



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** June 1, 2020

Approved

Date

6/5/20

**SUBJECT: FIVE-YEAR FUNDING PLAN FOR THE PERMANENT LOCAL HOUSING ALLOCATION PROGRAM FUNDING FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

## RECOMMENDATION

Adopt a resolution to:

- (a) Approve a five-year expenditure plan for the Permanent Local Housing Allocation (PLHA) Program formula allocation of an estimated \$26 million over five years from the California Department of Housing and Community Development (HCD); and,
- (b) Authorize staff to apply for PLHA funds and, when awarded, to accept the award, and to negotiate and execute an HCD Standard Agreement and all other necessary related documents.

## OUTCOME

Approval of a five-year expenditure plan for Permanent Local Housing Allocation (PLHA) funds will allow the City to apply for and access new, flexible formula allocation funds from the State, enabling the City to partially fund operations costs for bridge housing communities and emergency interim communities.

## BACKGROUND

### *Permanent Local Housing Allocation Program*

In 2017, Governor Brown signed a 15-bill housing package aimed at addressing the State's housing shortage and high housing costs. Specifically, it included the Building Homes and Jobs

June 1, 2020

**Subject: Five-Year Funding Plan for the Permanent Local Housing Allocation Program Funding from the California Department of Housing and Community Development**

Page 2

Act of 2017 (SB 2), which established a \$75 recording fee on documents for certain real estate transactions, designed to generate ongoing revenues to increase the supply of affordable homes in California. Because the number of real estate transactions recorded in each county will vary from year to year, the revenues collected will fluctuate.

In February 2020, the California Department of Housing and Community Development (HCD) announced the release of entitlement and non-entitlement local government formula component Notice of Funding Availability (NOFA) to award approximately \$195 million for the Permanent Local Housing Allocation (PLHA) program. This funding provides grants to entitlement and non-entitlement local governments in California for eligible housing-related projects and programs that assist in addressing the unmet housing needs of their local communities.

San José is an entitlement local government under the PLHA program and will receive funding by formula, but still must apply to the HCD entitlement NOFA. San José is eligible for PLHA funds because it has an approved Housing Element in compliance with the State Housing Law and submits Annual Progress Reports that are approved by HCD.

The State estimates that San José will receive \$4.3 million by formula allocation for FY 2019-20, and an estimated \$26 million total over five years. (Note that this five-year figure is only an estimate made pre-COVID, and the actual amount of funds to be awarded will likely vary from that estimate.) The City must submit an application, including a Council-approved five-year expenditure plan, by July 27, 2020, to receive that funding in late 2020. If the City does not submit an application by the July deadline, funds will revert to HCD.

The five-year expenditure plan must detail how the allocated funds will be used for eligible activities. It also must include a description of the way the City will prioritize investments that increase the supply of housing for households with incomes at or below 60 percent of area median income (AMI). HCD has clarified that programs targeted for homeless and at-risk populations, at or below 30% AMI by definition, do meet this requirement. In addition, the expenditure plan must also include a description of how it is consistent with the programs set forth in the City's Housing Element, and evidence that it was authorized and adopted by resolution of the City Council.

The following activities are eligible under the PLHA program:

1. Predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, rental housing that is affordable to extremely low-, very low-, low-, or moderate-income households, including necessary operating subsidies.
2. Affordable rental and ownership housing (including Accessory Dwelling Units) that meets the needs of a growing workforce earning up to 120 percent of AMI, or 150 percent of AMI in high-cost areas.
3. Matching portions of funds placed into local or regional housing trust funds.

June 1, 2020

**Subject: Five-Year Funding Plan for the Permanent Local Housing Allocation Program Funding from the California Department of Housing and Community Development**

Page 3

4. Matching portions of funds available through the Low- and Moderate-Income Housing Asset Fund.
5. Capitalized reserves for services connected to the preservation and creation of new permanent supportive housing.
6. Assisting persons who are experiencing or at-risk of homelessness,<sup>1</sup> including, but not limited to, providing rapid rehousing, rental assistance, navigation centers, emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.
7. Accessibility modifications in lower-income owner-occupied housing.
8. Efforts to acquire and rehabilitate foreclosed or vacant homes and apartments.
9. Homeownership opportunities, including, but not limited to, down payment assistance.
10. Matching funds invested by a county in an affordable housing development project in a city within the county.

