



DATE: February 25, 2020

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Affordable Housing: Review of a Potential Financing Model that Supports the Development of Middle-Income Housing

RECOMMENDATION

That Council reviews a financing model to fund the acquisition and/or development of affordable housing for middle income households that will require the City to:

- 1) Become a member of the California Community Housing Agency (CalCHA);
- 2) Support CalCHA's issuance of tax-exempt bonds for the production, preservation, and protection of essential middle-income rental housing; and
- 3) Authorize the City Manager to execute purchase option agreements with CalCHA to acquire (or assign to a non-profit affordable housing provider) the middle-income rental housing as a public benefit.

SUMMARY

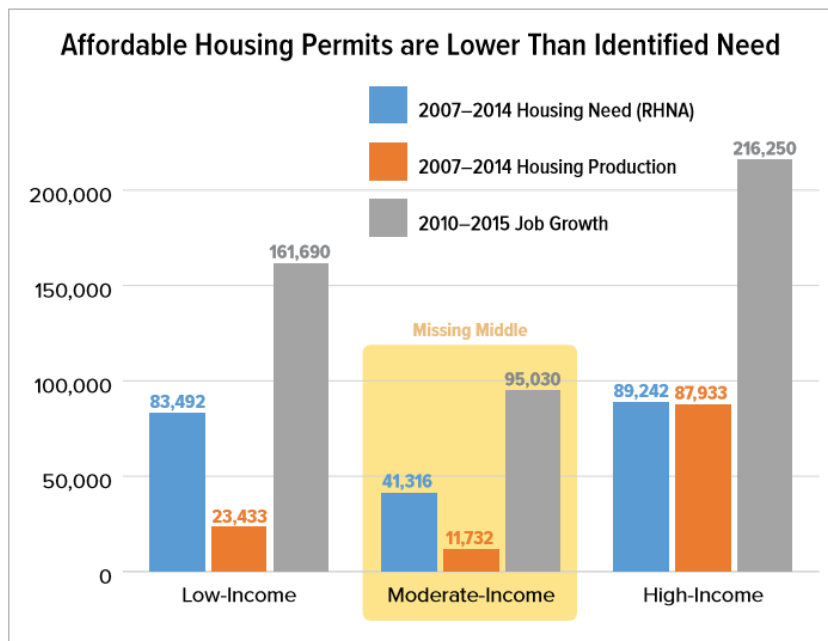
Moderate income housing is the most difficult type of housing to produce due to the high cost of development and the lack of development subsidies for this income category. The City's progress towards meeting the Regional Housing Needs Allocation (RHNA) goals is lowest in the moderate-income category. Catalyst Housing (Catalyst) has developed a scalable and unsubsidized capital structure to create affordable housing for essential middle-income workforce. Catalyst proposes using Workforce Housing Revenue Bonds issued by CalCHA to finance the acquisition or development of essential middle-income housing deed restricted for low-income and moderate-income households in the City of Hayward without having to assemble multiple local, state, or federal funding sources. To satisfy the public purposes for which the bonds will be authorized to be issued, the owner, CalCHA, commits, through the execution of a 30-year term regulatory agreement, to support, preserve, and provide low-income, median-income, and moderate-income multifamily rental housing as well as grants of all surplus project revenues to the City. Additionally, Catalyst will not displace existing tenants including over-income residents. Staff recommends review, consideration, and support for this financing model to address the need for stable middle-income housing. If supported by the Council, staff will return with a resolution (Attachment II) that will authorize the City to:

- Become a member of CalCHA;
- Support and approve CalCHA’s issuance of tax-exempt bonds for the acquisition of existing rental properties as a means towards the preservation and protection of essential middle-income rental housing within City limits; and
- Enter into a Purchase Option Agreement with CalCHA.

BACKGROUND

Hayward, like other cities in the Bay Area, is experiencing rising housing prices, severe housing instability for its most vulnerable populations, displacement of existing residents, and increasing homelessness. The increase in Hayward’s and the Bay Area’s population, absent a corresponding increase in housing units, has caused rents and prices to rise as supply has failed to meet demand. **Figure 1** illustrates the disparity between job growth in the region and housing production, which has increased demand for housing throughout the Bay Area and the low housing production rates for moderate-income households¹.

Figure 1. Regional Housing Production Compared to Job Growth.



Source: Casa Compact¹

The City has been actively pursuing policies and programs to help alleviate the issues facing the Hayward community due to the housing crisis. Over the past three years, the City Council has subsidized the development of 259 units of affordable housing, adopted a new Residential Rent Stabilization and Tenant Protection Ordinance, updated the Affordable Housing Ordinance, and approved numerous residential developments that include on-site affordable units or are exclusively affordable.

