COUNCIL AGENDA: 4/9/2019
ITEM: 4.3
FILE NO: 19-185

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: **SEE BELOW**

DATE: March 29, 2019

SUBJECT: Affordable Housing Investment Plan Update.

RECOMMENDATION:
As recommended by the Community and Economic Development Committee on March 25, 2019:
(a) Accept the staff report on the update of the Housing Investment Plan for expenditure of affordable housing funds; and
(b) Include two new priorities funding acquisition and/or rehabilitation of existing market rate housing and a minimum of 30% of funds be invested in extremely low-income housing over the life of the Housing Investment Plan.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Housing)
[Community and Economic Development Committee referral 3/25/19 - Item (d)4]

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE

FROM: Jacky Morales-Ferrand

SUBJECT: **SEE BELOW**

DATE: March 11, 2019

Approved /s/ Kim Walesh | Date 3/15/19

SUBJECT: AFFORDABLE HOUSING INVESTMENT PLAN UPDATE

RECOMMENDATION

1. Accept the staff report on the update of the Housing Investment Plan for expenditure of affordable housing funds;

2. Include two new priorities funding acquisition and/or rehabilitation of existing market rate housing and a minimum of 30% of funds be invested in extremely low-income housing over the life of the Housing Investment Plan and;

3. Cross-reference this report to the full City Council to be heard at the April 9, 2019 City Council meeting.

EXECUTIVE SUMMARY

This report serves as an update to the City of San José's Affordable Housing Investment Plan ("Investment Plan") summarizing the Housing Department's strategy to meet the demand for affordable housing given current funding. It quantifies the available funding for affordable housing and estimates the number of new affordable homes that can be built through FY 2022/23, consistent with the Housing Crisis Workplan. The City Council approved priorities for funding are listed below:

- Projects ready for immediate construction (project readiness);
- The provision of supportive housing for homeless individuals and families;
- Project cost effectiveness (keeping project costs as low as possible);
- The leverage of Affordable Housing and Sustainable Communities funding; and
- Developments proposed on City-owned sites.

The update to the Investment Plan recommends including two new priorities for future funds. First, a new priority for acquisition and/or rehabilitation of existing market-rate housing will be established by creating a set-aside of $10 million in funding for this type of development. In these cases, a developer will propose the purchase of an existing market-rate rental development and an affordability restriction associated with the funding will be placed on the property, creating new affordable housing. Due to concerns regarding rising costs and potential displacement of existing residents, allowing for a small investment in acquisition rehabilitation developments will open the door to creative solutions while minimizing cost and displacement. This type of development will increase the number of affordable units (10,000) but may will not increase the overall number of new housing units (25,000).

The second priority is to require a minimum of 30% of all new funding to be dedicated to extremely low-income households. This priority is consistent with requirements by state law to spend 30% of funding on extremely low-income households and the continued need for housing in this income category.

The update to the Investment Plan estimates that 1,412 new affordable housing units will be added to the 1,146 currently in the managed pipeline and 946 units currently funded or under construction for a total of 3,503 new affordable units that will be created, under construction or funded by the end of FY 2022/23.

The total to be funded and built from both City investment and efforts outside of the City is 5,771 units. There is a significant shortfall in meeting the affordable housing production goal established by the Mayor and City Council. Over $520 million in funding is necessary to fund the gap of 4,229 units to meet the goal of providing 10,000 affordable units. New funding sources for affordable housing, including creative strategies, must be explored to meet the City's affordable housing goals.

BACKGROUND

The Investment Plan is a guiding document that defines how the Housing Department intends to invest funding for the development of affordable housing during a designated time period. Over the past few years, the plan has served as guiding document for determining the types of affordable housing and amounts of funding available for investment. **Table 1** lists these reports and other related reports approved by the Community and Economic Development Committee (CEDC) and/or City Council.

