



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Erik L. Soliván

SUBJECT: See Below

DATE: March 10, 2025

Approved

Date:

3/21/25

COUNCIL DISTRICT: Citywide

SUBJECT: First-Time Homebuyer Loan Program: Equity Share Reduction

RECOMMENDATION

Adopt a resolution:

- (a) Approving the reduction of the City's Equity Share payment from 30% to 15% for the City's single-family housing portfolio's First-Time Homebuyer Loan Program in accordance with applicable laws and funding source requirements; and
- (b) Authorizing the Housing Director, or his designee, to renegotiate the Equity Sharing provision and negotiate and execute homebuyer loan documents and all other documents, including any amendments thereto, related to the City's single-family housing portfolio's First-Time Homebuyer Loan Program in accordance with applicable laws and funding source requirements.

SUMMARY AND OUTCOME

Homeownership is one of several forms of generating wealth. It offers social, financial, and inheritable advantages and builds savings for households to set aside money for the future. It also creates opportunities for capital gains when real estate markets are rising.

Market-rate properties do not limit the amount of equity due to a homeowner upon the sale of a market-rate property. Conversely, deed-restricted below-market-rate properties

with Equity Share¹ provisions² in their loan documents limit the amount of equity a homeowner can obtain upon the sale of a deed-restricted below-market-rate property. The proposed downward adjustments to the City's Equity Share, as described in this memorandum, are consistent with the Housing Department's racial and social equity goals. The recommended action would advance continued investments to stabilize low-moderate and very low-income families in continued homeownership while preserving deed-restricted single-family homes throughout the City.

BACKGROUND

Single-Family Housing Portfolio's First-Time Homebuyer Loan Program

The City established a First-Time Homebuyer Loan Program in the 1990s as part of the City's single-family housing portfolio to provide downpayment assistance to eligible first-time homebuyers who purchased a below-market-rate property. First-time homebuyers who participated in the City's loan program obtained a specific type of loan with Equity Share provisions. The City's single-family housing portfolio is serviced by a third-party company, AmeriNat, and includes 790 loans, of which 438 have a similar Equity Share loan payment provision. The principal value of loans with Equity Shares in the City's single-family housing portfolio is \$30,827,666 in total, with a \$70,383 average loan per home.

Funding Source Requirements

The City used "20% Redevelopment Funds" as a source to finance the downpayment assistance for these loans. The Promissory Note is typically payable in full on the 30th anniversary of the recording date or upon the sale of the property. The Promissory Note requires that any unpaid principal balance, including the Equity Share, is due in full upon maturity of the Promissory Note or if the property is sold. Additionally, an Affordability Restriction is recorded against properties with these loans.

Affordable units with the assistance of "20% Redevelopment Funds" are restricted to remain available at affordable housing costs to persons and families of low or moderate income and very low-income households. The restriction is enforceable against the owner and the successors in the interest of the owner. This Affordability Restriction requires that the owner-occupied assisted unit can be sold only to eligible persons and only at affordable housing costs. Therefore, this restriction limits who can own or occupy the Owner-Occupied Assisted Unit and the price for which an Owner-Occupied Assisted Unit may be sold.

¹ An Equity Share provision is an Equity Share that is distributed to the City in the same percentage as the percentage of the City's Loan to the sales price of the property at the time of the loan.

² A provision is a condition or stipulation in a contract that must be met for the contract to be valid.

Fund Collection and Investment

If an affordable unit is sold, the City is paid back any remaining balance on the loan as well as 30% of the equity of the sale proceeds. Any outstanding loan amount and the Equity Share payment received will be deposited into the Low and Moderate Income Housing Asset Fund and dedicated to affordable housing purposes. Given that each unit sold under the existing program would generate approximately \$111,000 in equity repayments and be received over a multi-decade period, this amount is relatively small in comparison to the overall affordable housing funding needs. Therefore, these funds will be combined with other revenue sources for future affordable housing initiatives to maximize their impact.

Please see the **Attachment** for an example of how the Equity Share payment is calculated.

ANALYSIS

Proposed Equity Share Reduction

As the Housing Department continues applying a racial and social equity lens in its policy work and addressing the City's housing crisis, staff reviewed the First-Time Homebuyer Loan Program. While the amount of revenue the City would receive from future Equity Share Payments is relatively modest spread over a long period of time, the payment amounts are substantial from the perspective of low-to-moderate-income families. Based on this review, staff recommends reducing the City's 30% Equity Share by 50% for all 438 properties in the City's single-family housing portfolio's First-Time Homebuyer Program. This recommended action would authorize the Housing Department to reduce Equity Share, on average, by approximately \$55,000 per property for loans coming due by the end of this decade. Staff's recommendation to reduce a portion of the Equity Share payment due to the City would advance continued investments to stabilize low-moderate and very low-income families in continued homeownership while preserving deed-restricted single-family homes throughout the City.

Applicable Laws and Requirements

The Equity Share language of the Affordability Restriction in connection with properties in the City's First-Time Homebuyer Loan Program, and in compliance with the Community Redevelopment Law and California Health and Safety Code Section 33334.3(4)(1)(B), allows a change in the amount of Equity Share so long as the Equity Sharing is based on an "established Equity Sharing schedule that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy."

