



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

June 7, 2022

Ms. Tiffany Washington
Deputy Mayor of Housing
and Homelessness
City of Seattle
600 4th Avenue
Seattle, WA 98104-1822

Re: Application Status and Legally Binding Agreement for Fort Lawton Amy Reserve Center
dated September 27, 2021

Dear Deputy Mayor Washington:

The Department of Housing and Urban Development (“HUD”) has reviewed the most recent version of the Legally Binding Agreement (“LBA”), submitted by the City of Seattle, acting as the Local Redevelopment Authority (“City” or “LRA”), for the former Fort Lawton Army Reserve Center (“Fort Lawton”), Seattle, Washington dated September 27, 2021 (“Application”). This letter provides comments on the LBA, which includes the form of Ground Lease and sets forth areas that require additional information to meet the requirements of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 as amended (the “Act”), and its implementing regulations found at 24 CFR part 586. HUD anticipates taking a formal action on the Application within 60 days. HUD urges the City to review and consider the information contained in this letter and revise and resubmit the LBA before that action.

Standard of Review

Under 24 CFR 586.35(b), HUD is required to review the Application and determine whether it is complete. To make that determination, HUD must consider five standards of review which includes Need (24 CFR 586.35(b)(1)), Impact of Notices of Interest (24 CFR 586.35(b)(2)), Legally Binding Agreements (24 CFR 586.35(b)(3)), Balance (24 CFR 586.35(b)(4)), and Outreach (24 CFR 586.35(b)(5)). Based on HUD’s review, the Application does not meet the standard of review for the requirements of Legally Binding Agreements.

In reviewing the LBA, HUD must verify that it meets five specific requirements as set forth in 24 CFR 586.35(b)(3). Based on HUD’s review, HUD cannot verify that it meets the requirement under 24 CFR 586.35(b)(3)(iv) that “the buildings, property, funding, and/or services will be made available to the representatives of the homeless in a timely fashion.” It cannot verify that requirement because the LBA does not include sufficient detail and assurances that the homeless housing will be made available in a “timely fashion.” The term “timely fashion” means a

reasonable time frame based on the information provided in the LBA. Where the LBA does not include sufficient detail or assurances, HUD is unable to verify that this standard can be met.

Requirements of “Timely Fashion”

HUD has been working with the City for several years, providing guidance on the requirements of the Act and its regulations, and discussing what must be included in the Application for it to be found complete. The initial application, submitted in August 2019, identified a Ground Lease as the LBA, which HUD communicated was insufficient to meet the standard for Legally Binding Agreements in 24 CFR 586.35(b)(3). In response to HUD’s comments on the initial application, the City submitted a proposed LBA, including an expanded Ground Lease in January 2020, and subsequently revised versions of the LBA with the Ground Lease in June 2020, October 2020, and September 2021.¹ HUD provided written comments on each revised LBA to assist the City in identifying areas of the LBA that needed additional information or clarification. In addition to these written comments, HUD also met with the City on several occasions. The most recent meeting was on August 23, 2021, where HUD discussed, in detail, the remaining issues with the LBA. Following that meeting, on August 30, 2021, HUD sent a sample schedule for the LBA to the City to show what type of information and detail is needed for the LBA to meet the requirements of 24 CFR 586.35(b)(3)(iv). Despite all this outreach and assistance, the Application submitted continues to not meet the standard of review for completeness.²

The outstanding issue with the LBA relates to the timing for making the homeless housing available. This has been a repeated and consistent concern expressed by HUD. HUD acknowledges the City believes construction of significant area-wide infrastructure improvements will be necessary before starting construction of the homeless housing and that the structure of the project may be different than the sample schedule, but, even if significant infrastructure work must precede construction of the homeless units, HUD does not agree that the schedule included in the LBA meets the regulatory standard.

Exhibit D to the LBA includes the schedule for Fort Lawton. According to the schedule, the significant infrastructure work required is estimated to take four (4) years from the date of transfer to complete. After the infrastructure work is complete, the schedule estimates, it will take two (2) more years to permit and construct the homeless housing for a total of six (6) years from the date of transfer before the homeless housing is first made available.

