



Council Agenda Report

Department Name: Community Dev.
Cost Center: 4008
For Agenda of: May 4, 2021
Placement: Consent
Estimated Time: N/A

FROM: Michael Codron, Community Development Director
Prepared By: Cara Vereschagin, Housing Coordinator

SUBJECT: AUTHORIZATION TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR A CONSULTANT TO SERVE AS THE CITY'S BELOW MARKET RATE (BMR) HOUSING PROGRAM ADMINISTRATOR

RECOMMENDATION

1. Authorize the issuance of a Request for Proposals (RFP) for a Below Market Rate (BMR) Program Administrator (Attachment A); and
2. Authorize the City Manager to enter into a consultant services agreement if proposals are received within the available budget of \$117,000 annually for the project.

DISCUSSION

Below Market Rate Program History and Portfolio

The City's first Inclusionary Housing Ordinance was adopted in 1999 and since that time, the City has made great strides in ensuring that a percentage of all new housing units are affordable to income-eligible households, defined as extremely low, very-low, low, and moderate income. These homes remain at Below Market Rate (BMR) prices for the required term through deed-restrictions, covenants, and affordability agreements. Over the past several years, the City's BMR portfolio has grown substantially, and staff has determined that the best way to effectively accomplish the management and administration of BMR housing going forward is through a consultant. As a result, staff is recommending issuance of an RFP to solicit outside consultant expertise to oversee BMR housing administration, including ownership and rental units, and administration of the City's First-Time Homebuyer Loan program.

1. BMR Ownership Units

There are approximately 73 BMR homeownership units within the City's portfolio. The most recent additions are five moderate-income units within the South Morros neighborhood, of which three have sold in the past eight months and the other two are expected to sell by the end of summer. These units are restricted through provisions included in the Deed of Trust, Promissory Note, and Resale Restriction Agreement that are recorded on title of each property when it is sold.

These documents, among other items, dictate the sale/resale process, the allowable sales price, income qualifications of subsequent buyers, refinancing provisions, and repayment requirements due upon sale or default.

Management of these units by a BMR Administrator under contract with the City is expected to provide a higher level of service to homeowners and potential homeowners under the program. Currently, the City has one staff member who has the training and knowledge to assist with these complex real estate transactions, while simultaneously engaging in other housing programs, including the Housing Major City Goal workplan, Housing Element programs, and coordination of new affordable housing development and financing. The use of a consultant to perform this work will ensure timely processing of purchase and sale agreements, refinancing, subordination agreements, and other time sensitive work.

2. BMR Rental Units

The City has approximately 106 affordable rental units scattered throughout the City. These units are located within market-rate projects and require close oversight since they are not normally managed by an experienced affordable housing administrator/provider. These units are typically built by private developers, consistent with the Inclusionary Housing Ordinance, and are secured as affordable through deed-restrictions (or affordability covenants/agreements) entered into by the City and the project owners. The units subject to these agreements are proposed to be managed by the BMR Administrator.

The City also has a healthy inventory of rental units managed by non-profit housing agencies (i.e., HASLO, Peoples' Self-Help Housing, etc.), which were partially developed by City financing mechanisms (i.e., the Affordable Housing Fund, Community Development Block Grants, Impact Fee Deferral loans). These units are within complexes that are 100% affordable due to tax credit and/or other subsequent federal, state, and local requirements, and thus have multiple deed-restrictions recorded on title of the properties due to the criteria stipulated by those various funding sources. Because these units are managed by experienced affordable housing administrators, the City is not proposing to have the proposed BMR Administrator manage these units—compliance monitoring and coordination with non-profit partners that manage these projects will stay within the scope of work of City staff.

3. First-Time Homebuyer/BEGIN Program Loans

The City also has various first-time homebuyer assistance loans utilizing the State grant BEGIN Program and City Affordable Housing Fund dollars. Currently, there are 11 active loans and approximately \$200,000 available for issuance. Funds are issued as 30-year loans, that are executed via a Promissory Note, evidenced by a Deed of Trust that is recorded on title of the property purchased.

Repayment is due upon sale, may be made at the request of the homeowner, or is due upon completion of the loan term. The BMR Administrator will monitor existing loans and improve City marketing of the program to make additional loans within the City's balance of available funding.

Anticipated Scope of Services for BMR Program Administrator:

The RFP solicits the services of a BMR program administrator to oversee the administration of the City's BMR ownership and rental units, as well as the First-Time Homebuyer Loan program. It is anticipated that the BMR administrator will be responsible for the following:

1. BMR Program Administration Setup

- a. Review, update (if necessary), and transfer the City's existing BMR Interest List database to consultant administration which will be owned by the City.
- b. Review and organize San Luis Obispo BMR homeowner files, loan files, and the City's existing digital inventory and create a system for ongoing administration and monitoring.
- c. Review existing BMR Agreement templates and suggest modifications that are in line with industry best practices.
- d. Update existing flow charts and protocols for BMR home transfers, loan payoff/subordination, default remedies, and other processes associated with BMR ownership transactions.
- e. Review and develop recommendations to establish new City impact fees associated with costs of BMR Program transactions.
- f. Update City Affordable Housing webpage with content and information pertaining to updated/amended policies and procedures for the BMR Program, online application forms and other relevant information.

