



CITY OF CARSON

Legislation Text

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Report to Mayor and City Council

Tuesday, December 01, 2020

Consent

SUBJECT:

CONSIDER RESOLUTION NO. 20-182 AUTHORIZING THE CITY OF CARSON TO BECOME AN ADDITIONAL MEMBER OF THE CALIFORNIA COMMUNITY HOUSING AGENCY ("CALCHA"), SUPPORTING CALCHA'S ISSUANCE OF TAX-EXEMPT BONDS FOR THE PRODUCTION, PRESERVATION AND PROTECTION OF ESSENTIAL MIDDLE-INCOME RENTAL HOUSING; AND AUTHORIZING THE CITY MANAGER TO ENTER INTO PURCHASE OPTION AGREEMENTS WITH CALCHA FOR ESSENTIAL MIDDLE-INCOME RENTAL HOUSING CREATED WITHIN THE CITY LIMITS (CITY COUNCIL)

I. SUMMARY

The City encourages and supports a full range of housing options affordable to different income levels. There is currently limited Federal, State or local subsidies or programs to produce or preserve the growing shortfall of below-market-rate rental housing for moderate - and middle-income households. To date, affordable housing programs in California have almost exclusively focused on providing housing for low income households, which are households that earn at or below 80% of area median income ("AMI"). State and federal funding sources are almost exclusively targeted to households at or below 60% of AMI. This has left a "missing middle," comprised of households that earn too much to qualify for traditional affordable housing programs but not enough to afford market rate housing.

In the past RHNA cycle, the City has met the RHNA goals for over-moderate or market rate housing but has not met the goals in the other categories. While the City and its Housing Authority have worked to facilitate traditional affordable housing as described above, there are few or no programs that target moderate- or just above moderate incomes: the missing middle.

Developed by Catalyst Housing (Catalyst), this program uses the issuance of tax-exempt bonds to fund the acquisition and development of moderate- and middle-income housing in California. The sponsoring entity, the California Community Housing Agency ("CalCHA") was formed in January 2019 by the County of Kings and the Housing Authority of Kings County 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 Exhibit 2. 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.

The approach is similar to the JPA the City Council approved joining in its meeting on November 4, 2020, the California Statewide Community Development Authority. At that meeting, Staff mentioned that there were a number of entities in California structured to do the same thing and the City would be best positioned if it participated in a number of them to maximize opportunities.

Summary of Proposed Financing Model

The proposed financing model will use Essential Housing Revenue Bonds to fund the development of rental housing or acquisition of existing housing. The use of these bond funds reduces the projects financing costs and eliminates property tax burden. This enables the owner to charge lower rents and target middle income households. However, to utilize these bond funds, the owner must provide a public benefit.

Public benefit is achieved through the execution of a regulatory agreement that restricts the use of the property and by granting all surplus project revenues to the City. The regulatory agreement that restricts use of the property will:

- Restrict the occupancy to low-income, median-income, and moderate-income households; and
- Limit rent increases to the lesser of the applicable rent limits or 4% of tenants rent, and
- Prevent displacement of existing residents that do not meet the income eligibility requirements.

To satisfy the public purposes for which the bonds will be authorized to be issued, the owner, CalCHA would commit, through a regulatory agreement, to support, preserve, and provide low-, median-, and moderate-income rental housing.

II. RECOMMENDATION

1. ADOPT Resolution No, 20-182, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON AUTHORIZING THE CITY TO BECOME AN ADDITIONAL MEMBER OF THE CALIFORNIA COMMUNITY HOUSING AGENCY ("CALCHA"); SUPPORTING CALCHA'S ISSUANCE OF TAX-EXEMPT BONDS FOR THE PRODUCTION, PRESERVATION AND PROTECTION OF ESSENTIAL MIDDLE-INCOME RENTAL HOUSING; AND AUTHORIZING THE CITY MANAGER TO ENTER INTO PURCHASE OPTION AGREEMENTS WITH CALCHA FOR ESSENTIAL MIDDLE-INCOME RENTAL HOUSING CREATED WITHIN CITY LIMITS; and

2. AUTHORIZE the Mayor to execute the Resolution, the JPA Agreement, and all other related documents in a form approved by the City Attorney.
3. AUTHORIZE the City Manager or designee to enter into purchase option agreements with the Authority, which may result in the City receiving surplus revenue from the future sale of such middle-income rental housing within the City.

