



## REPORT TO CITY COUNCIL

**To:** Honorable Mayor and Members of the City Council

**From:** Jason Simpson, City Manager

**Prepared by:** Barbara Leibold, City Attorney

**Date:** July 23, 2024

**Subject:** Mary McDonald Riley Street Senior Apartments Project Budget, Loan Agreement (ARPA), expenditure of Low- and Moderate-Income Housing Asset Funds (LMIHAF) and Affordability Covenants for the Project Located at 200 North Riley Street

### **Recommendation**

Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ACTING AS HOUSING SUCCESSOR TO THE FORMER REDEVELOPMENT AGENCY, APPROVING A CONSTRUCTION BUDGET, AN ARPA LOAN AGREEMENT WITH RIVERSIDE COUNTY AND THE EXPENDITURE OF UP TO \$3,687,500 FROM THE CITY'S LOW AND MODERATE INCOME HOUSING ASSET FUND (LMIHAF) FOR CONSTRUCTION AND DEVELOPMENT OF THE MARY McDONALD RILEY STREET SENIOR APARTMENTS PROJECT AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH INCLUDING APPROVAL OF LONG-TERM USE AND AFFORDABILITY COVENANTS.

### **Background**

On May 17, 2022, the Planning Commission approved Planning Application No. 2021-02 (Planning Design Review No. 2021-03) for the construction of a 16-Unit apartment complex and related improvements located at 200 N. Riley Street (APN: 374-162-036) ("Project").

The Project site is vacant land owned by the City, in its capacity as Housing Successor, and is located at the northeast corner of the intersection of Riley St. and Heald Avenue more specifically referred to as 200 North Riley Street (Assessor Parcel Number: 374-162-036) (the "Property").

The Project totals 17,372 sq. ft. with two (2) buildings including 16 one-bedroom units which will be restricted to extremely low income senior households with incomes less than 30% of area median income at affordable rents. Additional improvements consist of recreational amenities including a picnic and BBQ area, parking lot, trash enclosure and other ancillary and related improvements. Frontage and landscape improvements along both Heald and North Riley, including a retrofit of the historic Mary McDonald Gazebo are also be included as part of the Project.

City staff has prepared a budget for the development of the Project totaling \$8,687,500 (copy attached as Attachment 4 ("Budget")). To fund construction of the Project, the City applied for and received an award of American Rescue Plan Act ("ARPA") funds in the amount of \$5,000,000 from the County of Riverside ("County") ("ARPA Loan") for construction and development costs of the Project. The form of the ARPA Loan Agreement between the City and the County has been approved by the City Attorney and is attached as Attachment 5 ("ARPA Loan Agreement").

Construction and development costs in excess of the ARPA Loan are proposed to be funded by the City, as Housing Successor, from the Low and Moderate Income Housing Asset Fund (LMIHAF). Accordingly, staff proposes using \$3,687,500 in LMIHAF, along with the ARPA Loan funds, to develop the Project. The City Manager, or his designee, will oversee the construction of the Project and the disbursement of ARPA Loan funds and LMIHAF, and enter into construction and other contracts in aggregate amounts not to exceed the Budget.

As required by applicable law governing the use of LMIHAF, the City proposes to record a Use Restriction With Affordability Covenants in the form attached as Attachment 7 ("Use Restriction") restricting the use and occupancy of the Project to senior households (62+) whose gross income does not exceed 30% of Area Median Income (AMI), as published annually by the California Department of Housing and Community Development (HCD). The Use Restriction also requires that the units in the Project be rented at an "affordable rent," in an amount not to exceed the amount permitted by applicable law.

In addition, the Project has been awarded fifteen Project Based Section 8 Vouchers ("Vouchers"), for a 20-year period, by the Housing Authority of the County of Riverside. A copy of the award letter is attached as Attachment 8. The Vouchers will serve as an operating subsidy for the Project, assisting the City in operating a financially feasible Project restricted to occupancy by Extremely Low Income Senior Households.

## **Discussion**

### **ARPA Loan Documents**

The attached Loan Agreement for the Use of American Rescue Plan Act (ARPA) Funds ("Loan Agreement") between the County of Riverside ("County") and the City obligates the County to provide the City with \$5,000,000 in ARPA funds ("ARPA Loan") to finance a portion of the development of the Project. The Loan Agreement requires that the City execute a promissory note ("Note") in the amount of the ARPA Loan, as well as a deed of trust ("Deed") to be recorded against the Property. In addition, the City must execute a Covenant Agreement to be recorded against the Property. The City must also provide the County with an Environmental Indemnity (Attachment 6). The Loan Agreement, Note, Deed, Covenant Agreement and Environmental Indemnity are collectively referred to as the "ARPA Loan Documents."

The ARPA Loan Documents require that fifteen (15) of the units to be constructed in the Project be restricted to occupancy by seniors 62 or over whose household income does not exceed 30% of area median income for the County of Riverside as published by HCD adjusted for actual family size ("Extremely Low Income Senior Households") for 55 years. The sixteenth unit is required to house a residential manager for the Project.