Table 1: Summary of Reports Approved by the CEDC

Date	Report	Summary
November 16, 2015 (CEDC) December 8, 2015 (City Council)	FY 2015/16 – FY 2016/17 Investment Plan	Investment in permanent supportive housing in coordination with the County and Housing Authority
May 22, 2017 (CEDC) June 13, 2017 (City Council)	FY 2016/17 – FY 2017/18 Investment Plan	Investment in permanent supportive housing and on City-owned land
September 28, 2017	Mayor's Memo entitled *Responding to the Housing Crisis*	15-point strategy leading to the development of 25,000 homes in five years, of which 10,000 would be affordable
April 23, 2018 (CEDC) June 12, 2018 (City Council)	FY 2017/18 - FY 2021/22 Affordable Housing Investment Plan	Investment Plan identified challenges in meeting the Mayor's goal of creating 10,000 affordable homes and addressed potential funding strategies to address the projected shortfall of 4,385 homes
June 12, 2018 (City Council)	Housing Crisis Workplan	Discussed possible means to increase housing production that were identified in both the Mayor's memo and the Investment Plan
February 25, 2019 (CEDC) March 19, 2018 (City Council)	Housing Crisis Workplan Update	Provided an update on the status of implementing the action items identified in the Housing Crisis Workplan

New Affordable Housing Developments Placed in the Managed Pipeline

In an effort to implement the most recent adopted Investment Plan, the Housing Department issued a $100 million Notice of Funding Availability (NOFA) in August 2018. The NOFA provided a mechanism for housing developers to submit written proposals for affordable, multifamily, rental housing projects for extremely low-, very low-, and low-income individuals and families. The NOFA introduced the concept of a "managed pipeline." The pipeline consists of developments demonstrating readiness for funding that have been placed in the highest priority for funding. If development timelines are not met, funding is shifted to the next "ready" development, thereby moving the other project further down in the managed pipeline. This allows the City's investment to be made in developments ready to secure financing and begin construction.

Thirteen new affordable housing developments were submitted in response to the NOFA, exceeding the $100 million by $19 million. Eleven affordable housing developments were selected through the NOFA process and were placed in the managed pipeline. The other two projects submitted in response to the NOFA were placed on a wait list to enter the managed pipeline. As the City identifies additional funds, the two developments on the waitlist may be moved into the managed pipeline and excess funds will be made available through a subsequent NOFA. The eleven developments will result in 1,144 new, affordable housing apartments in San José, including 297 supportive housing apartments. Supportive housing includes two types of housing for formerly homeless families and individuals combined with supportive services – permanent supportive housing and rapid rehousing.

Current Pipeline Brings the City to 20% of the 10,000-unit Goal

The Mayor and City Council established a goal of building at least 10,000 new affordable units in San José by 2023. At the close of year 2018 (year one), there were 946 apartments completed, under construction or in predevelopment. As the NOFA developments are approved by the City Council for funding, the number of apartments in predevelopment will increase. If all the projects are successful, a total of 2,090 units will be in some phase of development bringing the City over 20% of the way toward the 10,000-unit goal.

ANALYSIS

This document serves as an update to the Affordable Housing Investment Plan (Investment Plan). The document provides an update on progress made toward adding 10,000 affordable housing opportunities and measures the gap to reaching the goal. It also provides updates on funding strategies to meet the 10,000-unit goal.

Exploring New Funding Sources for Affordable Housing

One strategy identified in the Investment Plan was to support legislation creating new funding sources for affordable housing. Changes in State law or local measures were strategies put in place to identify the sources of funding necessary to meet the 10,000-unit goal. An update on these items is provided below.

New Statewide Document Recording Fee (SB 2)

Senate Bill 2 (Atkins, 2017) provides a permanent source of funding for affordable housing by imposing a $75 document recording fee on certain real estate transactions up to a maximum of $225 per transaction per parcel. SB 2 is estimated to generate $250 million annually, statewide. San José will be an entitlement jurisdiction under the program and will receive funds non-competitively, as long as it has an approved Housing Element and submits an annual expenditure plan to the State. The City is estimated to receive approximately $3.4 million annually from this new source, although that amount will vary per the volume of real estate recordings. Funding will come to the City beginning in FY 2019/20. The eligible uses for SB 2 funds are flexible and include creating and preserving affordable housing for all income levels up to 150% of Area Median Income (AMI) in high-cost areas. It can also be used for homelessness response strategies, homelessness prevention, and other uses.