HUD has raised many comments on this schedule. Again, HUD acknowledges the City’s position regarding the timing of the infrastructure work but questions why the schedule provided assumes that no work, including pre-development work on the homeless housing will start until after all the infrastructure work is complete. HUD is not aware of any restrictions or limitations that would preclude AHA d/b/a Catholic Housing Services of Western Washington (“AHA”), developer

¹ The initial application and subsequent revisions indicated conveyance of the entire Fort Lawton site, including simultaneous conveyance of the Self-Help Housing site. In its comments and meetings, HUD noted that there was no pending Self-Help housing application from the City despite the expectation of a no cost or below market real property conveyance for the site. In February 2021, the City submitted a Self-Help housing application to HUD. After review of the information in the Self-Help housing application and a discussion with the City, HUD notified the City on April 2021 that it could not approve the Self-Help housing application because HUD could not determine based on the information made available by the City that it met the Self-Help housing application and program requirements.

² The revised LBA submitted did not shorten the development schedule. Since the June 19, 2020, LBA version the City has continued to propose a 6-year development schedule after conveyance.

and operator of the homeless housing, from beginning pre-construction work while construction on the infrastructure is underway. If this pre-construction occurs while infrastructure construction is underway, it will eliminate a year from the schedule, if not potentially more. This is an example of the type of change that the City could make to the schedule that would support a determination by HUD that the “timely fashion” requirements of the regulation can be met. HUD encourages the City to carefully review and consider other changes to the schedule, such as allowing concurrent actions, that could shorten the timeframe for making the homeless housing available.

HUD’s concern regarding the schedule and delay was not reassured by a review of the City Council approved Fort Lawton Redevelopment Plan, 2019 Update (“Redevelopment Plan”). The Redevelopment Plan, which forms the basis for the application to HUD, states that Seattle can look forward to a **gradual transformation** as the public benefit conveyances and redevelopment phases finally approach.³ The use of the term “gradual” in the Redevelopment Plan only validates HUD’s concerns regarding timeliness and supports HUD’s comment to the City that homeless housing is not being made available in a “timely fashion.” This is especially true where the LBA schedule does not include the necessary specificity or assurances that the schedule will be met.

HUD shared an example of the required level of specificity and assurance required in the LBA schedule in August 2021. In response, the City included a few more steps including AHA’s submittal for an application for low-income housing tax credits (“LITHC”) and approval of building permits. These additions, while helpful still do not meet the standard outlined by HUD for completeness.

To assist the City in understanding the type of information needed, HUD refers the City to project schedules the City has used itself in Requests for Proposals (“RFP”) for affordable housing projects, the Combined Funders Application (“CFA”) Forms. A copy of the 2020 CFA Form 5: Project Schedule is attached. A version of this form was used by the City in its April 22, 2022, Seattle Office of Housing RFP for Permanently Affordable Homeownership Development at Site #11 located at 5042 Martin Luther King Jr Way S. in Seattle, Washington.⁴ While this form is more detailed than what HUD is requesting, it is a great example of the type of information that HUD is requesting.

The City’s CFA form identifies the minimum tasks needed for a project and the type of information needed to evaluate whether the schedule proposed can be verified. It sets forth a clear framework that if followed, in concept, by the City will provide HUD with the specificity and assurances that HUD needs to verify that the City will make homeless housing available in a “timely fashion.” It does so by requiring the City to establish timeframes by which AHA must take certain actions, identifying that all the necessary steps for construction have been identified and met, and that there is consideration and preliminary identification of funding sources including timing for submitting applications. This last statement is especially important because obtaining financing can take months, if not years, and so including specificity in the schedule related to the types and planned sources of financing is important and necessary.

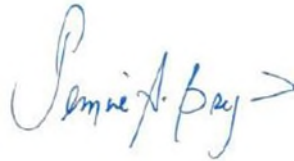
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³ Fort Lawton Redevelopment Plan, 2019 Update, pg. 3.

⁴ [April 22, 2022, Seattle Office of Housing RFP for Permanently Affordable Homeownership Development at Site #11 located at 5042 Martin Luther King Jr Way S. in Seattle, Washington.](#)

In closing, HUD appreciates all the work the City has undertaken. HUD also understands that it has been a very long road. HUD will continue to make itself available and the City should reach out directly to Michell McBee at Michell.M.McBee@hud.gov with any questions or for any additional guidance. Again, HUD intends to make a formal determination within 60 days and invites the City to review and revise its LBA based on this letter before that date.

Sincerely,

A handwritten signature in blue ink that reads "Jemine A. Bryon" followed by a right-pointing arrow.

Jemine A. Bryon
Deputy Assistant Secretary
Office of Special Needs

cc:

Maiko Winkler-Chin, Director, Seattle Office of Housing

Margaret Salazar, HUD Regional Administrator

Jack Peters, CPD Field Director

Laura C. Hewitt Walker, Strategic Advisor, Planning and Incentive Programs