014

Approved

Date

5/29/14

COUNCIL DISTRICT 6

SUBJECT: EXCLUSIVE NEGOTIATION AGREEMENT AND PREDEVELOPMENT LOAN TO ABODE SERVICES FOR REHABILITATION OF THE VERMONT HOUSE

RECOMMENDATION

Adopt a resolution authorizing the Director of Housing (“the Director”) to:

1. Negotiate and execute an Exclusive Negotiation Agreement between the City and Abode Services (“Abode”) for potential development of the City-owned Vermont House site, located 1072 and 1082 Vermont Street (the “Site”);
2. Negotiate and execute documents for a Predevelopment Loan between the City and Abode in an amount not to exceed \$125,000; and
3. Amend the Vermont House Affordability Restrictions to income-restrict the two structures based on the actual number of bedrooms.

OUTCOME

The City Council’s approval of the Director of Housing’s authorization to enter into an Exclusive Negotiation Agreement (“ENA”) and predevelopment loan agreement between the City and Abode will provide the site control and funding Abode needs in order to proceed with developing specific construction plans and obtaining the permits required to rehabilitate and operate the Vermont House as an affordable supportive housing facility. Abode has entered into negotiations with the County and has identified funding for the operation of the Vermont House. While the type of operating support (and, hence, the specific homeless or at-risk population) may change in future years, the Vermont House will initially be populated with individuals who are connected to San José by family or prior residency, have prior criminal justice system involvement, and would otherwise be homeless. It is anticipated that after Abode obtains a

May 20, 2014

Subject: Exclusive Negotiation Agreement and Predevelopment Loan with Abode Services for Rehabilitation of Vermont House

Page 2

Conditional Use Permit for operation of the facility, Housing Department staff will return to the City Council with a request for rehabilitation funding and a lease of the Site to Abode.

BACKGROUND

The City currently owns a 0.33-acre parcel containing two single family houses located at 1072 and 1082 Vermont Street (buildings plus ground, collectively, the "Site"). The City provided a loan from 20% tax increment funds for the purchase and acquisition of the property in September 2001 to Combined Addicts and Professional Services Inc. ("CAPS"). CAPS operated a residential service facility for lower-income substance and alcohol abuse users in recovery. CAPS defaulted on its loan in January 2009 and the City acquired the property via foreclosure. The Housing Department subsequently procured the services of a contractor to determine the condition of the buildings. That physical needs assessment determined that substantial construction rehabilitation was required at the Site.

The City issued a Request for Qualifications (RFQ) in August 2009 for the acquisition and rehabilitation of the property by a service provider to provide housing for a special needs population. Although there was interest in the Site, no proposals were submitted in response to the RFQ. After following up with organizations that had initially expressed interest, the Department found that applicants were deterred by the requirement that the owner/operator needed to provide funding for the rehabilitation of the site given the significant amount of rehabilitation required. The Site's rehabilitation needs also exceeded its value, which CBRE assessed in 2009 in a City-commissioned as-is appraisal of fee simple ownership as \$250,000.

Since that time, the Department has worked to identify grant funding for the future rehabilitation of the two buildings. Funds have now been identified - proceeds from tax-exempt tax allocation bonds that were originally granted to the West San Carlos Seniors Project and were subsequently returned to the City before they were spent. These funds are housing assets under the Community Redevelopment Law and must be granted for affordable housing capital projects.

The Department issued a new RFQ in August 2013, soliciting proposers for an owner/operator to oversee the rehabilitation of the site and to operate it as transitional or permanent housing for a homeless population, as defined by the City.

ANALYSIS

The City received two proposals from its RFQ for the rehabilitation and operation of the Vermont House—one from Goodwill of Silicon Valley ("GWSV") and one from Abode.

A panel of three individuals from the Housing Department evaluated the proposals against criteria set forth in the RFQ. The criteria are stated below:

May 20, 2014

Subject: Exclusive Negotiation Agreement and Predevelopment Loan with Abode Services for Rehabilitation of Vermont House

Page 3

RFQ Review Criteria	Weight
Conformance with City Proposal Requirements	Pass / Fail
Developer/Operator Capacity	30
Developer/Operator Experience	20
References	10
Service Plan	20
Project Financing/Feasibility	10
Local Business Preference	5
Small Business Preference	5
TOTAL	100

While both proposals were deemed responsive, Abode was selected by the panel as the preferred developer. As demonstrated by their response to the RFQ, Abode has extensive experience overseeing rehabilitation of projects similar to the Vermont House as well as experience operating and maintaining facilities that house a homeless population. They also have the financial capacity to provide operational funding in the event that becomes necessary.

Exclusive Negotiations

Since homeless individuals cannot typically pay rent to support operations, another source of funding is needed to operate the site and to provide critically-needed services to this vulnerable population. The County Departments of Alcohol & Drug Services (“DADS”) and Mental Health have agreed to provide Abode with approximately \$93,000 annually for operating funding and supportive housing services for Vermont House residents. The services would include on-site resident management and case management/counseling services to the residents. The County’s funding is the only source of operating funds that have been identified.

While the County’s commitment is ongoing, the funding cannot be guaranteed in perpetuity. Should these operating funds be terminated due to budget impacts, it will be Abode’s responsibility to select the residents and to provide case management services to the residents at the facility.