Additional Funding for State Housing Programs (SB 3)

Senate Bill 3 (Beall, 2017) was approved by the voters as Proposition 1 in 2018. This measure authorized the State's issuance of $4 billion statewide for affordable housing and veterans' loan programs. Of the total, $3 billion will fund many of the State's programs that will support affordable housing rental developments and homeownership programs. Generally, to access funds in state programs, local agencies are required to provide a matching funding source.

Measure V Narrowly Defeated

To help address the identified need for additional funds to meet the Mayor's and the City Council's affordable housing goal, the City sponsored Measure V in 2018. Measure V authorized the issuance of $450 million in general obligation bonds for the creation of affordable housing. Unfortunately, Measure V fell just short of its two-thirds vote requirement, earning 64% of the vote.

Governor's Budget Prioritizes Housing

In early 2019, Governor Gavin Newsom proposed a State budget that would allocate $1.7 billion in one-time and ongoing funding to build affordable and moderate-income housing and to respond to homelessness. This includes an additional ongoing $420 million for State low-income housing tax credits, $500 million in one-time funding for the creation of moderate-income housing, and $200 million in one-time funding as incentives to cities that build homeless shelters or permanent supportive housing. All these sources, if approved, could help fund affordable housing development.

Potential New Funds Through Upcoming Legislation

Prior to its bill introduction deadline of February 22, 2019, the State legislature introduced over 2,500 bills, with almost 200 bills on housing and homelessness. Two bills identified thus far could provide additional State funds for affordable housing:

- AB 14 (Rivas) Would appropriate an unspecified sum from the General Fund to be expended under the Multifamily Housing Program to fund housing for homeless youths and homeless families.

- AB 694 (Irwin) Would enact the Veterans Housing and Homeless Prevention Bond Act of 2019 to authorize the issuance of bonds in an unspecified amount to provide additional funding for affordable rental housing for veterans and other uses.

Administrative Actions to Facilitate Affordable Housing Creation

The Housing Department has completed multiple efforts to facilitate affordable housing creation since the Investment Plan was adopted. The following section outlines these accomplishments.

New Underwriting Guidelines Completed

As mentioned in the adopted Investment Plan, the Housing Department engaged a consultant to assist with an update of its Multifamily Underwriting Guidelines (the Guidelines). The City last updated the Guidelines in October 2006. Since that time, the economy and affordable housing industry changed significantly. Because the document was outdated, the Housing Department had to repeatedly seek City Council authorization for exemptions to the Guidelines as it sought approval on individual projects. This caused uncertainty for developers and added time and cost to the development process.

On August 28, 2018 the City Council approved the updated Multifamily Underwriting Guidelines. The guidelines provide uniform standards and program rules for multifamily rental housing developments funded by the City. They provide transparency and certainty for both the City and developers, thereby ensuring a shared understanding of terms/expectations and streamlining the underwriting process.

$100 Million NOFA Issued

When the City accumulates sufficient funds to invest in new affordable housing developments, it issues a Notice of Funding Availability (NOFA) stating the City's intent to fund affordable housing developments that meet the City's priorities. The NOFA references funding requirements as specified in its Multifamily Underwriting Guidelines.

When the Housing Department issued a $100 million NOFA in August 2018, the NOFA stated the City's limit of $125,000 per unit, allowing for the stretching of valuable resources to as many affordable housing developments as possible. The NOFA reflected the approved City Council priorities listed below:

- Projects ready for immediate construction (project readiness);
- The provision of supportive housing for homeless individuals and families;
- Project cost effectiveness (keeping project costs as low as possible);
- The leverage of Affordable Housing and Sustainable Communities funding; and
- Developments proposed on City-owned sites.

