



## Legislation Text

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File #: 22-594, Version: 1

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**SUBJECT:** Public Hearing to Consider a Resolution Approving the Sale of the Housing Successor Agency Property at 73 S. R Street; Accepting the Summary Report Pursuant to Section 33433 of the California Health and Safety Code; Approving a Disposition and Development Agreement Between the City of Merced (Acting on its Own Behalf and as the Housing Successor) and CC915 Merced, Inc. for the Development of a 4-Unit Affordable Housing Complex with a Future Accessory Dwelling Unit for Extremely Low-Income Unsheltered Veterans; and Adopting a Regulatory Agreement for Density Bonus #22-02 with Terms of Affordability with Approval of Waivers and Concessions to Certain Development Standards and Zoning Codes. The 0.46-Acre Subject Site is Generally Located on the West Side of R Street, Approximately 225 Feet South of Childs Avenue. The Subject Site has a Zoning Classification of Low Density Residential (R-1-6) with a General Plan Designation of Low Density Residential (LDR)

### REPORT IN BRIEF

Considers approving a Resolution approving the sale of a housing successor agency property at 73 S. R Street, including accepting the Section 33433 report. Then consider various actions including the approval of the Disposition and Development Agreement (DDA) between the City of Merced Acting on its Own Behalf and as the Housing Successor and CC915 Merced, Inc. for the development of affordable housing for extremely low income homeless veterans; approving a Regulatory Agreement (RA) setting up the terms of affordability; and approving a Density Bonus (DB), granting certain waivers and concessions to Development Standards and Zoning Codes, as recommended by the Planning Commission.

### RECOMMENDATION

**City Council** - Hold a Public Hearing and adopt a motion:

- A. Adopting **Resolution 2022-54**, a Resolution of the City Council of the City of Merced, California, approving a Disposition and Development Agreement between the City of Merced and CC915 Merced, Inc. and making and approving certain findings and approvals under section 33433 of the California Health and Safety Code; and,
- B. Approving the Sale of a Housing Successor Agency property at 73 S. R Street; and,
- C. Accepting the Summary Report Pursuant to Section 33433 of the California Health and Safety Code; and,
- D. Approving a Disposition and Development Agreement between the City of Merced and CC915

Merced, Inc.; and,

E. Approving the Environmental Review #22-26 (Categorical Exemption); and,

F. Approving the Density Bonus Application #22-02 by approving the Regulatory Agreement Containing Covenants Affection Real Property and authorizing certain other actions necessary to meet Performance Milestones of the Homekey Grant; and,

G. Authorizing the City Manager or Deputy City Manager to execute any and all agreements and documents to fulfill the terms and conditions of the disposition of the property per the DDA, the RA, DB, 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 recommended by staff and Planning Commission (Density Bonus only); or,
2. Approve, subject to other than recommended by staff (identify specific findings and/or conditions amended to be addressed in City Council motion); 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., California Government Code Sections 65915-65918 (Density Bonus Law), and Merced Municipal Code Section 20.56 - Density Bonus.

## **CITY COUNCIL PRIORITIES**

This action is consistent with the adopted FY 2022-2023 Goals and Priorities, and Pro-Housing Policies of the City of Merced.

## **DISCUSSION**

### **Background**

This property was originally managed by the City's Redevelopment Agency. In 2011, the Redevelopment Agency was dissolved requiring the City to manage or transfer several properties throughout the City. This specific site was transferred to the Housing Successor Agency. In 2020, Assembly Bill 1486 amended the Surplus Land Act requiring cities to offer to sell surplus properties to affordable housing developers and other entities before offering them for sale on the open market. The subject site is one of ten residential sites that went through this process.

In April 2021, the City of Merced issued a Request for Proposals (RFP) to solicit interest from perspective affordable housing development partners for these Housing Successor Agency properties. CC915 Merced, Inc., then Custom Containers 915, responded to the proposal for the location at 73 S. R St. with the intent of utilizing container units to create permanent supportive housing units for approximately 20 unsheltered veterans. The proposal also included a partnership with the Merced Rescue Mission, a local nonprofit service provider, that will assist in site management and other services.

In September 2021, the California Department of Housing and Community Development (HCD) issued a Notice of Funding for projects under the Homekey Program.

In October 2021, the Merced City Council provided direction and authority to enter into an Exclusive Negotiation Agreement (ENA) with CC915. The document is specific to the site located at 73 S. R St., Assessor's Parcel Number 059-256-004. The ENA has since been executed with CC915 and provides the assurance that the City will not engage in any other real property negotiations specific to this site with other groups.