The ARPA Loan is repayable upon the later to occur of July 1, 2079, or 55 years from the date of recordation of the Covenant Agreement. The ARPA Loan does not bear any interest. The ARPA Loan will be forgiven at the end of the term if the City and the Project have complied with the ARPA Loan Documents and the law and guidelines applicable to the ARPA program.

The ARPA Loan Agreement also requires that the County be permitted to provide input regarding all Project media releases, and that any City publicity regarding the Project refer to the County's contribution. Further, the County's name shall be prominently displayed on all signs and similar printed materials regarding the Project.

**Budget and Expenditure of LMIHAF**

Staff has worked closely with the City's construction consultant to prepare a development and construction budget in the aggregate amount of \$8,687,500. The Budget excludes operating reserves and related operating expenses, which will be finalized and presented to the City Council at a later date.

Staff recommends that the City Council authorize the City Manager to enter into construction and other development contracts in an aggregate amount not to exceed \$8,687,500, and to draw down and disburse ARPA Loan funds in connection therewith in compliance with the ARPA Loan Agreement, subject to the review and approval of the City Manager.

Staff further recommends that the City Council appropriate and authorize the expenditure of up to \$3,687,500 from the LMIHAF for construction and development costs of the Project, subject to the review and approval of the City Manager prior to any expenditure thereof.

The expenditure of LMIHAF for the development of units restricted to occupancy by senior households earning not more than 30% of AMI will assist the City in complying with the proportionality requirements of the California Health & Safety Code (HSC). Section 34176.1(a)(3)(A) of the HSC requires that the City, as Housing Successor, expend at least 30% of LMIHAF (after expenditure for certain administrative expenses) for the development of rental housing affordable to and occupied by households earning 30% or less of the area median income.

**Use Restriction With Affordability Covenants (LMIHAF)**

California law requires that LMIHAF be used primarily for affordable housing and that a covenant be recorded against the Project restricting the use and occupancy of the Project. The attached Use Restriction requires that 15 units be restricted to occupancy by senior (62+) households whose gross income does not exceed 30% of AMI for the County of Riverside adjusted for actual family size for 55 years. The remaining Unit in the Project will be occupied by the on-site manager. The Covenant further restricts the rent that can be charged to the Extremely Low Income Senior Households to a monthly amount not to exceed 30% of 30% of AMI, adjusted for household size appropriate to the unit.

**Timing**

Upon the approval of the ARPA Loan Documents, Budget, expenditure of LMIHAF and Use Restriction, City staff will work with the County to close the ARPA Loan within 30-45 days, and commence construction of the Project shortly thereafter. The Deed, Covenant Agreement, and Use Restriction will be recorded against the Project upon closing of the ARPA Loan. The ARPA Loan Documents require that construction be completed within 24 months from the effective date of the ARPA Loan Agreement.

**Environmental Determination**

The Project is exempt from the California Environmental Quality Act (Cal. Publ. Res. Code §§21000 et seq.: "CEQA") and the State CEQA Guidelines (14. Cal. Code Regs §§15000 et seq.), specifically pursuant to Section 15332 (Class 32 – In-Fill Development Projects) because the Project is consistent with the applicable General Plan designation and policies, as well as zoning designation and regulations, the Project is within the City's boundaries and on a site less than five acres surrounded by urban uses, the Property has no value as habitat, and approval of the Project will not result in any significant effects relating to traffic, noise, air quality, or water quality and the Project is adequately served by all required utilities and public services.

**Resolution**

Adoption of the attached Resolution approves the following in connection with the Mary McDonald Riley Street Senior Apartments affordable housing project:

- (1) That certain Loan Agreement for the Use of American Rescue Plan Act (ARPA) Funds and Related Agreements in substantially the form attached to the Staff Report and authorize the City Manager and City Attorney to jointly make necessary and appropriate revisions without increasing the City's financial commitment.
- (2) The expenditure of up to \$3,687,500 from the Low and Moderate Income Housing Asset Fund (LMIHAF) for construction and development costs, approval of a development and construction budget in an aggregate amount not to exceed \$8,687,500, and authorize the City Manager to enter into construction and other development contracts up to the amount of the budget.

- (3) That certain Use Restriction With Affordability Covenants for the Mary McDonald Riley Street Senior Apartments affordable housing project in substantially the form attached and authorize the City Manager and City Attorney to jointly make necessary and appropriate revisions without increasing the City's financial commitment.

**Fiscal Impact**

The time and costs related to this project will be covered by the County ARPA Loan and City LMIHAF funding. No General Funds have been allocated, nor will they be used in the development of the Project.

**Attachments**

Attachment 1 - Vicinity Map

Attachment 2 - Aerial Map

Attachment 3 - Resolution

Attachment 4 - Development Budget

Attachment 5 - Loan Agreement for the Use of American Rescue Plan Act (ARPA) Funds between the County of Riverside and the City of Lake Elsinore

Attachment 6 - Environmental Indemnity

Attachment 7 - Use Restriction With Affordability Covenants (Low and Moderate Income Housing Asset Funds) for the Mary McDonald Riley Senior Apartments Affordable Housing Project

Attachment 8 - Housing Authority of the County of Riverside Award Letter – Section 8 Project Based Vouchers

Attorney's Office