The eleven selected developments reflect the City Council's overall goals for the NOFA. For additional information regarding the results of the NOFA, an Information Memorandum is available for review.

Table 2: NOFA Selection Criteria's and Results

Priority	Goal	Results
Project Readiness	Incentivize developments ready to secure financing and construction	Developments indicated readiness to apply for tax credit financing (entitlements in place and financing secured within the following timelines) • 6 months - 3 developments • 12 months - 6 developments • 18 months - 2 developments
Supportive Housing for the Homeless Population	Incentivize the creation of supportive housing (both permanent and rapid rehousing for the homeless population)	26% of the units are supportive housing • 297 Permanent Supportive Housing apartments • 54 Rapid Rehousing apartments
Project cost Effectiveness ($125,000 per unit cap)	Incentivize cost saving construction techniques and leveraging to stretch valuable resources	$101,200 per-unit subsidy across all 13 proposed projects
Affordable Housing and Sustainable Communities (AHSC)	AHSC program provides funding for affordable housing and infrastructure funding for the City	The largest number of AHSC applications (three) were submitted for AHSC funding this year for a total of $48 million in potential AHSC funding: Page Street, Roosevelt, Balbach
City Owned Property	Address statutory requirements to develop affordable housing within specific timelines	Three city-owned properties were moved onto the Managed Pipeline: Balbach, Evans Lane, Gallup Mesa

The Housing Department will review the funds available at the close of each fiscal year and will release a NOFA in the subsequent fall. New affordable housing developments and developments on the waitlist may apply for these funds on an annual basis.

Priorities for Future Funding

The adopted City Council priorities will continue to apply to future NOFA rounds. As stated in the adopted Investment Plan, the funding strategy will only be modified if there is a desire to change the population to be served, a change in the programs to be funded, or a major influx of revenue from a new funding source. Thus, until or unless these situations occur, the adopted Investment Plan establishes the direction for use of existing revenue sources through FY 2022/23.

Future funding rounds will continue to prioritize funding for developments ready to secure financing and begin construction. Future funding will continue to address the ongoing needs of homeless population by making funding permanent supportive housing a priority. A review of data regarding the needs of extremely-low income residents in San José and the number of apartments in the affordable housing portfolio, demonstrates that the need continues to outpace the supply. Cost effective developments continue to be a priority for the City. Creative approaches to containing cost will be rewarded in the NOFA scoring system. Finally, development on city-owned sites will continue to be a priority. The Housing Department is recommending two modifications to the adopted Investment Plan.

Funding for Acquisition and/or Rehabilitation of Existing Apartments

Priorities for funding in the coming year will also include a set aside of funds for acquisition and/or rehabilitation of existing developments. In these cases, a developer will propose the purchase of a market-rate rental development with the assistance of City funding. An affordability restriction associated with the funding will be placed on the property, creating new affordable housing. Previously, funds were only made available for new construction, not allowing developers to propose this type of development. Due to concerns regarding rising costs and potential displacement of existing residents, allowing for a small investment in acquisition rehabilitation developments will open the door to creative solutions while minimizing cost and displacement. The Housing Department is recommending a set-aside of up to $10 million in the upcoming NOFA cycle for acquisition rehabilitation. It is important to note that this type of development will increase the number of affordable units (10,000) but may will not increase the overall number of new housing units (25,000).

Minimum Investment for Extremely-Low Income

The Housing Department is recommending that at a minimum, 30% of total funds be used to fund ELI units. The Low and Moderate-Income Housing Asset Fund is the primary source of funding for new affordable housing. California Health and Safety Code Section 34176.1(a)(3)(B) requires that at least 30% of the Low and Moderate-Income Housing Asset Fund be expended for development of rental housing affordable to and occupied by households earning 30% AMI. If the Housing Department fails to comply with the Extremely-Low Income requirement in any five-year report, then the Housing Successor must ensure that at least 50% of the funds remaining in the Low and Moderate Income Housing Fund be expended in each fiscal year on households earning 30% or less of the area median income until the Housing Department demonstrates compliance with the Extremely-Low Income requirement. Additionally, the need for extremely low-income housing continues to outpace the supply.