Based on these considerations, the Housing Department is recommending that the City enter into an Exclusive Negotiation Agreement (ENA) with Abode that gives assurances that the City will negotiate solely with Abode for development of the site. The certainty provided by the ENA will allow Abode to initiate the planning permit process and to obtain environmental review. The ENA will require Abode to obtain a Conditional Use Permit (CUP) that will specify the conditions of operation for the Site, and to secure the first year of operating funding.

Upon approval of the CUP, staff will bring forth a memorandum recommending that the City Council authorize the Director of Housing to execute a conditional grant for the construction and permanent financing of the Site. The amount requested by Abode for the rehabilitation is expected to be approximately \$1,800,000. This is consistent with the construction cost and contingency amount identified in the independent physical needs assessment procured by the City. Per the terms of the RFQ, Abode has agreed to the City’s request to enter into a long-term

May 20, 2014

Subject: Exclusive Negotiation Agreement and Predevelopment Loan with Abode Services for Rehabilitation of Vermont House

Page 4

(30-year) lease of the Site. This arrangement is consistent with the City's groundlease model for funding affordable apartments, as it allows the City to retain long-term control of the Site while all property operations are in control of the lessee. Therefore, in addition to the funding commitment, the Housing Department will recommend that the City Council enter into a lease with Abode for the long-term operation of the Site. As required by Community Redevelopment Law, a Health and Safety Code Section 33433 report is required for this lease. Procedures in that Section, including notice and public hearing requirements, will be followed prior to the Council's approval of such a lease.

Predevelopment Loan

The Department is also proposing a \$125,000 predevelopment loan to Abode so that it has the necessary funding to obtain conditional use permits, to conduct testing to determine a final scope of work, to develop rehabilitation plans, and to obtain environmental reviews. The funding source for the loan will be Low and Moderate Income Housing Asset Funds (LMIHAF), which consists of repayments from former 20% redevelopment-funded affordable housing loans.

It is common to award City funds to nonprofits for predevelopment expenses, and \$125,000 is an appropriate amount for the work to be done by Abode. The predevelopment loan may be secured and, assuming all business terms are met, staff intends to structure the loan to be repaid from the City's expected construction/permanent grant proceeds that will allow the Site's rehabilitation. While predevelopment loans of up to \$100,000 are approvable at the staff level under the City Council's Predevelopment Loan Program, this loan is expected to exceed that dollar limit; as such, it would not meet that Program's requirements and must be approved by the City Council.

Affordability Restrictions

There is an existing City affordability restriction on 14 of the 16 bedrooms at Vermont House; the other two bedrooms were unrestricted managers' rooms. This restriction was written to require 28 extremely low- or very low-income persons (beds). In reviewing the facility, the Housing Department has determined that this restriction should be amended to be more consistent with Community Redevelopment Law and consistent with other edits being made on other supportive housing properties. Later, once the CUP is obtained for the provision of supportive housing for the homeless, this land use designation will require annual submission of services provided per the City's municipal code. Accordingly, the Site's affordability restrictions would at that time further be amended to incorporate annual services reporting.

EVALUATION AND FOLLOW-UP

Assuming Abode fulfills the terms of the ENA and a CUP is approved for the Site, the Housing Department will bring a recommendation to the City Council for approval of a construction and permanent loan for rehabilitation of the Site.

May 20, 2014

Subject: Exclusive Negotiation Agreement and Predevelopment Loan with Abode Services for Rehabilitation of Vermont House

Page 5

Upon the fulfillment of the ENA requirements by Abode, staff will have consultants prepare a 33433 Report summarizing the value of the property and will negotiate a lease. The Housing Department will bring the 33433 Report and form of lease to the City Council for consideration after a noticed public hearing.

POLICY ALTERNATIVES

The Housing Department considered the following alternative before making these recommendations for the Vermont House rehabilitation:

Alternative #1: *Do not select a developer from this RFQ.*

Pros: The Vermont House could be used for another purpose or the property could be sold.

Cons: The City is facing a tremendous need for housing for its homeless population. The property already has affordability restrictions that are not easily moved and that require that the buildings be occupied by lower-income persons. Additionally, the funding source available for this project represents a limited opportunity to help meet this need and because they are bond funds, they must be spent in an expeditious manner.

Reason for not recommending: Abode has a proven track record of overseeing construction projects of this kind and is experienced with overseeing permanent supportive housing projects for the homeless. The proposal received from Abode conforms to the City's requirements for the site.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1,000,000 or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item meets none of the above criteria, as the estimated value of the Site and predevelopment loan together are less than \$1,000,000. Nonetheless, this report will be posted to the City's website for the June 3, 2014, City Council Agenda.

May 20, 2014

Subject: Exclusive Negotiation Agreement and Predevelopment Loan with Abode Services for Rehabilitation of Vermont House

Page 6

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The recommended action is consistent with the objective of ending homelessness in the City's *Five-Year Consolidated Plan FY 2010-15*, adopted by the City Council on May 4, 2010.

BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the predevelopment loan commitment recommended as part of this memo.

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2013-2014 Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
346	0070	Housing Loans and Grants	\$13,000,000	\$125,000	XI-54	10/8/2013 Ord/Res #29320

CEQA

Negative declaration, File No. CP97-033.

/s/
LESLYE CORSIGLIA
Director of Housing

For questions, please contact Leslye Corsiglia, Director of Housing, at (408) 535-3851.

Attachment

ATTACHMENT

Location Map
1072 and 1082 Vermont Street

