



Legislation Text

File #: 24-062, **Version:** 1

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SUBJECT: Approval of a Regulatory Agreement with UP Mercy Village, L.P. Setting Up the Terms of Affordability; Deed Restriction and Loan Agreement for the Permanent Local Housing Allocation Funds for Mercy Village, an Affordable Housing Project on Park Avenue

REPORT IN BRIEF

Considers approving a Regulatory Agreement with UP Mercy Village, L.P. setting up the Terms of Affordability; Deed Restriction and Loan Agreement for the Permanent Local Housing Allocation funds for Mercy Village, an Affordable Housing Project on Park Avenue.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the Regulatory Agreement with UP Mercy Village, L.P. setting up the Terms of Affordability; Deed Restriction and Loan Agreement for the Permanent Local Housing Allocation funds for Mercy Village, an Affordable Housing Project on Park Avenue; and,
- B. Authorizing the City Manager or designee to make any minor changes to the PLHA loan agreements should the State require language changes, subject to the agreements and/or documents being approved as to form by the City Attorney; and,
- C. Authorizing the Finance Officer to make any necessary budget adjustments related to PLHA grant funds; and,
- D. Authorizing the City Manager or designee to execute all agreements and documents to fulfill the terms and conditions of the agreements and any future documents that may be necessary for the project, subject to the agreements and/or documents being approved as to form by the City Attorney.

ALTERNATIVES

- 1. Approve as requested by City Staff; or,
- 3. Deny; or,
- 4. Refer to City Staff for reconsideration of specific items to be addressed in City Council motion; or,
- 5. Continue to a future City Council meeting (date and time to be specified in City Council motion).

AUTHORITY

Charter of the City of Merced, Section 200, et seq

CITY COUNCIL PRIORITIES

This action is consistent with the adopted FY 2023-2024 Goals and Priorities, and Pro-Housing Policies of the City of Merced.

DISCUSSION

In April 2021, the City posted a Request for Qualifications (RFQ) seeking qualified applicants to be placed on a master list of prequalified non-profit housing developers that may cooperate with the Housing Division and the City of Merced on future projects. Later that month, one of the first responders to the RPQ was UPHoldings.

UPHoldings is a full-service affordable housing real estate company that encompasses a development arm (UP Development LLC), a property management company (UPA, LLC), and an asset management division (UP Holdings LLC) to ensure high-quality housing for residents that responds to local needs. They work across all types of housing - including family, senior, and workforce housing - but specializes in creating and operating permanent supportive housing for high-needs populations.

The project, called Mercy Village, includes 65 affordable permanent supportive housing units, a manager's unit, and a community/office area within a three-story building on a 1.54-acre parcel, generally located on the west side of Park Avenue, between Olive Avenue and Alexander Avenue (see Attachments 1 and 2). The parcel is at 3015 Park Avenue is in North Merced near Merced High School, in the City's Infill Opportunity Zone, close to shopping, services, and bus transit lines. In November 2021, the developer requested Permanent Local Housing Allocation (PLHA) funding for the project, as well as a Density Bonus. In January 2022, the City Council of the City of Merced authorized the funding commitment of the 2019 and 2020 PLHA funds of \$1,324,969 (Commitment Letter attached) and approved the Density Bonus (attached). That same month, they received a commitment letter (attached) from the Housing Authority of the County of Merced setting aside 65 project-based vouchers (PBV) for the project. PBVs subsidize the rent for those qualifying individuals, so that they will pay no more than 30% of their income towards rent. In 2023, they closed escrow on the land and submitted building permits. They also established the Limited Partnership for this project called UP Mercy Village, L.P.

As a side note of interest, in December 2021, the City Council authorized a joint Homekey application with UPHoldings for another affordable housing project at 1213 V Street. This project was awarded over \$24 Million in Homekey funding and the City committed ARPA funding as well. Subsequently, the City with UPHoldings management and development team, worked diligently over the next 19 months, and in December 2023, the 1213 V Street project opened its doors to provide 96 permanent supportive homes for the formerly homeless population in Merced.

That brings us to the current request for Council to approve the Regulatory Agreement (RA) with UP Mercy Village, L.P. The RA sets up the Terms of Affordability, this guarantees that the apartments will remain affordable for 55 years. The RA defines the level of affordability, which states that 6 of the units are reserved for those at 30% AMI, 5 units reserved for those at 50% AMI, and 11 are reserved for those at 60% AMI. The AMI for Merced County is currently \$83,800 for a family of four and \$58,650 for a single person. The RA further defines the allowable maximum rent and tenant selection standards. Should the allowable rent or AMI standards differ based on HCD standards and other regulatory agencies' requirements, the Developer will adhere to the most restrictive limit (lowering rent and affordability). The RA has sections on how the developer is to certify tenant

income and create a marketing plan to best market to the underserved population. The developer is to utilize HUD Affirmative Fair Housing Marketing Plan. Additional provisions include rental agreement and grievance procedures, as well as procedures for on-site inspections and restrictions on sale of the property. The project must follow Fair Housing Laws and Not Discriminate. The Loan of PLHA Funds is memorialized within the RA Agreement, and as a separate attachment. Further agreements include the Deed of Trust and Promissory Note. The covenants outlined in the RA, Loan Agreement, Deed and Promissory Note run with the land, binding future owners to these agreements.

Attachments included are for the PLHA loan agreement required before the City can request the funds from the State. Although staff requested that the state make any comments or edits on the draft agreements, after four months, they have not made any comments. They may still request minimal changes to access the funds. Due to the timing of the adoption of our Housing Element pending in 2024, these documents need to be completed so that the funds can be accessed and liquidated for UP Mercy Village, L.P.'s predevelopment costs. Should any non-material changes be requested by the state, it is requested that the City Manager or designee, with City Attorney review, be permitted to make those changes.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed. This is State grant funding, and the City will submit a request for funds to the State upon approval of the package of loan documents.

ATTACHMENTS

1. Location Map
2. Site Plan
3. PLHA Funding Commitment Letter
4. Admin Report from Density Bonus
5. PBV Commitment letter
6. Regulatory Agreement and Declaration of Restrictive Covenants
7. Deed Restriction Covenant and Loan Agreement
8. Form of Deed of Trust
9. Promissory Note