Appendix D: Housing Resources and Programs

The following provides an overview of San José's available programmatic funding sources for affordable housing and their eligible uses. The City Council-approved Affordable Housing Investment Plans (https://www.sanjoseca.gov/your-government/departments/housing/memos-reports-plans/housing-investment-plans-and-policy) govern how funds are anticipated to be used to create affordable housing opportunities. All these sources are eligible to fund the new construction of housing or its infrastructure. At the end of the descriptions is a summary list of those eligible for one or both types of Preservation activities.

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. Approximately $20 million per year was anticipated to be used for new project commitments in the past two fiscal years.

Eligible Uses

The permitted uses of LMIHAF funds are defined by California Health and Safety Code Section 34176.1(a)(3)(D). Eligible uses focus on the development and major rehabilitation of rental housing with specific income targeting. They include new construction, acquisition and rehabilitation, substantial rehabilitation, the acquisition of long-term affordability covenants on multifamily units, and the preservation of an existing affordable housing development that is in danger of losing its affordability restrictions. Housing successors must spend all remaining funds (net of allowable administrative fees and limited uses to address homelessness) on 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% AMI), and no more than 20% for households earning between 60-80% 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.

Measure E Real Property Transfer Tax

Measure E was placed on the ballot by City Council in 2019 and approved by voters on March 3, 2020. It enacted a Real Property Transfer Tax, which is imposed on property transfers of $2 million or more. Measure E funds have become an important funding source for the City, generating $50 million in FY 2021-22 and an estimated $90 million in FY 2022-23.

The City's Housing and Community Development Commission (HCDC) acts as the community oversight committee for Measure E spending. The City Council adopted an allocation plan for Measure E, and each year, staff identifies eligible uses that align with the approved allocation plan for inclusion in the City's budget. The Council-approved allocation plan may be amended by a two-thirds vote of the Council and required public meetings.

Eligible Uses

Revenues generated by Measure E provide funding for general City services, including affordable housing for seniors, veterans, disabled, and low-income families, and programs to help people experiencing homelessness to move into shelters or permanent housing. The ~~current~~ 2022-23 Council-approved allocation plan for revenues identified~~s~~ the following uses and proportions: new construction and preservation of new and newly-affordable homes for residents from ELI to moderate-income levels (75% of revenues), homeless prevention and rental assistance (10%), homeless support programs including shelter construction and operations (15%), and administration (up to 5%).

Inclusionary Housing In-Lieu Fees

The Citywide Inclusionary Housing Ordinance ("Ordinance") requires that, in new market-rate developments of 10 or more homes, 15% of the homes be made affordable in both rental and for-sale developments or other alternatives be satisfied. The Ordinance's alternatives through which a developer can meet its requirement include payment of a partial or full in-lieu fee and construction of affordable homes off-site, among others. 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 had 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 allowed 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. As of FY 2022-23, the City expects limited in-lieu fee revenues required under the Policy to be paid from previously-subject projects.

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 Fees

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. Along with changes the City Council approved to the Inclusionary Housing Ordinance in 2019, the AHIF program was sunset for new development commitments in favor of the Inclusionary Housing Ordinance. As of FY 2022-23, the City expects limited fee revenues required under AHIF to be paid from previously-subject projects.

Eligible Uses

Eligible uses for AHIF funds include new construction of rental and for-sale restricted affordable housing developments for ELI, VLI, LI and moderate-income workers, per a prescribed methodology for varying levels of affordability. Uses also include acquisition and financing of housing facilities that increase the supply of affordable housing. The methodology reflects the AHIF Nexus Study's analysis of market-rate developments' impacts on the need for affordable worker housing.

Commercial Linkage Fee

On September 1, 2020, the City Council voted to establish a Commercial Linkage Fee (CLF). The CLF is charged on a square foot-basis to new and existing non-residential projects that either add gross floor area or change the existing building use. The CLF offsets part of the demand that new job-producing space creates for affordable housing, as determined by nexus study. The CLF will be collected at the time of commercial space occupancy or lease-up, late in the development process, so it is difficult to predict when revenue will begin coming into the City. However, revenues are expected to start during the middle of the Housing Element's sixth cycle (2023-2031) and in 2020 were estimated to generate approximately $14 million by FY 2023-24.

Eligible Uses

Revenues generated by the City's CLF will be used to increase the supply of affordable housing for households at or below ELI, VLI, LI and moderate-income levels.

