City Funding Sources for Affordable Housing

This attachment provides an overview of the available funding sources for affordable housing and how they may be used.

Low and Moderate Income Housing Asset Fund

Redevelopment funding set aside for affordable housing was the major source of the City's financial resources until redevelopment's dissolution in 2011. Upon dissolution of the Agency, the City elected to retain the housing assets and the affordable housing functions of the Agency. The City now administers the affordable housing functions of the Agency as the housing successor subject to the provisions of the California Redevelopment Law ("CRL") which relate to affordable housing. Since that time, annual loan repayments and full loan repayments of the City's redevelopment-funded loans are deposited into the Low and Moderate Income Housing Asset Fund ("LMIHAF"). On October 12, 2013, The Governor signed into law Senate Bill 341 which amended provisions of the CRL relating to the functions performed by housing successors.

Unlike private lenders which generate income through receipt of set payments of principal and interest on outstanding loan balances, the City receives loan repayments from a share of properties' "residual receipts." Residual receipts are funds in excess of those needed to pay properties' operating expenses. While critical to the City's ability to operate and invest in new affordable apartments, the City's receipt of loan repayments is secondary to the social purpose of providing affordable, well-maintained properties that benefit the public. In fact, many cities receive minimal interest or residual receipt payments on their affordable housing loans. Homeless or deeply-affordable developments typically do not provide any annual repayments. San José, by comparison, has a relatively robust portfolio that provides a predictable stream of revenue that is used to help manage its portfolio of affordable apartments.

Eligible Uses

Under the revised CRL, eligible uses for LMIHAF include the development and major rehabilitation of rental housing with specific income targeting. Housing successors must spend all remaining funds on the development of housing affordable to lower-income households (less than 80% of the area median income (AMI)), with at least 30% for rental housing for extremely-low income households (less than 30% of AMI), and no more than 20% for households earning between 60-80% of AMI. Up to 50% of housing financed by a jurisdiction over a ten-year period may be provided for units of deed restricted rental housing for seniors.

Inclusionary Housing In-Lieu Fees

The Citywide Inclusionary Housing Ordinance ("Ordinance") requires that, in new market-rate developments of 20 or more homes, 15% of the homes be made affordable in both rental and for-sale developments. The Ordinance provides several alternative ways that the developer can meet its requirement, including payment of an in-lieu fee and construction of affordable homes off-site. When a developer chooses an alternative compliance option, including the payment of an in-lieu fee, the percentage requirement is increased to 20%.

The Ordinance's predecessor for new developments in redevelopment project areas was the City's Inclusionary Policy ("Policy"). The Policy has a requirement that 20% of newly-constructed for-sale homes be made affordable to and sold to moderate-income households. Like the Ordinance, the Policy allows payment of in-lieu fee revenue as an option to building the required affordable homes. Both the Policy and redevelopment project areas survived dissolution of the redevelopment agencies.

Eligible Uses

Eligible uses for Inclusionary in-lieu fees include new rental and for-sale construction for restricted affordable housing developments for ELI, VLI, LI, and moderate-income households.

Affordable Housing Impact Fee

On November 18, 2014, the City Council adopted the Affordable Housing Impact Fee ("AHIF") Resolution establishing the AHIF program. Under AHIF, new market-rate rental housing developments are charged a fee based on net rentable square footage to address the impact that type of development has on the need for affordable worker housing.

Eligible Uses

Eligible uses for AHIF funds include new rental and for-sale construction for restricted affordable housing developments for ELI, VLI, LI and moderate-income workers, per a prescribed methodology for varying levels of affordability. The methodology reflects the AHIF Nexus Study's analysis of market-rate developments' impacts.

Federal Community Development Block Grant (CDBG) Program

The City receives approximately $8.4 million in CDBG funds annually. Projects receiving assistance must serve low and moderate income persons (defined by HUD as members of a family earning no more than 80% of AMI) and/or prevent or eliminate slums and blight.

Eligible Uses

Eligible uses for CDBG include public service, public facilities and improvements, code enforcement, economic development activities, planning and capacity building, rehabilitation, homeownership down payment assistance loans, and fair housing activities. Eligible activities that would support an affordable housing development include acquisition of real property and associated infrastructure work. CDBG specifically prohibits funds to be used for new housing construction.

Federal HOME Investment Partnerships (HOME) Program

The City receives approximately $2.4 million in HOME funds by formula from the U.S. Department of Housing and Urban Development ("HUD") on an annual basis. It is the largest Federal block grant to local governments to create affordable housing for low-income individuals and families. Approximately $1.3 million in HOME funds is programmed for Tenant Based Rental Assistance (rent subsidies) annually for homeless individuals and families. The remaining $1 million in annual revenue is set-aside for rental development.

Eligible Uses

Eligible housing activities include the investment in affordable rental housing and homeownership through the acquisition (including downpayment assistance to homebuyers), new construction, reconstruction, or rehabilitation of deed restricted affordable housing. Funds may also be used to provide direct rental assistance to a low-income household.

HUD Litigation Award

The City of San José's Housing Authority ("CSJHA") is a public entity formed under State Housing Authority law. Housing authorities typically receive rental vouchers, administrative funds, and other resources from HUD. However, CSJHA has an agreement with the Housing Authority of the County of Santa Clara's ("HACSC") under which the CSJHA authorizes HACSC to administer the CSJHA's rental voucher and other HUD programs on its behalf. The agreement requires HACSC to consult the CSJHA Board on policy and strategic decisions. The Board of CSJHA is the City Council, and its Executive Director is the Director of Housing.

On behalf of the CSJHA, HACSC filed suit against HUD in the U.S. Court of Federal Claims for breach of contract by HUD resulting in underpayment of funds. The suit was successful, and CSJHA received $36.3 million in a litigation award in 2016 ("HUD Litigation Award Funds"). CSJHA may use these litigation award funds for purposes authorized under Housing Authority law for affordable housing purposes related to "housing projects" as defined under State law.

Eligible Uses

Eligible uses for the funds include rental subsidy vouchers, outreach and case management supporting placement of households in certain low-income developments, and new construction and rehabilitation of low-income housing developments and related programming for low-income residents.

SB2 State Housing Funds

SB 2 provides a "permanent source" of funding for affordable housing by imposing a $75 fee on each recorded document up to a maximum of $225 per transaction per parcel, estimated to generate $250 million annually, statewide. It estimated that the City will begin to receive funds in FY19/20 of approximately $2 million in the first year and $3 million on-going.

Eligible Uses

Eligible uses for SB2 includes homeless solutions such as rapid rehousing, emergency shelters, and navigation centers. Acquisition and rehabilitation of foreclosed or vacant homes. Development activities include, predevelopment, development, acquisition, rehabilitation, and preservation of multifamily rental housing that is affordable to ELI, VLI, LI and moderate-income households including operating subsidies. Affordable rental and homeownership housing for workforce housing earning up to 120% of the AMI or 150% of the AMI in high-cost areas.