



# CITY COUNCIL STAFF REPORT



May 21, 2024

## ITEM TITLE

Housing Policy: Amend CVMC Title 19 to Assist in the Creation of Affordable Housing, Authorize the Submittal of an Application to the California Department of Housing and Community Development, and Update Conduit Bond Issuance Policies

**Report Number:** 24-0021

**Location:** No specific geographic location

**Department:** Housing and Homeless Services

**G.C. § 84308:** No

**Environmental Notice:** The activity is not a “Project” as defined under Section 15378 of the California Environmental Quality Act (“CEQA”) State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

## Recommended Action

Place the following ordinances on first reading and adopt the resolutions:

- A) Ordinance amending various sections and adding sections to Chula Vista Municipal Code Title 19 related to density bonuses, inclusionary housing, multi-family and mixed-use objective design standards, residential for-sale affordable unit requirements, and marketing, application, lottery, and waitlist requirements for affordable rental housing projects **(First Reading)**
- B) Resolution amending Master Fee Schedule Chapter 16-100 to add a section for Inclusionary Housing In-Lieu Fee and Chapter 19-100 to add a section for Compliance Fees (Non-Bond)
- C) Resolution repealing Council Policy No. 453-02, “Development of Affordable Housing for Low- and Moderate-Income Buyers”
- D) Ordinance amending Chula Vista Municipal Code Chapter 17.10 to exempt 100% affordable projects from such fees **(First Reading)**
- E) Resolution of the Chula Vista Housing Authority amending the Multifamily Bond Policy to change requirements for non-Housing Authority issued bonds
- F) Resolution appropriating \$500,000 in funding from the Housing Inclusionary Fund to the Local Housing Trust Fund project **(4/5 Vote Required)**

G) Resolution authorizing the submittal of a Prohousing Designation Program application to the California Department of Housing & Community Development

## **SUMMARY**

The enclosed resolutions and ordinances are being brought to City Council in order to fulfill commitments made in the [City of Chula Vista's 2021-2029 Housing Element](#), and to facilitate increased production and improved oversight of affordable housing development in Chula Vista. Ordinance A would amend various sections of Chula Vista Municipal Code ("CVMC") Title 19, including updating the density bonus program of the City of Chula Vista ("City") to conform to state law; adding a chapter codifying an inclusionary housing ordinance; making minor amendments to the City's objective design standards; and adding chapters setting forth the City's requirements for marketing and leasing affordable units as well as the sale of affordable homeownership units. Ordinance D would streamline fee exemptions for 100% affordable projects. Resolution E would allow the City to exercise greater regulatory oversight over affordable projects. Resolutions F, G, and H would lead to greater funding opportunities from the State of California for affordable housing in Chula Vista. The remaining resolutions and ordinances are related actions that would support the City's affordable housing goals.

## **ENVIRONMENTAL REVIEW**

The Director of Development Services has reviewed the proposed activity for compliance with CEQA. The activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because the proposal consists of a reporting action, is not for a site-specific project(s) and will not result in a direct or indirect physical change in the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

On October 25, 2023, the Housing and Homeless Advisory Commission provided input on the proposed conceptual changes to the density bonus ordinance, inclusionary policy, and associated in-lieu fee. The commission provided an advisory recommendation by a vote of 5-0 to approve staff's recommendations but recommended that no additional parking concessions be offered beyond state law allowances under the density bonus ordinance. This proposed concession was removed from the draft ordinance.

On January 24, 2024, the Housing and Homeless Advisory Commission provided input on the proposed adoption of regulations for marketing/leasing of affordable units and for-sale affordable homebuyer. The commission provided an advisory recommendation by a vote of 5-0 to approve staff's conceptual recommendations.

On April 24, 2024, the Planning Commission recommended approval of the proposed ordinances for Chapter 19.90, 19.93, and 19.94 and Section 19.58.460 in substantial form to staff's proposal, and recommended Chapter 19.91 with a modification to the required threshold of projects subject to provisions of the ordinance from 10 units to 25, such that section 19.91.050(A) is amended to read "Residential or mixed-use development projects with fewer than twenty five units shall not be required to meet the provisions of this Chapter" by a vote of 6-0 (see Attachment 1 for the approving resolution). Staff's consultant RSG has provided a memo, provided as Attachment 3 for further reference, on why raising the threshold would not have an effect on economies of scale. The comment is addressed in more detail further in the report.