In January 2022, the City Council approved applying for the Homekey Program as co-applicants with CC915. In March 2022, HCD announced that the City of Merced and CC915 Merced, Inc. were awarded \$4,420,000.00 of Homekey Program grant money. In April 2022, Council agreed to accept and appropriate the Homekey funds. The City has begun to advance funds to CC915, our grant recipient partner, to begin development and manufacturing the container homes.

### Current Action

Now that the Grant Financing is in place, a Public Hearing must be held to dispose of the property. Section 33433 of the California Health and Safety Code requires that before any property acquired in whole or in part, directly or indirectly, with tax increment moneys is sold or leased for development pursuant to the redevelopment plan, the sale or lease shall first be approved by the legislative body by resolution after a public hearing.

The property is being sold below market rate at \$1.00. The Site was purchased by the Former Redevelopment Agency with Low- and Moderate-Income Housing Set Aside Funds in July 2007 for the purpose of achieving its redevelopment goals of alleviating blight and producing affordable housing. The total acquisition cost was \$201,293. The difference between the undeveloped value and \$1 is considered financial support of the project.

Attachment 10 is a Disposition Development Agreement (DDA) that includes a Regulatory Agreement Containing Covenants Affecting Real Property (RA), with attachments. The purpose of such agreements is to provide terms and the process for property conveyance, memorialize the property donation as local financial support to the project, and secure the affordability of the project for 55 years. An appraisal conducted in December 2021, determined the "as is" value of the property to be \$110,000.00 with a "highest and best use" of the site as vacant for the development of 3 single family residences with 2 additional accessory dwelling units.

To accommodate a project in line with the original proposal and the Homekey application, the developer is seeking a Density Bonus. The California State Density Bonus Law (SDBL) was adopted in 1976 in recognition of California's acute and growing affordable housing needs. The SDBL has been amended multiple times since adoption in response to evolving housing conditions, to provide clarification on the legislation, to respond to legal and implementation challenges, and to incorporate new or expanded provisions. The SDBL, as originally enacted, sought to address the affordable housing shortage by encouraging development of low- and moderate-income units; over time, the law was expanded to recognize the need for housing for households at a wider range of income levels and with specialized needs.

The SDBL incentivizes affordable and other specialized housing production by requiring local agencies to grant an increase to the maximum allowable residential density for eligible projects, and to support the development of eligible projects at greater residential densities by granting incentives, concessions, waivers, or reductions to applicable development regulations. An example of a concession or incentive is a reduction in the number of parking spaces that may be required for a project, or an increase in the allowable building height that applies to the project. The SDBL applies to projects providing five or more residential units, including mixed-use developments. Density bonuses and associated incentives, concessions, waivers, or reductions are intended to offset the financial burden of constructing affordable or specialized units.

The City of Merced originally adopted a local Density Bonus Ordinance in 1993 and amended it in 2016 (included in Zoning Ordinance Chapter 20.56) to comply with State law at the time the ordinance was adopted. Several updates to SDBL have occurred since the Zoning Ordinance was adopted in 2016, and the City's local Ordinance is currently inconsistent with State law. However, the City is committed to complying with State law and will be updating our local ordinance in the future.

To provide additional information and a more in-depth overview of the SDBL, the document entitled Guide to the California Density Bonus Law, prepared by Jon Goetz and Tom Sakai of the Meyers-Nave Law Firm, is attached with permission of the authors (Attachment 5).

One of the basic elements of this law is that a development that meets the requirements of the State law is entitled to receive the density bonus to increase the density of a project by right. This means that no discretionary review is required to allow an increase in the density of a project. The requested density is allowed to exceed the density established by the General Plan and/or Zoning. The City may require an agreement to memorialize the affordability component of the development, or any other incentives given to assist the project.

The proposed project would provide permanent supportive housing to tenants whose income is less than 30% of the Area Median Income (AMI) with a restriction targeting population that is chronically unsheltered. The developer is specifically targeting homeless veterans who may fall in the acutely low level (15% AMI) or the extremely low level (60% AMI). The Area Median Income for 2022 in Merced County is \$80,300. For reference the Income Limits calculated by HCD for 2022 are attached for reference (Attachment 6).

State statutory limits are based on federal limits set and periodically revised by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 Housing Choice Voucher Program. HUD's limits are based on surveys of local area median income (AMI). The commonly used income categories are approximately as follows, subject to variations for household size and other factors:

- Acutely low income: 0-15% of AMI
- Extremely low income: 15-30% of AMI
- Very low income: 30% to 50% of AMI
- Lower income: 50% to 80% of AMI; the term may also be used to mean 0% to 80% of AMI
- Moderate income: 80% to 120% of AMI

"Affordable housing cost" for lower-income households is defined in State law as not more than 30 percent of gross household income with variations (Health and Safety Code Section 50052.5). The comparable federal limit, more widely used, is 30 percent of gross income, with variations. "Housing

cost” commonly includes rent or mortgage payments, utilities (gas, electricity, water, sewer, garbage, recycling, green waste), and property taxes and insurance on owner-occupied housing.

