



REPORT

DATE ISSUED: August 8, 2003

ITEM 107

REPORT NO.: HCR03-064
For the Agenda of August 15, 2003

SUBJECT: 2893 Boston Ave (Council District 8)

SUMMARY

Issue: Should the Housing Commission reconsider development of public housing units on a Housing Commission-owned site at 2893 Boston Avenue?

Recommendation: Authorize the Chief Executive Officer to take all actions necessary to:

- a) Reject all bids received for construction of five public housing units at 2893 Boston Avenue;
- b) Reprogram unexpended HUD funds (currently estimated at **\$741,739**) for use in the Housing Commission's Public Housing Modernization Program;
- c) Request that HUD waive repayment of HUD funds already expended for the site as a public housing project;
- d) Return at a future date with a plan for the use/disposition of the 2893 Boston Avenue site that will include a proposal for additional public housing units utilizing a similar amount of a future Capital Fund allocation.

Fiscal Impact: If the Boston Avenue project were to go forward as originally planned, approximately **\$615,044** in local funds would be needed for this project.

Environmental Review: The City's environmental analysis section completed environmental review of this project (LDR No. 41-0449) under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) and issued a Negative Declaration pursuant to CEQA and Finding of No Significant Impact pursuant to NEPA." Site Map is at [Attachment 1](#).

Previous Related Actions: See Previous Actions, [Attachment 2](#).



Future Related Actions: Develop a disposition plan for 2893 Boston Avenue that includes a proposal for additional public housing units (should the Alternative recommendation be approved, Housing Authority approval would be required). Once HUD approves reprogramming the \$741,739 to the Capital Fund, any subsequent reprogramming would have to be approved by the Housing Commission and the Housing Authority.

BACKGROUND

In the early 1990's the Housing Commission purchased a vacant parcel at Boston Avenue and 29th Street. The parcel was split into two portions and in 1994, one half of the parcel was developed with new construction of five units for HUD Public Housing (2883 Boston Avenue); those five units currently are occupied. The other half parcel (2893 Boston Avenue) has remained vacant and is owned by the Housing Commission.

On September 10, 1999, the Housing Commission unanimously approved the concept of using the vacant parcel for a new construction project consisting of five townhouse public housing rental units. On June 26, 2000 HUD approved an Annual Contributions Contract of **\$874,738** in HUD funds made up of: a) \$344,216 in HUD funds received from the Redevelopment Agency as the purchase price for eight units lost under eminent domain proceedings and b) \$530,523 of HUD funds recaptured from four old HUD public housing development funds which had been reclassified as modernization funds. HUD also allowed the use of approximately **\$45,000** of Capital Funds for this project and approved transferring the operating subsidy from the units lost to the new units.

On July 20, 2001, HUD issued an Approval of the Development Cost Budget. Studio E Architects was hired as the project architect and construction drawings and specifications were prepared. The project design included two buildings: four two-story townhouse apartments (all three bedrooms, 1,170 square feet each - 2893 Boston Avenue) and one two-story townhouse (three bedrooms, 1,100 square feet - 1200 So. 29th Street).

In February 2002, the Environmental Review was completed and in March 2002 the Coastal Development Permit was obtained. During 2002, the project was in design and under City review. In February 2003, Gafcon Inc. was hired to perform a project constructability review. On June 16, 2003, after significant delays in processing for the Coastal Development permit, environmental review and the building permits, the various City inspection/review departments completed their review of the project.

Invitation for Bids

On May 23, 2003, an Invitation to Bid was issued for this construction. The request for bids was widely advertised. Bid advertisements were placed in: the San Diego Union-Tribune, the San Diego Daily Transcript, La Prensa, San Diego Monitor News, Voice and Viewpoint, and the Asian Journal. Also, bid solicitation notices were placed in construction specialty publications including: the Daily Construction Reporter; F.W. Dodge Reports; San Diego Daily Transcript

Bid Board; the Construction Data Corporation's Hotsheets; and Reed Construction Data. In addition the architect, Gafcon, and the staff orally informed a number of contractors that a bid invitation was issued.