¹ [Casa Compact](#)

On January 14, 2020, the City Council reviewed a workplan to incentivize housing production in the City of Hayward. Included in that work plan was a proposal to pilot a moderate-income affordable housing financing model. This model would utilize tax-exempt bonds to finance the development and/or acquisition of essential middle income housing and would require that the City join the newly formed CalCHA, support CalCHA's issuance of tax-exempt bonds for the production, preservation and protection of essential middle-income rental housing, and authorize the City Manager to execute purchase option agreements with CalCHA for each housing project.

Housing Element Compliance and Progress Reports.

Local jurisdictions report their progress meeting their RHNA goals. **Table 1** (below) reflects the progress made towards meeting Hayward’s RHNA goal as of the last report year (2018), estimated progress based on number of units entitled, and progress based on projects seeking approval, for the period between 2015-2023. **Table 2** provides the income limits associated with each income category for Alameda County. Permits to construct the units must be issued in order to count toward the City’s RHNA goals.

Table 1. 2015 -2023 RHNA Goal Progress in the City of Hayward

Income Category	Unit Goal	Reported 2018		Approved		Pending Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal
Very low	851	40	5%	224	26%	103	12%	444	52%	407	48%
Low	480	19	4%	241	50%	22	5%	314	65%	166	35%
Moderate	608	0	0%	40	7%	21	3%	61	10%	547	90%
Above Moderate	1981	873	44%	2,617	132%	318	16%	3,808	192%	0	N/A

Table 2. Income limits by Income Category and Household Size for Alameda County as Established by California Department of Housing and Community Development

Income Category	Household Size							
	1	2	3	4	5	6	7	8
Extremely Low 30% AMI*	\$26,050	\$29,750	\$33,450	\$37,150	\$40,150	\$43,100	\$46,100	\$49,050
Very low 50% AMI*	\$43,400	\$49,600	\$55,800	\$61,950	\$66,950	\$71,900	\$76,850	\$81,800
Low 80% AMI*	\$69,000	\$78,850	\$88,700	\$98,550	\$106,450	\$114,350	\$122,250	\$130,100
Median 100% AMI	\$78,200	\$89,350	\$100,550	\$111,700	\$120,650	\$129,550	\$138,500	\$147,450
Moderate 120% AMI	\$93,850	\$107,250	\$120,650	\$134,050	\$144,750	\$155,500	\$166,200	\$176,950

* Percent area median income (AMI) is used to identify income and rent levels; however, the method for calculating income limits involves assessment of multiple data points and is not necessarily a percent of the median income. For more information see <https://hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/Income-Limits-2019.pdf>

Hayward’s progress towards meeting the current RHNA goals identifies the need to incentivize housing for very low-, low-, and moderate-income households. The City has the lowest compliance rate for moderate income households. Over the last Housing Element cycle, most cities did not meet their RHNA goals. In order to meet the RHNA goals, the City will have to approve a mix of 100% affordable housing properties and large mixed-income properties. Small mixed-income properties will not provide enough units to meet the goal. Additionally, the City needs to explore new financing mechanisms that can be used to fund moderate income housing to incentivize housing for the missing middle.

California Community Housing Authority (CalCHA)

In January 2019, the County of Kings and the Housing Authority of Kings County formed the CalCHA under the Joint Exercise of Powers Act. The purpose of CalCHA is to issue tax exempt bonds to finance affordable housing developments. Specifically, CalCHA has the authority to acquire, construct, improve, operate, and dispose of real property. A copy of the original Joint Exercise of Powers Agreement can be found in Attachment III. To date, the cities of Burlingame, Fairfield, Larkspur, Menlo Park, Mountain View, Napa, and Santa Rosa, and the County of Marin, have joined as members of CalCHA.

DISCUSSION

Moderate income housing is the most difficult to produce due to the high cost of development and the lack of development subsidies for this income category. The City’s progress in meeting the RHNA goals is lowest in the moderate-income category. As presented in Table 1, staff is estimating only a 10% compliance rate in the moderate-income category based on approved projects and projects pending approval. Catalyst has proposed a financing model for

essential middle-income housing that has the potential of creating new units that will contribute to the City's RHNA goals. It could also acquire existing housing units that will stabilize the housing costs for existing residents and middle-income households. The following section describes the financing model and the City's role in the proposed financing model.

Financing Model

Catalyst has proposed utilizing Workforce Housing Revenue Bonds issued by CalCHA to finance the acquisition or development of essential middle-income housing. Catalyst has developed a scalable and unsubsidized capital structure to create affordable housing for essential middle-income workforce. The proposed financing structure:

- Leverages by-right mechanisms;
- Operates without public subsidies other than its tax-exempt status;
- Requires no equity investments;
- Grants surplus economics to underlying jurisdictions;
- Utilizes low cost financing and eliminates tax burden which creates savings that enable rents affordable to middle-income households; and
- Must be used for public purposes.