In addition, staff work associated with using the funds can be charged as project delivery costs, while up to five percent of the award can be used for general administrative costs related to tracking and annual reporting on the execution of eligible activities.

Once the City Council approves the expenditure plan and submission of the application to HCD, HCD is expected to approve the application and send the City a five-year Standard Agreement to be executed and signed within 90 days. All the first-year's allocation will be available for disbursement once the Standard Agreement is executed. Each year, HCD will publish the amount of funds the City will receive for the following year. To receive the funds, the City must submit a letter accepting the funds, its annual report detailing uses and expenditures of all awarded PLHA allocations and outcomes achieved, must have a certified Housing Element, and have submitted its latest Housing Element annual performance report.

During the five-year expenditure plan period, up to 10% of the planned expenditure for each type of eligible activity may be reallocated to another activity without the submission of a plan amendment; however, changes exceeding this amount require HCD's approval in writing.

---

<sup>1</sup> This definition includes bridge housing. See Public Comments Received During 30-Day Public Comment Period, HCD Response #11, <https://www.hcd.ca.gov/grants-funding/active-funding/docs/PLHA-Response-to-Public-Comments-11-19.pdf>

June 1, 2020

**Subject: Five-Year Funding Plan for the Permanent Local Housing Allocation Program Funding from the California Department of Housing and Community Development**

Page 4

### ***Bridge Housing Communities***

Assembly Bill 2176 (2016) authorized the construction of bridge housing communities (BHCs) in the City of San José. BHCs help to fill an important gap in the continuum of affordable housing for those who have become unhoused. The City's preferred approach to addressing homelessness, the "housing-first" model, is the national best practice that seeks to move people immediately off the streets and into permanent homes. PLHA Guidelines, in fact, require that eligible activities be provided in a manner consistent with "housing first" practices. However, an affordable housing development can take three to five years to be financed, entitled, and constructed. In addition, factors such as the high cost of housing and the low vacancy rate in San José have prevented homeless participants in the City-funded rental subsidy programs from accessing affordable apartments. Even with a guaranteed rental payment, program participants remain on the streets for months unable to locate a place to live. A BHC helps to fill this gap in the housing continuum by providing habitable, quality interim housing to participants waiting for placement in a permanent supportive housing opportunity whether it is a deed-restricted affordable home or a market-rate apartment. It is the Administration's goal to develop BHCs in all the City's Council districts. Finally, the new Countywide *Plan to End Homelessness 2020-25* has a goal of doubling the interim and shelter opportunities in the City over the next five years.

Given the COVID-19 health emergency, bridge housing communities using prefabricated homes have surfaced as a way to quickly house vulnerable homeless populations. The Center for Disease Control considers homeless populations an at-risk population for COVID-19 because they may face issues getting assistance if they become ill, and are therefore recommended to take extra precautions. For this reason, on April 21, 2020, the City Council approved an allocation of \$17.2 million of the City's Homeless Housing Allocation Program (HHAP) funds from the State for the expansion of emergency interim housing communities that will later serve as BHCs post-COVID emergency.

Three new emergency interim housing sites, to be constructed with HHAP funds, will serve as non-congregate shelters for COVID-19 relief. The first of these sites, located at the intersection of Monterey Road and Bernal Road in south San José, will feature prefabricated small units and is expected to be operational in late June 2020. This site will serve singles and couples without minor children. The other two sites are still in early stages of development, and are expected to be operational in late July 2020. One of these latter sites will serve families with children.

**ANALYSIS**

***City Should Use PLHA Funds for Bridge Housing Communities (BHCs) and Emergency Interim Housing Communities (EICs) Operations***

The PLHA program provides a much-needed and very flexible funding source for local government to support a variety of affordable housing uses for residents with varied affordable housing needs. It is unusual for funds to be eligible for both capital and operating costs and support the full range of housing types - emergency, transitional, bridge, and permanent housing. HCD specifically confirms that PLHA funds are eligible for bridge housing communities.