On May 8, 2024, the Housing and Homeless Advisory Commission provided input on the proposed adoption of the Multifamily Bond Policy amendment, the local housing trust fund resolutions, and the Master Fee Schedule updates. The commission provided an advisory recommendation by a vote of 6-0 to approve staff's recommendations.

## **DISCUSSION**

The City created the Housing and Homeless Services Department ("HHSD") as a standalone department in November 2022 in recognition of the growing need to address affordability and homelessness issues for Chula Vista residents. Since then, HHSD staff have worked to prepare the enclosed code amendments, resolutions, and policy updates. Because the items are interconnected, they are being presented together as a comprehensive housing packet.

A number of the proposed items fulfill commitments made in the City's Housing Element ("HE"). Since 1969, California has required that all local governments adopt and regularly update housing elements as a component of their general plans, to adequately plan to meet the housing needs of everyone in the community. The 2021-2029 HE was required to demonstrate adequate zoning capacity to accommodate the creation of 11,105 new homes, and to identify various actions it would carry out to help meet this target. Items A and B directly correspond to commitments made in the City's HE, and the additional items are consistent with the HE's intent to increase and improve the supply of housing for all residents.

While staff recognize the breadth of the enclosed items, many of the proposed actions are codifying or updating longtime City practices that had previously been enforced through Council Policies, Sectional Planning Area ("SPA") plans, or other documents. By codifying such longtime practices, the City intends to increase transparency and ensure consistent application of its regulations.

### **Density Bonus (Ordinance A)**

In order to increase the supply of "affordable housing units" throughout California, the State adopted a Housing Accountability Act ([California Government Code Section 65589.5](#)) and a Density Bonus Law ([California Government Code Section 65915](#)) in 1979. Many subsequent amendments were made in the years that followed. The most significant amendments went into effect in January 2005 (SB 1818), January 2021 (AB2345), and January 2023 (AB2334). Density Bonus Law provides financial incentives – i.e., additional market rate units and modification of development standards – to developers if they build a specified amount of affordable housing.

Density Bonus Law has become a powerful tool for encouraging developers to provide affordable housing in their projects. The allowance of additional units beyond what the zoning may allow can offset the cost of including affordable units in a project. Additionally, development standards, such as height, setbacks, parking, etc. can be waived, allowing for ease in the development process.

Density Bonus Law has been consistently updated annually since 2016. Chula Vista adopted [CVMC Chapter 19.90, "Affordable Housing Incentives"](#) ("Chapter 19.90") via Council Ordinance No. 3250 in 2013, which at that time exceeded requirements of the Density Bonus Law, but the constant changes to the law make it difficult to keep the ordinance up to date. Every time an ordinance is changed, City Council approval is required, which can use many hours of staff time.

As such, Policy 3.6 of the 2021-2029 HE identified updating the density bonus ordinance as a priority to comply with state law. As proposed, Ordinance A would amend Chapter 19.90 to defer to the State and renames Chapter 19.90 to "Density Bonus".

## **Inclusionary Housing (Ordinance A and Resolution B)**

### *Adding Chapter 19.91 to the CVMC*

Inclusionary zoning or housing policies, tap the economic gains from rising real estate values to create affordable housing opportunities for low- or moderate-income households by creating a set of local rules or a local government initiative that encourages or requires the creation of affordable housing units, or the payment of fees for affordable housing investments when new development occurs. Throughout the United States various jurisdictions have adopted inclusionary zoning policies, with over 170 in California alone.

Adopted in the 1981 HE as the Balanced Communities Policy, Chula Vista has been a leader in the state in creating affordable units through inclusionary housing. Throughout the years various case law has placed barriers on production, but effective January 1, 2018, California authorized the legislative body of any city or county to adopt an inclusionary housing ordinance that includes residential rental units affordable to lower- and moderate-income households ([California Government Code Section 65850](#)).