Permanent Supportive Housing is defined by California legislation as an evidence-based housing intervention that combines on-going rental assistance with supportive services such as health and mental health care for chronically homeless households.

As part of the implementation process for a Density Bonus, the developer/property owner will enter into an RA specifying the length of time the units will be kept affordable and the specific affordability level. This agreement will be recorded on the title and will remain in effect until released at the end of the affordability term. This is often referred to as a covenant. In this specific case, the agreement will have specific requirements to accommodate the Housing Successor Agency and Surplus Lands Act. Both have specific requirements for affordability and will include a term of 55 years for rental housing.

The Density Bonus was presented to the Planning Commission on August 3, 2022, and recommended approval, by a unanimous vote. No public hearing or additional neighborhood notifications are required per State statutes and local ordinances.

Specific Findings for a Density Bonus are required by Section 20.56 of the City’s Zoning Ordinance. Those Findings are provided at Exhibit A of Planning Commission Resolution #4093 (Attachment 3). Additional information regarding the State Density Bonus Law is provided in Attachment 5. It should be noted that the City may not add conditions to any Density Bonus approval.

The table below shows the applicant’s request and whether the request is considered a concession, incentive, waiver, or reduction (refer to Finding A of Planning Commission Resolution #4093 for information on the differences between each type of request). As previously mentioned, the project is eligible for 4 concessions. As shown in the table, the increase in density does not count towards the number of concessions allowed, one of the requests would be considered a concession and three requests are considered waivers from development standards or Zoning regulations.

Standard	Requested Concessions/Incentives	Type of Request
Density	An increase of 80% above the allowable density. This would increase the allowable number of structures from 3 units to 5. The project proposes 4 and an accessory dwelling unit.	Allowed by right, does not count as a concession
Parking	Reduce the parking requirement from 7 spaces to 4 spaces. Reduced parking infrastructure would result in cost saving benefits and better optimization of land.	Concession. Reduction is greater than required by state law.

Lot Area per Unit	Per the R-1-6 Standards, 1 residential structure - unit is allowed for each 6,000 square feet of lot area. The proposal requests 1 for every 5,103 square feet of lot area.	Waiver
Maximum Number of Units in a R-1-6 Zone Lot	Per Chapter 20.08.040 - Additional Dwelling Units on R-1 Lots, the maximum number of structures - units on an R-1-6 Zone lot is 3. The applicant is requesting an additional unit (as allowed per Density Bonus based on residents AMI) to sustain the financing plan for this development by not having to do a lot split and paying for map fees or required separate utilities for each new lot.	Waiver
Duplex in R-1-6 Zone	Per Chapter 20.08.020 (B) - Land Use Regulations for Residential Zoning Districts, duplexes are allowed on residential lots with distinct frontages (generally corner lots). However, the subject site is an interior lot with one street frontage. Developing this site with duplexes provides cost saving benefits compared to developing 4 stand-alone residential units.	Waiver

The project site is located on the west side of R Street, approximately 225 feet south of Childs Avenue. The applicant and City Staff also reviewed an option to utilize SB9 to subdivide the existing lot into two. Those separate lots would accommodate two residential structures on each. SB9 is a by-right option, however, it was not selected since there was a financial benefit to not subdividing the existing lot. Each residential lot is required to have separate sewer and water connections. The current option reduces those costs by a half over an SB9 option. The cost to prepare the before and after legal description for the SB9 split was also a consideration.

## IMPACT ON CITY RESOURCES

The transfer of the property is valued at \$110,000 and is considered a financial support of the project. The remaining funds come from the Homekey Grant. The City's award in partnership with CC915, Merced, Inc. is \$4,420,000 specifically for this long-term affordable housing project. \$200,000 is

reserved as a bonus should they complete the project in 8 months as is detailed in the HCD Standard Agreement for the Homekey Grant (Attachment 7).

## **ATTACHMENTS**

1. Resolution 2022-54
2. Location Map
3. Planning Commission Resolution #4093
4. Categorical Exemption
5. Guide to California Density Bonus Law (Meyers-Nave)
6. HCD 2022 Income Limits
7. HCD Homekey - Standard Agreement
8. Summary Report 33433
9. Notice of Public Hearing for Summary Report 33433
10. Disposition and Development Agreement
11. Regulatory Agreement
12. Presentation