SB 2 State Housing Funds / Permanent Local Housing Allocation

The Permanent Local Housing Allocation ("PLHA") program was approved by Senate Bill 2 in 2017. It provides an ongoing source for local government to fund a variety of affordable housing needs. Its source is a $75 fee on each recorded document up to a maximum of $225 per transaction per parcel.

Eligible Uses

Eligible uses for PLHA funds include a broad range of housing solutions. Homeless housing uses may include rapid rehousing, emergency shelters, and navigation centers. Single family uses include 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 for residents earning up to 150% AMI in San José's high-cost area is also eligible, as are Accessory Dwelling Unit programs. On June 16, 2020, the City Council approved a five-year PLHA expenditure plan (State budget years 2019 through 2023, available annually through calendar year 2024) to use the City's total of up to $26.1 million available under the program. The Plan's sole identified use is to pay operating costs for interim housing units for people experiencing homelessness. The Plan may be amended to shift eligible uses by vote of the City Council and approval by the State.

Federal Community Development Block Grant (CDBG) Program

The City receives approximately $8.5 million in CDBG funds annually. Projects receiving assistance must serve low- and moderate-income persons (defined by HUD as a household earning no more than 80% AMI) and/or prevent or eliminate slums and blight.

Eligible Uses

Each year, the City approves uses through its Annual Action Plan. 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 $3.4 million in HOME funds by formula from the U.S. Department of Housing and Urban Development ("HUD") annually. HOME is the largest Federal block grant to local governments to create affordable housing for low-income individuals and families. Each year, the City approves uses through its Annual Action Plan. Affordable housing commitments and Tenant Based Rental Assistance (rent subsidies) are typical uses of the funds.

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.

Summary – Potential Funding Sources for Preservation

In an affordable housing context, "Preservation" consists of two activities: one, extending the affordability and physical lifespan of existing affordable housing; and two, acquiring existing market-rate homes and adding affordability requirements with or without rehabilitation. The following sources of City funding are eligible for one or both Preservation activities if projects meet income requirements and other parameters in each program:

- Measure E Real Property Transfer Tax
- Low and Moderate Income Housing Asset Fund

- Inclusionary Housing Ordinance In-Lieu Fees
- Inclusionary Housing Policy In-Lieu Fees
- Commercial Linkage Fees
- SB 2 State Housing Funds / Permanent Local Housing Allocation
- HOME
- CDBG.

City o~~O~~f ~~San Jos~~San Josée Housing Department's Funding Priorities

In awarding funding for affordable housing, the following were the Council-approved funding priorities established in the City's FY 2020/21 – FY 2022/23 Affordable Housing Investment Plan (https://www.sanjoseca.gov/home/showpublisheddocument/66577/637401733437070000). These priorities change over time given Council direction and the approval of new Housing Investment Plans.

#1: Align funding with Measure A funded developments

The City will seek funding opportunities to contribute to County Measure A-funded developments for the purpose of providing apartments which would serve extremely low-, very low-, and low-income households. This will enable Measure A developments to house residents with a range of incomes and populations.

#2: Increase housing for homeless residents

The City will make significant progress in investing in permanent supportive housing to address the needs of our homeless residents by working with both the County and the Housing Authority.

#3: Limit funding to $125,000 per unit

Funding is limited to $125,000 per unit to maximize the impact of the limited funds available.

#4: Fund developments that can utilize cost saving construction techniques

The City will prioritize developments that use cost saving construction techniques, such as modular housing to provide affordable apartments at a cost that is less than the $125,000 per unit subsidy.

#5: Prioritize developments leveraging the Affordable Housing and Sustainable Communities Grant Program

The City will prioritize developments that leverage public funding by applying for grants from the State's Affordable Housing and Sustainable Communities (AHSC) Program. AHSC grants can fund both affordable housing and infrastructure for the City.

#6: Fund acquisition/rehabilitation of existing apartments

The City will set aside $10 million for acquisition/rehabilitation of market-rate housing. An affordability restriction will be placed on the property, creating new affordable housing.

#7: Provide minimum funding for Extremely Low-Income (ELI) housing

The City Council set a minimum of 45% of total funds be used to fund extremely low-income (ELI) homes.

#8: Placed-Based Strategy

While work proceeds on the Affordable Housing Siting Policy, upcoming funding for affordable housing will be directed to growth areas throughout the City including North San José, Diridon Station Area, Downtown, West San Carlos Urban Village, Berryessa Bay Area Rapid Transit (BART) Urban Village, and the Blossom Hill/Snell Avenue Urban Village.