



## Legislation Text

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**File #:** 24-122, **Version:** 1

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*Report Prepared by: Kimberly Nutt, Housing Program Supervisor/Development Services Department*

**SUBJECT:** Authorizing a Letter of Conditional Funding Commitment Reservation of U.S. Department of Housing and Urban Development (HUD) Home Investment Partnership Program American Rescue Plan (HOME-ARP) Funding Towards an Affordable Rental Housing Construction Project at 3015 Park Avenue, Merced, for up to \$1,690,461.30 of the City's Allocation of HUD HOME-ARP Funding

### REPORT IN BRIEF

Considers authorizing a conditional funding commitment reservation letter to be signed and issued to UPholdings California, LLC, developer of the future Mercy Village Apartments, a 66-unit affordable housing project to be located at 3015 Park Avenue, Merced, for up to \$1,690,461.30 of the City's allocation of HUD HOME-ARP funding.

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Authorizing a Conditional Commitment Reservation letter, following review as to form by the City Attorney, to be provided to UPholdings California, LLC, developer of the future Mercy Village affordable housing project at 3015 Park Avenue for up to \$1,690,461.30 of the City's allocation of HUD HOME-ARP funding; and,
- B. Authorizing the City Manager to execute all related documents; and,
- C. Authorizing the Finance Officer to make the necessary budget adjustments.

### ALTERNATIVES

- 1. Approve, as recommended by Staff; or,
- 2. Approve, subject to conditions other than recommended by Staff (specify findings and/or conditions to be amended in the motion); or,
- 3. Deny; or,
- 4. Continue to a future meeting (date and time to be specified in the motion).

### AUTHORITY

Charter of the City of Merced, Section 200.

### CITY COUNCIL PRIORITIES

Fiscal Year 2023/2024 Adopted Goals and Priorities regarding Housing & the Unhoused (Items a. and b.).

## DISCUSSION

Housing Division staff requests consideration of authorizing the issuance of the attached draft Conditional Commitment Reservation letter to UP Holdings/UP Mercy Village L.P., the developer of the future Mercy Village affordable housing development to be located at 3015 Park Avenue, Merced, to set aside up to \$1,690,461.30 of the City's allocation of HUD HOME-ARP funding.

### Review - HUD HOME-ARP funds and the Adopted HOME-ARP Allocation Plan

In April 2021, as a result of over \$5 billion being appropriated to address the need for homelessness assistance and supportive services as a part of the American Rescue Plan Action of 2021, which sought to address the widespread, long-term impacts of the COVID-19 pandemic, the City was notified by HUD that we would be receiving a \$1,988,788 allocation of HOME Investment Partnerships Program - American Rescue Plan (HOME-ARP) funding.

An Implementation Notice (CPD Notice #CPD-21-10) was subsequently issued in September 2021 and gave regular HOME formula Grantees like the City of Merced a first look at the unique requirements that come with this funding. The HOME-ARP funds required specific tasks to be completed - needs assessments of both the City's housing and public services needs surrounding the widescale issue of homelessness amongst vulnerable populations; partner agency consultations; public review, input, and outreach efforts; and an allocation plan to be prepared and approved by HUD through a Substantial Amendment process to the 2021 HUD Annual Action Plan before the City could access the full amount of funding, of which 15% can be used for administrative and planning costs incurred by the City (leaving \$1,690,461.30 for eligible projects).

Development Services Department (Planning/Housing Division) staff completed the HOME-ARP Allocation Plan in early Spring 2023 and shortly thereafter received HUD approval (April 2023). The City's Allocation Plan, after the needs of the community were thoroughly assessed, determined that the best use of HOME-ARP funding would be construction of affordable rental housing, and the constructed units would then be required to be made available to the four "Qualifying Population" vulnerable groups that Congress intended these funds to support.

One of the uniquely eligible ways that HOME-ARP funds could be used for new affordable rental unit projects is for the capitalization of a project operating cost assistance reserve to address any potential operating deficits of the HOME-ARP units that are restricted for QP households during the minimum compliance period of 15 years that is required for HOME-ARP rental unit projects. This special HOME-ARP waiver allowance by HUD may be especially crucial when using Project Based Voucher rental assistance for tenant rents.