Funding for the "Missing Middle"

The majority of funding sources used by the Housing Department to finance affordable housing are limited to assisting residents between 30% and 60% AMI. Residents earning 61% to 80% of AMI ($63,000 to $75,000 for a two-person household) are considered low-income but do not qualify for the majority of affordable housing in San José. Additionally, moderate-income residents earning 81% to 120% AMI struggle to afford housing. Combined, these groups make up the "Missing Middle" households that earn too much to benefit from affordable housing programs, but earn too little to comfortably afford market rate housing.

The Governor's January Proposed Budget call for an investment of $500 million for the development of housing for the Missing Middle through the expansion of its Mixed-Income Loan Program (MILP). The Mayor's Budget Message issued on March 8, 2019, directs the City

Manager to identify $10 million of Inclusionary Program fee revenue as local funds to match funding from the MILP. A commitment of local funds aligns with the State program priorities making San José developments more competitive on a state-wide basis. This priority will allow San José to build more housing for workers of modest incomes. These funds are available for this purpose and will be held until action is taken by the City Council to set aside funds for this purpose.

Revised Multi-Year Affordable Housing Projections

This section summarizes the revenue available to commit to the development of new affordable housing. The report includes all of the funding sources available to the City to finance affordable housing. **Attachment A** provides an overview of all funding sources available for affordable housing development.

The Housing Department manages the revenue that is collected by the City for the development of affordable housing. **Attachment B** details the Housing Department's expected fund balance by source that was included in the Investment Plan which was approved by City Council in June 2018. Significant variances from the 2018 projections are summarized in the **Attachment B**. The total estimated funds available for affordable housing development for the five years encompassed by the adopted Investment Plan was $335.1 million.

Affordable Housing Permitted, Under Construction, Complete and Managed Pipeline

As of the end of calendar year 2018, the Production and Preservation Report indicated there are 946 affordable apartments permitted, under construction and completed since January 1, 2018. Since the adoption of the Investment Plan, specific affordable housing developments were moved into the managed pipeline and funds were set-aside for moderate income households. Over $100 million in funds were identified for the creation of 1,146 new affordable homes.

Table 3: New Affordable Housing Managed Pipeline

Source	$100 Million NOFA – City Council Commitments	$100 Million NOFA – Managed Pipeline	Moderate Income Set-Aside
Low and Moderate Income Housing Fund	$21,714,960	$70,911,364	$0
Affordable Housing Impact Fees	$500,000	$0	$229,460
Inclusionary Housing Policy In-Lieu Fees	$0	$0	$0
HOME	$6,000,000	$0	$0
TOTALS	**$28,214,960**	**$70,911,364**	**$229,460**
		Total Funds Set Aside	**$99,355,784**
		ESTIMATED AFFORDABLE HOMES	**1,146**

Updated Revenue Projections

The Housing Department has revised its fund balance figures and future revenue projections for the five-year time period from FY 2018/19 to 2022/23. The set-asides stated in **Table 3** above have been subtracted from the revised figures listed in **Table 4** below. The Revised Affordable Housing Revenue Projections show an additional $176 million through FY 2022/23.