The funds are also ongoing in nature, as they are funded by the real estate document recording fee set forth in the Building Homes and Jobs Act. While the amount that the City will receive will vary over time, the PLHA’s annual allocations make it appropriate to use for activities that generate ongoing costs.

BHCs have become a recognized and significant short-term shelter strategy in San José since they were first approved in 2016. However, a challenge with BHCs is identifying funding sources eligible to fund ongoing operating costs. While it is possible that residents of some permanent BHCs may have rental vouchers that can help generate operating revenues, it is unclear whether there will be a sufficient supply of vouchers ongoing to help fund operations.

In addition, especially given the urgency with which the City needed to create non-congregate shelters for COVID-19 response, ongoing funding for operating costs have not yet been identified for all the planned emergency interim housing communities.

Given the flexibility and the ongoing nature of the PLHA funds, staff proposes to use the City’s initial five-year PLHA allocation to support operating costs for the City’s BHCs and EIHCs. While the City’s PLHA funds awarded are not expected to be sufficient to cover all costs of operations, **Table 1** below reflects the proposed expenditure priorities for San José’s five-year PLHA allocation.

**Table 1: Proposed PLHA Five-year Expenditure Plan**

<b>Proposed PLHA Uses</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
Operating costs for BHC sites	34%	34%	34%	34%	34%
Operating costs for EIHC sites	66%	66%	66%	66%	66%
Total	100%	100%	100%	100%	100%

June 1, 2020

**Subject: Five-Year Funding Plan for the Permanent Local Housing Allocation Program Funding from the California Department of Housing and Community Development**

Page 6

The higher proportion of funds allocated to EIHCs in Table 1 reflects the following factors: the higher number of beds (380 in EIHCs vs. 80 for BHCs), generating higher operating costs such as for utilities and services; the inability for EIHC residents to possess rental vouchers such as Section 8s to offset operating costs; and, the higher vulnerability of EIHC residents who may be older or have more health problems, requiring higher staffing levels than for BHCs.

See **Attachment A** for an excerpt of draft additional information that will go into the State's PLHA application form.

### ***Potential Expenditure Plan Changes and Next Steps***

The PLHA application requires the submission of a five-year expenditure plan. If necessary, the expenditure plan can be formally amended at a later date to reflect changes in the City's funding needs. Note that the \$26 million five-year estimated allocation to San José will likely change, as the source revenue from recording fees may be affected by the changes in the State's current economic downturn. Changes in the amount of funding available will be reflected in the annual NOFAs that will be published by HCD.

After staff submits the application to HCD in early July 2020, staff will need the City Council to grant authority to award PLHA funding for specific projects and expenditures consistent with the five-year expenditure plan. PLHA funds should be available to spend by late 2020 or early 2021, depending on the speed of the State's ability to issue awards and draft Agreements.

### **CONCLUSION**

Staff recommends that the City Council approve its proposed five-year expenditure plan for approximately \$26 million to access flexible funds under the State's new Permanent Local Housing Allocation program. The funds would be used to operate bridge housing communities and emergency housing interim communities. This use is allowed under the PLHA's unusual flexibility and its ongoing nature, as well as the City's need for interim homeless shelter solutions.

### **EVALUATION AND FOLLOW-UP**

After City Council approval, Housing Department staff will submit the application to HCD. Once HCD approves the City's application, staff will negotiate and execute the Standard Agreement and any other documents necessary for the award and use of the funds. The City Council will be asked to appropriate the funds, and authorize use of PLHA funds for specific

HONORABLE MAYOR AND CITY COUNCIL

June 1, 2020

**Subject: Five-Year Funding Plan for the Permanent Local Housing Allocation Program Funding from the California Department of Housing and Community Development**

Page 7

projects and activities consistent with the five-year expenditure plan. It is expected that the City will receive the award and form Standard Agreement from HCD in fall 2020, with funds available for use at the end of 2020 or in early 2021.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City’s Council Agenda website for the June 16, 2020, City Council meeting

### **COORDINATION**

Staff coordinated with the City Attorney's Office and the City Manager’s Budget Office on this memorandum.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action, as it is outside the scope of the Housing and Community Development Commission.