To satisfy the public purposes for which the bonds will be authorized to be issued, the owner, CalCHA, commits, through the execution of a 30-year term regulatory agreement, to support, preserve, and provide low-income, median-income, and moderate-income multifamily rental housing as well as grants of all surplus project revenues to the City. The regulatory agreement limits occupancy to low-income, middle-income, and moderate-income households at equal proportions and restricts annual rent increases to 4% of the tenant's rent annually, not to exceed the applicable rent limit. Additionally, Catalyst will not displace existing tenants in acquisition projects, including over-income residents.

Catalyst will coordinate the acquisition of the properties and act as the asset manager after acquisition. CalCHA will own the properties acquired and issue the Workforce Housing Revenue Bonds.

Role of the City

In order for Catalyst to use the proposed financing model in the City of Hayward, the City would need to:

- Become a member of CalCHA;
- Approve CalCHA's issuance of tax-exempt bonds for the acquisition of existing rental properties as a means towards the preservation and protection of essential middle-income rental housing within City limits;
- Enter into a Purchase Option Agreement with CalCHA; and
- Accept any surplus cash or sales proceeds generated by the property to ensure its use as a public benefit.

Joining CalCHA and Approving Bonds: If the City chooses to participate in this financing model, the City would be required to join CalCHA. By joining CalCHA, the City enables CalCHA to acquire and issue bonds for residential properties within the City limits for the purpose of securing or creating middle income restricted affordable housing. Acquisition is financed through 30-year tax-exempt bonds, known as Workforce Housing Revenue Bonds.

Terms of the Purchase Option Agreement: Each property must be used for public benefit; therefore, with each potential acquisition, CalCHA will require the City to enter into Purchase Option Agreements. The terms of the Purchase Option Agreement include:

- **Purchase Option:** Grants the City the right to purchase the property 15 years after the acquisition of a property or at any time thereafter for the remaining term of the 30-year bond. The City can transfer the option to an affordable housing provider with approval from the owner. Entering into this agreement does not obligate the City to purchase the property at any time.
- **Option Price:** The future acquisition price shall be the sum of the amount sufficient to pay all project debt, encumbrances, amounts due to other parties to the transaction, and transaction costs. The price can be reduced by assuming existing project debt or applying project revenue.
- **Surplus Cash:** Any surplus cash will be held by the trustee and then distributed to the City upon acquisition/transfer of ownership.
- **Terms of Conveyance:** City to purchase the property in as is condition with all faults.

It is anticipated that the bond would be paid prior to acquisition by the City or their designee and the price would be low. However, it is unknown how variables such as market conditions or condition of the property could affect the need for additional financing, which could increase the price. Never-the-less, the agreement does not create an obligation on the part of the City to purchase or acquire the property. If the City does not exercise its option, CalCHA could sell the property as a market rate development and the sales proceeds would be distributed to the City. If the property is reverted to market rate, the City's Residential Rent Stabilization Ordinance would apply.

Surplus Cash: A CalCHA property is likely to generate surplus revenue, especially at the end of the bond term once the debt service is paid off. To provide a public benefit, any surplus proceeds would be held in an excess revenue fund that will be applied to the acquisition price. After acquisition of the property, the funds could be used at the discretion of the City. Staff recommends that any monies the City receives be deposited in the Affordable Housing Trust Fund to support the development of affordable housing.

Under the CalCHA arrangement, the City is not a direct party to the real estate transaction nor financial transaction. The bonds to be issued by the CalCHA for the project will be the sole responsibility of CalCHA, and the City will have no financial, legal, moral obligation, liability, or responsibility for the project or the repayment of the bonds. The City will have no

responsibility for managing or maintaining the property unless it chooses to exercise its options and acquire the property.

FISCAL IMPACT

While the project will stabilize much needed middle-income housing and has the potential for generating revenue from operating revenue or sales proceeds, the City will lose property tax revenue received from any existing rental properties acquired using this model. While the City does not wish to reduce its property tax base, it is the Council's goal to create housing units in the Hayward community. Staff feels that the benefit of being able to offer additional Low and Moderate rate housing during the regional housing shortage and beyond is of greater value to the City. While there is no near-term fiscal impact for joining CalCHA or executing a future Purchase Option Agreement, future fiscal impact may arise out of executing a purchase agreement, which may be mitigated via the excess revenue fund. During the 15-year option period, the City would have to evaluate its capacity to acquire the property or explore the option of assigning its option to a nonprofit housing provider. The agreement does not create an obligation on the part of the City to purchase or acquire the property, in the event the City chooses not to purchase the property.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Preserve, Protect, & Produce Housing. Specifically, this item relates to the implementation of the following project(s):

Project 4, Part 4.a: Explore moderate-income financing model.

NEXT STEPS

If Council supports participation in the financing model, staff will return to Council for approval of the resolution (Attachment II). Following adoption of the resolution, Catalyst will begin to identify potential sites to acquire in the City. Once sites have been identified, staff will work with Catalyst to negotiate Purchase Option Agreements for approval by the City Attorney's office and execution by the City Manager.

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Recommended by: Jennifer Ott, Deputy City Manager

Approved by:



Kelly McAdoo, City Manager