Table 4: Updated Affordable Housing Revenue Projection

Source	FY 17/18 Year End Available for Development	FY 18/19 Estimated Revenue	FY 19/20 Estimated Revenue	FY 20/21 Estimated Revenue	FY 21/22 Estimated Revenue	FY 22/23 Estimated Revenue
Low and Moderate Income Housing Fund	$8,262,000	$23,062,000	$4,500,000	$3,500,000	$3,500,000	$3,500,000
Affordable Housing Impact Fees	$738,000	$511,000	$41,488,000	$0	$0	$0
Inclusionary Housing Policy In-Lieu Fees	$10,702,000	$12,456,000	$15,592,000	$1,780,000	$1,770,000	$1,770,000
Inclusionary Housing Ordinance In-Lieu Fees	$0	$3,251,000	$2,675,000	$2,842,000	$0	$0
Housing Authority Litigation Award	$8,908,000	$0	$0	$0	$0	$0
HOME	$0	$4,048,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000
SB2 State Housing Trust Fund	$0	$0	$3,400,000	$3,400,000	$3,400,000	$3,400,000
TOTALS	**$28,610,000**	**$43,328,000**	**$69,655,000**	**$13,522,000**	**$10,670,000**	**$10,670,000**
					Total Funding for Affordable Housing	**$176,455,000**
					ESTIMATED AFFORDABLE UNITS	**1,412**

The projected revenue is received from various one-time and on-going revenue sources that are required to be used for affordable housing development and/related purposes.

Updated Production Target

The updated revenue projection states that the Housing Department has $176 million available to finance 1,412 new affordable deed-restricted apartments over the next five years. This assumption is based on the maximum funding limit of $125,000 per apartment. **Table 5** below provides a revised projection of the total number of affordable apartments that can be created in

San José from a combination of Housing Department financing and opportunities outside of the City resulting in new affordable housing.

Table 5: Number of Affordable Housing Units that can be Created by FY 2022/23

OPPORTUNITIES	ESTIMATED NEW UNDUPLICATED UNITS
City of San José Financing	
- Apartments Permitted, Under Construction and Completed	946
- Affordable Housing Managed Pipeline	1,146
- Affordable Housing Revenue Projections	1,412
Measure A	260
Inclusionary On-site	88
VTA sites	420
Teacher Housing	100
Housing Authority Sites	600
Private Development	300
Accessory Dwelling Units	500
Total	**5,771**

Given that the total number of affordable units projected to be funded from all sources during the next five years is 5,771 apartments. Additional resources and incentives are needed to meet the City's goal of 10,000 new affordable homes. At $125,000 per unit, the City would need $528 million to fund the balance of 4,229 units.

Revisit a General Obligation Bond Measure

The narrow defeat of Measure V suggests that future voters may be supportive in passing a general obligation bond measure for affordable housing. The Mayor's March Budget Message for Fiscal Year 2019/20, which is scheduled for City Council review and approval on March 19, 2019, directs the City Manager to fund ballot measure polling to determine whether the City should place a general obligation bond measure for affordable housing on the ballot for the 2020 election. Funds from a general obligation bond could be used to finance the acquisition, rehabilitation and construction of affordable housing.

Upcoming Policy Initiatives

In Spring, 2019, the Housing Department will begin work on two initiatives that will impact the location of future affordable housing in San José. The first project involves updating San José's Fair Housing Plan as required by the Federal Government and in concert with California Assembly Bill 686 (2018). The Plan will explore ways to take meaningful actions that combat discrimination, overcome patterns of discrimination, and foster inclusive communities free from barriers to opportunity based on race, ethnicity and other protected classes.

In addition, the Housing Department will modernize its affordable housing dispersion policy to guide where City-financed affordable development will occur. This policy would help ensure that affordable housing is distributed throughout the city, particularly in areas with access to high quality transit, job centers, parks, libraries, quality schools, and other amenities. Together these initiatives will influence how and where the City funds future affordable housing.

Finally, the Housing Department will provide a report to the City Council describing the financing required for affordable housing and the overall cost of development. Funding for affordable housing is limited, strategies must also be put in place to stretch every dollar available.

PUBLIC OUTREACH

The updated Investment Plan was reviewed and discussed at the public meeting of the Housing and Community Development Commission on March 14, 2019. Additionally, this memo was posted to the March 25, 2019 agenda for the Community and Economic Development Committee.

EVALUATION AND FOLLOW-UP

The Production and Preservation Report, posted on the City's website, provides an update on the progress towards meeting the 10,000-unit affordable housing goal.

COST IMPLICATIONS

Funding requests for specific developments will be brought forth individually to City Council for approval.