2. BMR Program Administration

- a. **BMR Inquiries (ongoing):** The BMR Administrator will be responsible for handling calls, emails, and in-person inquiries from current housing portfolio loan holders and respond in a timely manner.
- b. **BMR Eligibility and Interest List (ongoing):** The BMR Administrator will maintain a list of qualified buyers and interested prospective buyers.
- c. **BMR Program Reports:** The BMR Administrator will provide semi-annual updates to staff and the City Council on the general status of the BMR program administration, including:
 - i. General Program activity (e.g., BMR inquiries)
 - ii. BMR compliance. See item #3
 - iii. Loan activity. See item #4
 - iv. Current inventory of affordable units (subject to formal Agreement with the City)
 - v. Other information as needed for mandated State reporting

3. Annual BMR Compliance Monitoring

- a. Documentation:** Administrator will administer the program and assure Affordability Deed Restrictions are recorded and followed by all parties as applicable for each property.
- b. BMR Homeowner Certification:** The BMR Administrator will coordinate with homeowners on an annual basis to certify that the original buyer continues to comply with the signed BMR Agreement including living in the BMR home as their principal residence. The BMR Administrator will work with the City to remedy potential BMR defaults in accordance with the BMR Agreement.
- c. BMR Renter Certification:** The BMR Administrator will coordinate with property managers, tenants, and the Housing Authority of San Luis Obispo (HASLO) on an annual basis to certify that all BMR units are occupied by renters who continue to meet income requirements. The BMR Administrator will also ensure that the appropriate rent and utilities are being charged given annual updates to the City's Affordable Housing Standards, based on State income limits for our area.

4. Existing Loan Administration

- a.** The BMR Administrator will maintain an updated database, to be owned by the City, of all first-time-homebuyer and other housing loans (borrower name and address, loan amount, interest rate, loan term, loan distribution date and due date). This database will also include principal and interest received for loans that have been paid off, as well as any principal written off as a result of foreclosure or other default.
- b.** The BMR Administrator will monitor existing first-time-homebuyer and other housing loans annually to ensure that the borrower remains in compliance with the loan agreement (e.g., current homeowner insurance, original buyer continues to reside on property). In case of default, the BMR Administrator will contact the owner and work with the City to see that the loan is repaid.
- c.** The BMR Administrator will work with the City to process all paperwork and legal recordings required when first-time homebuyer loans and other housing loans are paid off or refinanced (as needed basis).

5. BMR Home Sales/Resales (as needed basis)

- a. BMR Marketing:** The BMR Administrator will work with each Developer and/or the City to market the availability of new and resale BMR homes to eligible households who have expressed interest in the BMR program. BMR Administrator will also be responsible ensuring developers' compliance with sale provisions dictated in recorded Development Agreements (i.e. San Luis Ranch and Avila Ranch) and Affordable Housing Agreements. This task will include providing marketing materials in both English and Spanish to City staff for the City's website.
- b. Interest Rates, Homeowner's Association Fees, and Sales Price:** Upon request, the BMR Administrator will supply the City with current mortgage interest rates and other information necessary to amend (if necessary) sales prices and/or interest rates of new BMR homes and existing BMR homes being offered for resale.

- c. Homeowner Eligibility:** The BMR Administrator will submit the data on each eligible applicant to the City for approval prior to formalizing any Agreement.
- 6. BMR Programs:** The BMR Administrator will work with City staff to recommend, develop and implement programs. City Council will approve any new programs under this task.
 - a.** Administrator will regularly update program guidelines and program materials in conjunction with City staff to reflect the Administrator's administrative process for Program Administration including, but not limited to: applications, program pamphlets, rent & resale calculations (i.e. Affordable Housing Standards), selection processes, vacancies, sale and resale of units, refinancing requests, collection of Agency fees and other applicable fees, and default monitoring/resolution process. Administrator's objective will be to work alongside Agency Staff to incorporate "learnings" from the team's collective history with housing affordability programs in California.

Next Steps

If approved, the RFP will be published on the City's website and distributed to consultants experienced in administering BMR Programs on behalf of local governments. After the submission date has closed, staff will review proposals received and interview consultants, to ultimately transfer the administration of the City's BMR Portfolio. Contract award will occur after July 1 if the budget for the proposed consultant services is approved as part of the 2021-23 Financial Plan. Timing to get a BMR Administrator onboard this summer is critical, as staff anticipating having little availability this fall amidst "grant season" and the Inclusionary Housing policy update work effort will be underway.

Policy Context

The activity to consider outside consultant services to administer the City's BMR Program is currently identified in the 2021-23 Financial Plan and related Housing and Homelessness Major City Goal workplan.

Public Engagement

Staff will notice the RFP release in alignment with proper procedures for public bidding as mandated in the Municipal Code and Public Engagement Manual. Staff will also circulate the notice to interested parties and publish the notice to various digital media channels.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act does not apply to the recommended action in this report, because the action does not constitute a "Project" under CEQA Guidelines Sec. 15378.

FISCAL IMPACT

Budgeted: No
Funding Identified: Yes

Budget Years: 2021-2023

Fiscal Analysis:

Funding Sources	Current Cost	FY	Annualized On-going Cost	Total Project Cost
General Fund				
State				
Federal				
Fees				
Other: Local Revenue Measure G-20			\$117,000	\$234,00
Total			\$117,000	\$234,000

The activity to consider outside consultant services to administer the City's BMR Program is currently identified in the 2021-2023 Financial Plan, under Significant Operating Program Change (SOPC) – Housing and Homelessness Major City Goal (Consultant Contract) and \$117,000 has been estimated annually for this effort.

ALTERNATIVES

1. ***Provide different direction to staff.*** The City Council can provide additional or different direction to staff regarding the scope of work, based on the identified issues and considerations, and continue authorization of the RFP.
2. ***Continue this item.*** Continue the discussion regarding the authorization of the RFP and provide staff direction on additional needed or necessary changes.

Attachments:

a - DRAFT Below Market Rate Program Administrator Request for Proposals