Proposed Next Steps

If the staff recommendation in this memorandum is approved, the City will work on a case-by-case basis for all the properties in the single-family housing portfolio’s First-Time Homebuyer Loan Program. It will amend the homeowners’ formula set forth in the Affordability Restrictions for calculating the sale price in order to reflect a change in the City’s Equity Share provision to comply with the Community Redevelopment Law and California Health and Safety Code Section 33334.3(4)(1)(B) requirement.

First-Time Homebuyer Program Equity Share Loan Portfolio

Below is a breakdown of the City’s single-family housing portfolio’s First-Time Homebuyer Program loans with Equity Share.

- **Total Loans:** 438
- **Total Loan Balance:** \$30,827,666
- **Average Loan per Home:** \$70,383
- **Loans Due Today:** 13
- **Loans Due by 2029:** 18
- **Loans Due after 2030:** 407
- **Equity Share Payments in Process:** 2

Of the total loans, 93% will not reach maturity until after 2030. Based on a projected increase in values at an assumed market value of \$650,000 (on average) and with a 4.4% compounded appreciation, the projected share of equities with and without the proposed 50% reduction is outlined in the **Table** below.

Table – Projected Share of Equities

	# of Loans	30% City Equity	Average Borrower Equity per Loan (70%)	15% City Equity	Average City Equity per Loan (15%)	Average Borrower Equity per Loan (85%)	Average City Equity Subsidy per Loan
Loans Due Today	13	\$1,263,600	\$226,800	\$631,800	\$48,600	\$275,400	-\$48,600
Loans Due by 2029	18	\$1,989,631	\$257,915	\$994,816	\$55,268	\$313,183	-\$55,268

The City Attorney’s Office has confirmed that, under state law, the proposed reduction in the City’s Equity Share factors is a form of subsidy. Any subsidy exceeding \$100,000 must return to City Council for approval. Based on the staff analysis, no loans maturing between now and 2029 will exceed this threshold.

The **Attachment** – Sample Illustration of Equity Share Calculation – provides an estimated Equity Share payment due to the City at the close of escrow for a sample

property. It also reflects the impact of the staff recommendation in this memorandum to reduce the City's 30% Equity Share by 50%, lowering it to 15%.

EVALUATION AND FOLLOW-UP

If the staff recommendation in this memorandum is approved, Housing Department staff will notify all homeowners in the City's First-Time Homebuyer Loan Program about any program changes and respective amendments to their Promissory Notes, Affordability Restrictions, and Deeds of Trusts in compliance with Community Redevelopment Law and California Health and Safety Code requirements under Section 33334.3(4)(1)(B).

COST SUMMARY/IMPLICATIONS

There is no current cost implication as the Equity Share reductions will be determined and payable upon maturity of the City loans or at sale of each property. Equity Share provision is only in effect at the time owner is willing to sell but is under no obligation to sell. The loan balance is paid off at the time of sale as part of the loan closing process. In the event a sale does occur, the loan repayment proceeds will be deposited in the Low and Moderate Income Housing Asset Fund. As discussed above, Equity Share proceeds will be combined with other sources to support future affordable housing development.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the March 18, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

HONORABLE MAYOR AND CITY COUNCIL

March 10, 2025

Subject: First-Time Homebuyer Loan Program: Equity Share Reduction

Page 6

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Erik L. Soliván
Housing Director

For questions, please contact Banu San, Deputy Director, Housing Department, at Banu.San@sanjoseca.gov.

ATTACHMENT – Sample Illustration of Equity Share Calculation

Attachment – Sample Illustration of Equity Share Calculation

Table 1 provides a sample property profile with the City's current 30% Equity Share.

Table 1 – Property and Equity Share Loan Profile*

Property and Equity Share Loan Profile	
Original Acquisition Price of Property	\$166,000
City Equity Share Ratio	30%
City 2 nd Loan	\$50,000
Promissory Note Date	July 9, 1999
Date of Recordation	July 28, 1999
Interest Rate	0%
Term of Promissory Note	30 Years

**Note: This sample calculation is for illustration purposes, and the figures presented are estimates only. The calculation is based on the hypothetical assumption and an average sales price of \$650,000. The fair market value shall be determined by a licensed appraiser and the current housing market. The final sales price will determine the actual payment due to the City.*

Table 2 illustrates the increase in net appreciation values over 30 years and the impact of the proposed reduction in the City's Equity Share from 30% to 15%.

Table 2 – Net Appreciation Values

Net Appreciation Values	
Estimated New Appreciation/Sales Price of Property	\$650,000
Minus: Acquisition Costs	\$166,000
Minus: Seller's Costs	\$34,775
Minus: Cost of Capital Improvements	\$10,000
Amount Available for Equity Share Property	\$439,225
City's Current Equity Share Calculation: 30%	\$131,767
Proposed Reduction in City Equity Share by 50% (from 30% to 15%)	\$65,883