COORDINATION

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

COMMISSION RECOMMENDATION

The Housing and Community Development Commission will receive this update at its March 14, 2019 meeting. Any specific recommendations will be summarized in a supplemental report to this memorandum.

CEQA

Not a Project, PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/
JACKY MORALES-FERRAND
Director of Housing

For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.

Attachments:
Attachment A – Funding Sources Description
Attachment B – Prior Year Revenue Projections

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.

Five-Year Affordable Housing Funding Projection from the Adopted Plan

Source	FY 17/18 Committed Projects	FY17/18 Available for Development	FY 18/19 Estimated Revenue	FY 19/20 Estimated Revenue	FY 20/21 Estimated Revenue	FY 21/22 Estimated Revenue
Low and Moderate Income Housing Fund	$27,574,000	$51,960,000	$41,500,000	$5,500,000	$5,500,000	$5,500,000
Affordable Housing Impact Fees	$0	$1,197,000	$11,995,000	$46,000	$0	$0
Inclusionary Housing Policy In-Lieu Fees	$0	$11,400,000	$10,322,000	$13,800,000	$0	$0
Inclusionary Housing Ordinance In-Lieu Fees	$0	$0	$3,251,000	$25,000,000	$55,991,000	$25,000,000
Housing Authority Litigation Award	$0	$19,000,000	$0	$0	$0	$0
HOME	$1,500,000	$4,000,000	$3,100,000	$1,000,000	$1,000,000	$1,000,000
SB2 State Housing Trust Fund	$0	$0	$0	$2,000,000	$3,000,000	$3,000,000
TOTALS	**$29,074,000**	**$87,557,000**	**$71,168,000**	**$47,346,000**	**$65,491,000**	**$34,500,000**
					Total	**$335,136,000**

The following describes projected revenue sources in more detail:

- **Low and Moderate-Income Housing Affordable Fund (LMIHAF) –** The Housing Department has engaged TCAM to develop a revenue projection model based on its review of over 90 of the City's most significant affordable housing assets and created a projected revenue model. This model estimates that the City can anticipate up to$5.5 million annually in LMIHAF repayments that can be dedicated to new affordable housing developments over the next five years. Affordable housing developers typically will seek to reinvest in their existing projects after expiration of their tax credit compliance period because the project is eligible to receive new tax credit financing. It is anticipated that some developments will decide to repay their City loans each year when their tax credit compliance period ends.

- **Inclusionary Housing Policy (Policy)** – Formerly under the Redevelopment Agency, the Policy required that twenty percent (20%) of all for-sale developments of 10 or more units located in Redevelopment Project Areas be price-restricted and sold to moderate-income purchasers and twenty percent (20%) of all rental developments of 10 or more units be restricted to very low income (50% of the Area Median Income (AMI)) and low (60% AMI) or moderate (120% AMI) income households. The Policy, as last amended in 2007, included alternative compliance options including payment of an in-lieu fee (at $17 per square foot). To date, there are three projects that are still under construction and are expected to pay in-lieu fees to fulfill their obligation. Note that the Policy was not extinguished by the dissolution of the Redevelopment Agency in 2012 but was replaced when the Inclusionary Housing Ordinance (see below) became operative.

