



Legislation Text

File #: 19-637, **Version:** 1

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Report regarding a resolution approving 1) the acquisition of a Below Marker Rate (BMR) unit at South City Lights, 2) approving the use of \$350,000 from the City's Affordable Housing Trust Fund (Fund 205) for the preservation and sale of the BMR unit, 3) authorizing the City Manager to execute documents in connection with such preservation. (*Deanna Talavera, Management Analyst II*)

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving 1) the acquisition of a Below Marker Rate (BMR) unit at South City Lights, 2) approving the use of \$350,000 from the City's Affordable Housing Trust Fund (Fund 205) for the preservation and sale of the BMR unit, 3) authorizing the City Manager to execute documents in connection with such preservation.

BACKGROUND

On January 9, 2002, the City Council adopted ordinance 1306-2002 approving a Development Agreement for the Marbella Housing Development, now known as South City Lights. The Development Agreement required the developer to sell 70 below market rate ("BMR") units to families of low-, median-, and moderate-incomes.

The BMR units in the first three City Lights buildings successfully sold out. In 2007, the housing market began to slow and it became increasingly difficult to sell the moderate-income (120% Area Median Income) units in the development. Consequently, the City released 28 units and an additional two units were lost to foreclosure. Only 40 deed restricted BMR units remain in the South City Lights development. The subject unit is one of those 40 BMR units.

The subject unit was sold to its current owner in 2007 and the owner and City entered into a Resale Restriction and Right of First Refusal Agreement (Attachment 1). These agreements were recorded with the County of San Mateo so that they appear on any title search for the property. This provides a safeguard in the event that the owner later sells or otherwise loses possession of the residence.

It appears that starting at some point around August 2014, the owner of the property defaulted on loan payments and homeowner association dues. Meriwest Mortgage sent a City Notice of Default letter, notifying the City of foreclosure proceedings. Attempts to reach the owner were unsuccessful. The lien was eventually cured by the owner and foreclosure proceedings were suspended. In May 2016, the City received another Notice of Default and attempts to reach the owner via phone, email, and certified mail were unsuccessful. The lien was again cured by the owner and the account was reinstated to good standing.

The City was again notified of foreclosure proceedings on the property by letter from Cenlar FSB on June 25, 2019 (Attachment 2). The notice of default and election to sell allows the City to exercise its First Refusal Rights prior to any trustee sale, judicial foreclosure sale, or transfer by deed in lieu of foreclosure. The City has the following options at this point:

1. No action and allow the unit to be sold at foreclosure sale: The City could take no action and allow the

lender to foreclose on a BMR Unit. The resale restrictions would terminate upon the foreclosure sale.

2. Pay amount required to cure the default: The City could pay the lender the amount required to cure the default or provide a BMR owner with financial assistance so that he or she can cure the default. This approach would generally make sense only where it is believed that the owners will be able to make subsequent payments without City assistance. However, given owners history of falling into default and the City's inability to make contact with the owner, staff recommends against this option.
3. Exercise the purchase option and take title to the unit: If the City exercises its purchase option, the amount owed would be cured, the City would take title to the unit, and the City could sell the BMR Unit at a restricted price. In this case, the unit would remain affordable and subsequent purchasers would be required to enter into and comply with the provisions of the Resale Restriction and Right of First Refusal Agreement.

DISCUSSION

The loss of BMR units eliminates affordable housing opportunities for low- to moderate-income residents and affects the City's affordable housing production credit. For this reason, staff recommends Option 3 - i.e., exercising the option to purchase and take title of the unit. Therefore, staff is requesting that the City Council authorize the use of \$350,000 from the Affordable Housing Trust Fund to purchase and facilitate the sale of the unit. Purchasing the unit and curing the default is the most economical means to preserve a unit at risk of losing its affordability. It is much less expensive to preserve an existing affordable unit created under the City's Inclusionary Housing Ordinance than it is to create a new affordable unit. Preserving the BMR unit at City Lights also meets the City Council's desire for affordable units in mixed-income developments.

As the property owner, the City would need to pay the \$376 monthly costs for HOA dues until the property is sold to a qualified buyer. The City's estimated cost for acquisition, resale, and HOA fees is approximately \$350,000.

The City will purchase this property from the bank and place it again into BMR stock. The units resale value is \$525,000. Due to the limited supply of two bedroom BMR units, staff believes this unit will sell quickly. The property will be offered to qualified buyers via a lottery, with preferences given to those who live or work in the City of South San Francisco.

FISCAL IMPACT

The Affordable Housing Fund (Fund 205) has sufficient funds for this transaction. This Fund will be used to pay all costs related to the preservation and resale of the subject property which includes: the purchase price and holding costs estimated at \$350,000. The proceeds from the resale will be deposited back into the Fund 205.

RELATIONSHIP TO STRATEGIC PLAN

Preservation of affordable housing units address the following Strategic Plan area: Strategic Plan Priority Area 2 Quality of Life, Initiative 2.3 - Promote a balanced mix of housing options in South San Francisco.

CONCLUSION

Staff recommends that the City Council adopt a resolution approving 1) the acquisition of a Below Marker Rate (BMR) unit at South City Lights, 2) approving the use of \$350,000 from the City's

Affordable Housing Trust Fund (Fund 205) for the preservation and sale of the BMR unit, 3) authorizing the City Manager to execute documents in connection with such preservation.

ATTACHMENTS:

1. Resale Restriction and Right of First Refusal Agreement for Below Market Rate Property Agreement
2. Notice of Default And Election to Sell