The City’s policy has been relatively unchanged since 1981, requiring that any new construction of 50 units or more provide 10% of them for affordable households (5% moderate- and 5% low-income) and has allowed alternative compliance. In 2005 an in-lieu fee was established and in 2012 [Balanced Communities Guidelines](#) were adopted to provide better clarity to the policy, establish incentives for providing lower threshold units, and adopt specific measures to adjust to market conditions. The guidelines have been updated a few times, with the most recent on [September 13, 2022](#) to remove variances and exceptions to requirements in western Chula Vista.

Implementing Program 3.4 of the 2021-2029 HE identified reviewing the Balanced Communities Policy for its feasibility in making progress towards the low- and moderate-income [Regional Housing Needs Allocation](#) (“RHNA”) for the City. The review was to include opportunities to increase the affordable requirement, lowering the threshold of applicability, adopting an inclusionary housing ordinance, and revising the in-lieu housing fee, based upon findings and recommendations of a feasibility analysis. In addition to the review of the obligations, the HE contemplated potential alternatives to new construction of units, including off-site construction, land dedication, preservation of 'at risk' housing, and in-lieu fees (except on sites designated to accommodate housing for very low- and low-income households for RHNA).

In the spring of 2023 Housing staff contracted with RSG to conduct a feasibility analysis, provided as Attachment 2 for further reference, and identify a coordinated outreach effort with stakeholders and the public (see Table I below).

**Table I**  
**Inclusionary Housing Engagement Opportunities**

<b>Topic</b>	<b>Stakeholders Involved</b>	<b>Dates of Engagement</b>
<b>Prototypes for Market Analysis</b>	BIA Development Oversight Committee	June 2023
<b>Draft Concept Changes</b>	Virtual Stakeholder & Public Meetings Housing & Homeless Advisory Commission	October 10 & 11, 2023 October 25, 2023

<b>Draft Ordinances</b>	BIA Development Oversight Committee Housing Website	January/February 2024
<b>2<sup>nd</sup> Draft Inclusionary Ordinance</b>	BIA Development Oversight Committee Housing Website	March 12, 2024
<b>Council Recommendation</b>	Planning Commission	April 24, 2024

Attachment 3 provides a full breakdown of the current policy and proposed changes that were presented to stakeholders over the course of the ten-month process and resulting written comments received on the final proposal. Based on feedback from stakeholders, no significant deviations from current policy were made in the final proposal. The most significant elements include:

- Reducing the threshold for inclusionary requirements from 50 units of new residential construction to 10 units or more\*;
- Maintaining the affordable requirement to 10% of units;
- Altering the in-lieu fee to a square footage basis and applying different rates to for-sale and rental products; and
- Providing better clarity to alternative options of compliance.

Chapter 19.91 of the CVMC would go into effect on June 1, 2024, through adoption of Ordinance A, for any new residential application received not otherwise already obligated by a Developer Agreement and/or Sectional Planning Area plan.

*\*Planning Commission Recommendation*

At the [April 24, 2024](#) Planning Commission meeting, the Planning Commission voted to recommend that the ordinance be adopted, with the modification that the minimum threshold for projects subject to the ordinance be adjusted to 25 or more units. The concern expressed by Planning Commission was that smaller projects have fewer economies of scale for fixed costs, and therefore that the inclusionary requirement would render projects infeasible. Additionally, the Planning Commission expressed that developers would have an incentive to remain under the threshold by producing projects with fewer but larger units, which may have the unintended consequence of worsening housing affordability. Staff originally proposed the minimum threshold to be 10 units for a number of reasons:

- A lower minimum threshold would potentially lead to more inclusionary units being constructed or fees collected to assist in meeting RHNA goals at all income levels.
- Projects of 5 or more units may use Density Bonus Law; it is expected that many or most multifamily projects will combine inclusionary requirements with the affordability requirements of Density Bonus Law.
- The feasibility study prepared by RSG (Attachment 2) did not identify a different per-unit cost basis for smaller projects than larger developments of the same construction type.
  - In response to Planning Commission’s recommendation to raise the threshold, RSG prepared a memo, provided as Attachment 3 for further reference, detailing that they found no data to support smaller projects having fewer economies of scale for fixed costs and that yes,

developers may build under the threshold, but raising the threshold would reduce the affordable units and funds that the City would receive, furthering the inability to meet RHNA goals.