- **Inclusionary Housing Ordinance (IHO)** – On January 12, 2010, the San José City Council adopted the Inclusionary Housing Ordinance, Chapter 5.08 of the San José Municipal Code. The Ordinance applies to for-sale and rental market rate developments of 20 or more units. Although the Ordinance was operative on January 1, 2013, its implementation was initially prevented by a stay imposed by the Santa Clara County Superior Court, resulting from a challenge submitted by the California Building Industry Association in California Building Industry Association v. City of San José. Upon conclusion of this case, the IHO being operative on June 30, 2016 and City Council adopted a resolution providing a grace period suspending the Ordinance requirements for for-sale projects that had acquired all their Planning Permits on or before June 30, 2016. Also the provisions of the IHO did not apply to rental developments due to the Palmer v. City of Los Angeles case. On September 29, 2017, the Governor signed Assembly Bill 1505, amending the State Planning Act to supersede the court decision and authorized rental inclusionary restrictions thus allowing the IHO to apply to rental developments effective January 1, 2018. In addition, the City Council adopted resolution 78473 amending the Affordable Housing Impact Fee (AHIF) Resolution to provide a framework for a transition process between the AHIF and the IHO program for all rental developments. Under the transition program, rental projects that submit an eligible planning application (Conditional Use, Planned Development, Site Development, or Special Use Permit), pay all planning fees, submit an Affordable Housing Compliance Plan, and pay the application fee before June 30, 2018 are eligible to remain under the AHIF program instead of being treated under the IHO. Therefore, a majority of the rental projects that are in the pipeline are under the AHIF (as described below). The IHO in-lieu fee for FY18-19 are $125,000 per rental affordable unit and $167,207 for for-sale affordable unit (which is applied to 20% of the total unit count). The fee is collected at the time the final certificates of occupancy are issued. An increase in the collection of IHO in-lieu fees is expected to be generated after the two-years after the IHO is imposed on rental developments and the completion of the four grace period projects (for-sale).

- **Affordable Housing Impact Fee (AHIF) –** Adopted in 2014, the AHIF requires rental developments with three (3) or more units to pay an impact fee based on a $17 per square foot fee. The AHIF includes a 2.4% escalator increasing the fee at the start of each fiscal year. The current AHIF is $17.83; the fee is due prior to building permit issuance and at the rate at that time. If a rental development is under the AHIF, the only compliance option is paying the impact fee. Currently there are 25 rental developments that are expecting to pay the impact fee. So far two projects have paid their AHIF in FY17-18 and FY18-19, totaling approximately $1.6 million.

  In addition, upon adoption of the AHIF program, the City Council included a Downtown High-Rise Exemption intended to encourage high-rise residential developments in the City's downtown core. To date, no projects have completed the required units to fully qualify for the exemption under the AHIF. However, two projects have pulled building permits and will likely obtain their final Certificates of Occupancy by June 30, 2021. Thus Housing staff are in the process of preparing a memorandum that will provide the City Council with the required information and analysis for the projects that qualified for all the exemptions and the impact fees/in-lieu fees foregone, as of December 31, 2018. The Housing Department plans to bring this Exempted Projects Report to City Council at the end of April 2019.

It should be noted that in the previous AHIP report $3.4 million in AHIF revenues was anticipated to be set aside for moderate-income for-sale housing. These funds are not included in the revenue chart and the Housing Department is in the process of reassessing if these funds should be used for multifamily housing or moderate-income for-sale housing. There are other funds the Housing Department may have from Inclusionary Policy loan repayments that could be set aside for moderate-income for-sale housing. Thus these funds have been readjusted to include all total revenue projections for all sources.

- **Housing Authority Litigation Award** – The one-time funds from the Housing Authority Litigation Award are being utilized to fund interim housing solutions including the construction and services for Bridge Housing Communities (approximately $7 million). These funds are also being considered for acquiring additional interim housing solutions such as a motel (projected $6 million). These priorities have reduced the amount of funding available for new construction from $19 million in the 2018 plan to $8.9 million in the AHIP update.

- **HOME –** The majority of the annual HOME allocation is currently used to fund rapid rehousing subsidies for homeless residents. The TCAM model estimates that there will be future repayments of HOME funds that have been included in the revenue projections. These HOME repayments can be reinvested into the development of new affordable housing.

- **SB2 State Housing Trust Fund** - SB2 establishes a State Housing Trust Fund. The legislation requires that 70% of funds collected after January 1, 2019, be provided to local governments. The funds will be distributed to jurisdictions using the federal Community Development Block Grant (CDBG) formula. It is estimated that SB2 will generate approximately $250 million a year of which 83% will be allocated to cities that already receive a direct allocation of CDBG funds. Based on this formula, staff is estimating that by the second year, the City will receive an allocation of approximately $2 million in the first year and $3 million annually.