### Developer Selection Process

In early 2021, at the appeal of both the public and the City Council, City staff began looking for ways to streamline and resourcefully fund the development of vitally needed affordable housing units in the City of Merced.

One of those ways was in creating a pre-qualified, ready resource of affordable housing developers whom the City could call upon when appropriate Federal, State, or other funding sources became

available and could be matched with an available, willing, and eligible developer from the pre-qualified list and an appropriate project. In April 2021, the City issued a Request for Qualifications (RFQ/RFQu) to solicit interest from potential affordable housing development partners and received several responses, of which several projects are currently in progress.

### Upholdings and the Mercy Village Project

The Upholdings Development organization was one of the first RFQ responses that were received and has since successfully finished and opened its 96-unit Twelve Thirteen motel conversion project using over \$24 million in State Homekey funding, for which the City was the agency applicant.

In October 2021, City staff presented for Council's approval an Affordable Housing Funding Plan that listed several projects born out of the RFQ that were seeking funding. One of them was Upholdings' Mercy Village project, which was originally planned at 161 units at a different location. At that time, HOME-ARP funding and its implementation requirements were still young and unknown; however, this project was mentioned then as a potential future recipient of HOME-ARP funding whenever the funds cleared all of the City's administrative/planning responsibilities with HUD and became available.

Since then, the project has downsized to 66 units, relocated to 3015 Park Avenue, has successfully secured site control. All land and zoning entitlements, including a Density Bonus application approved by Council on January 3, 2022, have been obtained, most recently, the City Council approved regulatory, deed restriction, and loan agreements for formal commitment of State Permanent Local Housing Allocation funds for the project. Building permits have already been submitted and are currently ready for issuance.

### Federal Environmental Clearance

For all new construction projects that consider the use of HUD funding, a National Environment Policy Act (NEPA) Environmental Assessment (EA) must be performed under Title 24 of the Federal Code of Regulations Part 58 (24 CFR Part 58) and receive clearance with HUD before any HUD-administered funds can be formally committed or expended and before any physical alterations can be made to the site for the project.

Early on in the process of considering potential funding sources for the project, Upholdings had considered the use of Project Based Vouchers issued by the U.S. Office of Public Housing, for which the Housing Authority of the County of Merced is the issuer. As Responsible Entity/local government agency under Part 58, City Housing Division staff worked with the developer's contracted environmental consultant firm in performing a thorough EA and receiving HUD clearance for the provision of vouchers (October 2022).

As now HOME-ARP funds are being seriously considered for the project, Housing staff will soon complete a supplemental "convert to exempt not subject to" environmental review (CENST) that is required for the provision of additional HUD funding to a previously approved EA/project. This Part 58 CENST review will then be kept with the original EA environmental record.

### Conditional Funding Commitment Reservation Letter

UPholdings has recently approached Housing staff about the provision of HOME-ARP funds to the project and asked for the preparation of a Commitment Reservation letter, so that it could then be used to help improve their overall score in securing tax credit subsidies from the California Tax Credit Allocation Committee, for application deadlines at the end of this month.

Contingent upon UPholdings' ability to adhere to the unique requirements of HOME-ARP funding and HOME-ARP assisted rental housing projects, the provision of this funding source to this project appears to be a good fit. Therefore, staff has prepared the attached draft commitment letter and requests Council's approval and further nod of support to the project. This will enable to project to have a better chance at obtaining the rest of its necessary funding

### **IMPACT ON CITY RESOURCES**

The acceptance and appropriation HOME-ARP funding was approved at a previous council meeting.

The actual amount of HOME-ARP funding needed by the project to fill any gaps in total funding has not yet been determined. The amount noted in the draft letter is the full amount available to allocate to an eligible affordable rental housing construction project, per the adopted HOME-ARP Allocation Plan.

Once the project has secured all necessary other funding, including TCAC tax credit awards, formal commitment of HOME-ARP funding and appropriation actions will be undertaken at that time.

### **ATTACHMENTS**

1. Draft HOME-ARP Conditional Funding Commitment Reservation letter - Upholdings
2. HOME-ARP Allocation Plan