On June 2, 2003, a pre-bid conference was conducted with three firms in attendance. The Invitation to Bid was publicly noticed/advertised for five weeks.

At the June 30, 2003 bid closing, two bids were received:

Contractor/Bidder	Five Units Bid Amount	Bid Amount Per Unit	Bid Amount Per Sq Foot
Crane Development (Phillip Crane, President)	\$ 999,990	\$199,998	\$173
Quest Construction (Gary Schotz, President)	\$1,495,000	\$299,000	\$259

The low bid included some irregularities that could be waived at the Housing Commission's discretion. [Attachment 3](#) includes a summary discussion of issues related to responsiveness of the bids.

DISCUSSION

The September 10, 1999 Housing Commission conceptual approval was based upon an estimate that HUD funds alone would be sufficient to build the five new units. However, the actual receipt of construction bids shows that substantial local Housing Commission funds will be needed. Acceptance of the \$999,990 low bid would require that, in addition to the HUD funds, the Housing Commission would need to contribute an estimated **\$615,044** of non-federal Housing Commission funds for this new construction project.

Staff believes it would be more cost effective to use the available funding to create more than five units by leveraging these funds with either tax credits or other alternative methods of financing rental units.

Authority to Reject Bids

Under the project's Invitation to Bid the Housing Commission has the right: "*...to reject any or all proposals, to waive any informalities in the specifications or bidding process, or to cancel in whole or in part this Invitation to Bid if it is in the best interest of the Housing Commission to do so.*" Staff recommends that the Housing Commission reject all bids in the best interest of the Housing Commission.

HUD Commitment Deadline

To pursue the development plan approved by HUD, the Housing Commission must approve the construction contract by September 24, 2003. Failure to meet the September 24, 2003 deadline

could lead to HUD's suspension of, or sanctions on, future Housing Commission development activities that could include a reduction of approximately thirty percent (30%) of HUD Capital funds (approximately \$500,000) for the next three years.

Reprogramming the Unexpended HUD Funds

Staff has been informed by HUD that they would be amenable to a request to reprogram this project's unexpended HUD funds (currently estimated at \$741,739) for use in the Housing Commission's Public Housing Modernization Program and to waive repayment of HUD funds already expended for predevelopment and design work on the public housing project (currently estimated at \$133,000).

Staff will also ask HUD to approve the use of a portion of a future Capital Funds allocation for the development of additional public housing units.

ALTERNATIVE

An alternative would be to approve the following actions:

- a) Award a construction contract for \$999,900 with the low bidder, Crane Development Corporation and fund the necessary \$615,044 from local funds;
- b) Waive the irregularities in the Crane Development bid as discussed in this Report and detailed in Attachment 3;
- c) Ask the Housing Authority to approve a project development budget totaling \$1,551,887, including a contingency to address potential change orders for new construction; and
- d) Authorize the CEO to execute all documents necessary to implement the bid award and construction of the five units.

As required, all necessary actions and all implementing documents will be subject to HUD approval.

Staff does not recommend this alternative because of the amount of Housing Commission funds required to develop the units as public housing. The high bids reflect constraints of the site, setbacks and drainage; labor costs related to prevailing wage requirements; and above-market standards for materials and specifications.

If the Housing Commission decides to approve the "alternative" rather than the recommended action, the Construction Agreement must be executed prior to HUD's September 24, 2003 deadline.

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Submitted by,

Approved by,

Signature on File with Original Document

Jack D. Farris
Manager, Housing Finance & Development

Elizabeth C. Morris
Chief Executive Officer

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Attachments:

1. Map
2. Previous Related Actions
3. Summary Discussion of Issues Related to the Bids

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Attachment 1
Site Map

Attachment 2
Previous Related Actions

- August 7, 1989 – HCR # 90-192, Housing Commission approved the purchase of a 21,000 square foot site at 2873 Boston Avenue and 2893 Boston Avenue for public housing. The Commission also certified that Negative Declaration No. 89-0701 was completed in compliance with the California Environmental Quality Act (CEQA).
- Feb 12, 1996 – HCR # 96-029, Housing Commission approved a predevelopment loan to the MAAC Project for a proposed five-unit new construction project in conjunction with a “Youth Build” grant on the vacant 2893 Boston Avenue site. (The MAAC Project later terminated this project).
- June 4, 1999 – HCR #99-061, Housing Commission approved the sale of an eight unit Public Housing complex to the City Redevelopment Agency.
- June 29, 1999 – the Housing Authority unanimously approved the sale of an eight-unit Public Housing complex to the City Redevelopment Agency.
- Sept 10, 1999 – HCR #99-099, Housing Commission unanimously a recommendation “*that the Housing Authority approve the concept of a public housing new construction development consisting of five townhouse units on Housing Commission-owned land located at 2893 Boston Avenue, as a partial replacement of eight public housing units lost to redevelopment, utilizing HUD funding for the development and transferring the operating subsidy from the units lost to the new units*”.
- October 19, 1999 – HAR #99-007, the Housing Authority unanimously approved the recommendation in the September 10, 1999 HCR #99-099 (above).

Attachment 3
Summary: Bid and Bidder Analysis

Crane Development submitted the lowest bid. Analysis by the Commission's consultant Gafcon Inc, indicates that the Crane Development bid is reasonable and that Crane Development is capable of performing the work.

Issues/Irregularities with the Bid:

The Crane Development bid presents a number of desirable features: it the lowest bid by \$495,000 under the next bidder; Mr. Crane is experienced and has been a licensed contractor since 1991; the principals are well organized and oriented toward the extensive paperwork required in a HUD project; and the Commission's consultants have received positive feedback from Crane Development's references/former clients. However, the Crane Development bid was not ideal and included the following irregularities, which will need to be waived by the Housing Commission:

1. Crane Development did not submit certain Equal Opportunity forms that were required to be submitted along with the bid on June 30, 2003. Subsequent to the bid opening, Crane Development worked with the Housing Commission's Equal Opportunity staff and did submit the required Equal Opportunity forms on July 28, 2003.

It was determined that Crane Development, is not certified as a Disadvantaged, Women or Disabled Veteran Business Enterprise. A Certificate of Compliance along with other Equal Opportunity Contracting Clauses have been provided and a Workforce Report has been analyzed which shows that this vendor is in compliance with the San Diego Housing Commission Equal Opportunity Program.

2. HUD requires, and the Invitation to Bid required, that the June 30, 2003 bids include a Bid Bond issued by a surety listed on the United States Treasury Department's (Circular No.570) list of HUD-approved sureties. Crane Development's submitted bid included a Bid Bond from Arch Insurance Company, a surety that is **not** on the Treasury Department's list. Crane stated that Arch Insurance is a subsidiary of a parent company that is on the list. On July 7, 2003, (subsequent to the bid opening), Crane submitted a Revised Bid Bond under a co-surety arrangement with Arch Insurance, Everest Reinsurance Company and XL Reinsurance America Inc. (Everest Reinsurance and XL Reinsurance are on the Treasury Department's approved list).

HUD has informed staff that: the Bid Bond Surety must be listed on the U.S. Treasury Circular 570 and that only the Los Angeles HUD Director of Public and Indian Housing (not the Housing Commission) has the authority to waive this HUD requirement, and/or to allow Crane Development's later addition of co-sureties. HUD is currently in the process of writing a letter on whether the HUD Director of Public and Indian Housing will waive this irregularity and allow Crane Development to add the Everest Reinsurance and XL Reinsurance as the proposed co-sureties.

3. Within 72 hours of the bid opening, a Performance Bond & Materials Payment Bond Letter of Commitment from the contractor's surety was required. Crane Development did not submit this required letter of commitment within the 72-hour (July 3, 2003) period. On July 28, 2003, Crane Development submitted the required commitment letter.
4. After the required date, certain Public Disclosure Information and certain subcontractor information were submitted (on July 28, 2003).
5. The Bid Invitation required submission of certain HUD forms (including HUD form 5369-A Representations, Certifications and Other Statements of the Bidder") along with the bid. Crane Development did not submit HUD form 5369-A along with the bid, but did submit the HUD form on July 28, 2003.