### **FISCAL/POLICY ALIGNMENT**

This recommendation is consistent with the City of *San José 2014-2023 Housing Element’s* Implementation Work Plan Strategy 2, Goal 29 (a), “Invest in Activities to End Homelessness - Research and explore potential alternative homeless housing and services options: Examine an array of alternative housing options, including tiny homes....” This action is also consistent with General Plan Policy H-2.7, “Support strategies in collaboration with other jurisdictions and agencies to end homelessness by creating permanent housing solutions combined with services such as medical, education, and job placement,” and the *Community Plan to End Homelessness 2015-2020*.

HONORABLE MAYOR AND CITY COUNCIL

June 1, 2020

**Subject: Five-Year Funding Plan for the Permanent Local Housing Allocation Program Funding from the California Department of Housing and Community Development**

Page 8

**CEQA**

Not a Project, File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.

/s/

JACKY MORALES-FERRAND

Director, Housing Department

For questions, please contact Kristen Clements, Division Manager, at (408) 535-8236.

Attachment A: Permanent Local Housing Allocation Five-year Expenditure Plan & Draft Application Excerpt

## ATTACHMENT A

### Permanent Local Housing Allocation Five-year Expenditure Plan & Draft Application Excerpt

The following is an excerpt with responses from the draft PLHA application, which give further context to the funding allocation plan in Table 1 of the memorandum.

**§302(c)(4)(A)** Describe the manner in which allocated funds will be used for eligible activities.

The City of San José plans to use PLHA funds to 1) fund operating costs for bridge housing communities for formerly homeless residents, and 2) fund operating costs for emergency interim housing communities for the provision of COVID-19-appropriate non-congregate shelter for formerly homeless residents, which will later be transitioned to bridge housing communities for formerly homeless residents. Bridge housing falls under the eligible category 301(a)(6), “Assisting persons who are experiencing or at-risk of homelessness, including, but not limited to, providing rapid rehousing, rental assistance, navigation centers, emergency shelters...”

This use of the PLHA funds is consistent with RHNA Goals in the current RHNA cycle (2014 – 2019) in the following way. During the first 6 years of the City's 8.8-year RHNA projection period – approximately 68% of the way through the current RHNA cycle – the City has met 94% of its market-rate housing goal but only 18% of its affordable housing goal. As of the end of 2019, San José has achieved the following production of affordable housing:

- 7% of its RHNA goal for extremely low-income units, producing 302 of its 4,617-unit goal;
- 18% of its RHNA goal for very low-income units, producing 827 of its 4,616-unit goal;
- 4% of its RHNA goal for low-income units, producing 231 of its 5,428-unit goal; and,
- 37% of its RHNA goal for moderate-income units, producing 2,304 of its 6,188-unit goal.

By using PHLA funds to support operations of bridge housing and emergency interim housing communities, formerly homeless extremely low-income residents can be housed and later placed into permanent homes. This identified use therefore supports ultimate achievement of the City's RHNA goals. However, as the PLHA will support operation of interim housing solutions for homeless residents, RHNA credit for the units would not be obtained as it is not permanent housing and the funds are being used for operations rather than creation of the units.

**§302(c)(4)(B)** Provide a description of the way the Local government will prioritize investments that increase the supply of housing for households with incomes at or below 60 percent of Area Median Income (AMI).

As residents of both bridge housing communities and emergency interim housing communities will be formerly homeless, all will be extremely low-income – and therefore, will easily meet the PLHA priority population definition of those at or below 60% of area median income (low-income).

**§302(c)(4)(C)** Provide a description of how the Plan is consistent with the programs set forth in the Local Government's Housing Element.

This recommendation is consistent with the City of *San José 2014-2023 Housing Element's* Implementation Work Plan Strategy 2, Goal 29 (a), "Invest in Activities to End Homelessness - Research and explore potential alternative homeless housing and services options: Examine an array of alternative housing options, including tiny homes...." This action is also consistent with General Plan Policy H-2.7, "Support strategies in collaboration with other jurisdictions and agencies to end homelessness by creating permanent housing solutions combined with services such as medical, education, and job placement.