III. ALTERNATIVES

TAKE another action deemed appropriate by the City Council.

IV. BACKGROUND

Over the past several years Carson has been pursuing policies and programs to help alleviate the issues facing the Carson community due to the housing crisis. Over the past three years, the City Council has subsidized the development of 160 units of affordable rental housing and approved numerous other market-rate residential developments.

Carson's progress towards meeting the current RHNA goals identifies the need to incentivize housing for very low-, low-, and moderate-income households, such as the 160 units mentioned above. Over the last Housing Element cycle, most cities did not meet their RHNA goals. To meet the RHNA goals, the City will have to approve a mix of 100% affordable housing properties and large mixed-income properties. 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 sector, which has the lowest compliance rate in RHNA report due to the lack of financing mechanism for such a product. Even today, as reported in the 2019 Housing Element Progress Report on November 4, there are still 722 units remaining to be developed to be in full compliance with the state housing element law: 351 very low income units; 181 low income units; and 190 moderate income units. The acquisition of housing for moderate income housing would partially count toward this goal.

One such mechanism is the proposal by CalCHA for 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 have the City join the CalCHA, support CalCHA's issuance of tax-exempt bonds for the production, preservation and protection of essential middle-income housing, and authorize the City Manager to execute purchase option agreements with CalCHA for each housing project.

The City's participation in the project is required to create a public benefit. In order for Catalyst and CalCHA to use the proposed financing model in the City of Carson, 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 or development of new housing 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.

Terms of the Purchase Option Agreement. To formalize the City's participation in the project and ensure that these public funds will be used for public benefit, the City will need to enter into a Purchase Option Agreement for each property. The terms of the Purchase Option Agreement include:

- 1. 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.
- 2. 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.
- 3. Surplus Cash:** Any surplus cash will be held by the trustee and then distributed to the City upon acquisition/transfer of ownership.
- 4. Terms of Conveyance:** City to purchase the property in as is condition with all faults.

Under the CalCHA arrangement, the City is not a direct party to the real estate transaction or the 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.

- 1. Anti-displacement.** Ensure that there is a mechanism to prevent displacement of the existing tenants if the program is used to acquire occupied rental housing. Recorded regulatory agreements include language that states that at the time of admission to the project, no tenant shall be denied continued occupancy of a unit in the project because their income exceeds the qualifying limit.
- 2. Ownership Opportunities for Existing Residents.** Evaluate the possibility of transferring ownership to existing residents when the City exercises its option to purchase a property financed with this model. The authorizing resolution states that prior to exercising the option under the Purchase Option Agreement, the City Council will consider options to acquire the property, assign the City's option including transfer of ownership to the tenants, or to decline the option to purchase and determine use of any surplus revenues.

CalCHA is a public entity separate and apart from its members, and any debts, liabilities, and obligations incurred by the Authority will not constitute debts, liabilities, or obligations of its member agencies. Bonds issued for any particular project will be indebtedness solely of the Authority, and payable only from revenues of the project. No financial expenditures, liabilities, or obligations are created by joining the Authority or executing any public benefit agreement.

Additionally, there are other JPAs in California that perform the same function, perhaps with a slightly different focus. Staff would bring them forward to the City Council and recommend membership in them as well, possibly even in the near future.

V. FISCAL IMPACT

If a property is purchased by CalCHA, the property may be exempt from paying property taxes, resulting in an initial loss of revenue to the City. The property tax loss would be a relatively insignificant reduction in revenue to the City and enables the financial feasibility of acquiring properties to create housing opportunities for middle-income residents that might not otherwise exist. Under the terms of the public benefit agreement, if a property generates surplus cash flow through the proceeds of the sale of a property, the City will receive a portion of the surplus revenue, which could well exceed any temporary loss of property tax revenue.

VI. EXHIBITS

1. Resolution No. 20-182 (pgs. 6-12)
2. Joint Exercise of Powers Agreement (pgs. 13-29)
3. Form of Purchase Option Agreement (pgs. 30-42)

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