- A comparison of inclusionary requirements by other cities in other jurisdictions (see Attachment 2, Table 9) shows that most other jurisdictions with inclusionary policies have a minimum threshold of between 1 and 10 units.
- Ease of enforcement, since 10 units is a round number that would trigger exactly one inclusionary unit.

If the City Council agrees with the Planning Commission's suggested modification, section 19.91.050.A. would be amended to read "Residential or mixed-use development projects with fewer than twenty-five units shall not be required to meet the provisions of this Chapter".

#### *Adoption of In-Lieu Fees*

Chapter 16 of the City's Master Fee Schedule specifies the fee amount for development and in-lieu fees for projects approved by the City of Chula Vista. The proposed resolution is being submitted in conjunction with an ordinance codifying Chula Vista's inclusionary housing program, which has long been enforced at the policy level.

In-lieu fees are applied to projects that wish to pay the fee rather than provide affordable units onsite within a project, primarily due to the product type not being appropriate for affordable housing. The fees are collected by the City and used for affordable housing development, preservation, rehabilitation, and other related uses. A significant proposed change from the City's current policy would be to assess the fee on a per-square-foot basis rather than a per-unit basis. This change would mean that modestly sized units, which are more likely to serve residents at a lower income range, would be assessed a smaller fee than large, detached homes. The current fee, which was last updated in 2005, is \$12,422 per unit. The proposed fee is \$8 per square foot for for-sale homes, and \$16 per square foot for rental homes.

The analysis for the fee amount was performed by RSG. It was calculated to be roughly equivalent to the cost of providing inclusionary units on-site. Attachment 4 provides the redlines that would be made to the Master Fee Schedule Chapter 16-100 to add a new section entitled "Inclusionary Housing In-Lieu Fee", through adoption of Resolution B.

#### **Multi-Family and Mixed-Use Objective Design Standards (Ordinance A)**

Objective design standards are defined under State law as "standards that involve no personal or subjective judgement by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal" ([California Government Code Section 65913.4](#)). The City adopted objective design standards via Council Ordinance 3559 on [November 28, 2023](#) in fulfillment of the Housing Accountability Act, SB 35, and SB 2162 and HE implementing program 2.9 "Objective Design Standards". Administrative amendments are needed at this time, via Ordinance A, to address amendments to Chapter 19.90 and the addition of Chapter 19.91.

#### **Residential For-Sale Affordable Unit Requirements (Ordinance A and Resolution C)**

To provide consistency in the implementation of affordable homeownership opportunities, Council Policy No. 453-02 via Council Resolution No. 2003-492 was established and has subsequently been amended, most recently on August 21, 2013, via Council Resolution No. 2013-154, establishing the procedures and



guidelines for the development of affordable for sale housing for first-time low- and moderate- income buyers.

This action would repeal Council Policy No. 2003-492 via Resolution C and adopt guidelines for affordable for sale products by adding Chapter 19.93, “Residential For-Sale Affordable Unit Requirements”, of the CVMC by Ordinance A and attendant Administrative Regulations, to be drafted within 30 days of the effective date of Ordinance A and approved by the City Manager. Chapter 19.93 defines first-time homebuyers as households who have not had ownership interest in any property within three years from the date of application and are earning no more than 80% and 120%, respectively, of the Area Median Income (“AMI”).

The Administrative Regulations will define program requirements including underwriting criteria and the buyer selection criteria that shall pertain to any for-sale development proposed to have affordable units within the City and not otherwise regulated by other funding sources. Additionally, the primary component of the program establishes a Value Recapture Agreement between the Homebuyer and the City that includes an equity share system based upon the Homebuyer’s length of occupancy. The Value Recapture Agreement will ensure that the unit shall be affordable to the buyer while maintaining the market value of the property and shall be paid back to the City upon sale, transfer, refinance, rental or change in title of the property, ensuring that the City can invest the recaptured funds to create affordable housing in the future.

### **Marketing, Application, Lottery, and Waitlist Requirements for Affordable Rental Housing Projects (Ordinance A)**

The addition of CVMC Chapter 19.94, via Ordinance A, is being brought forth regulating the marketing and leasing of affordable housing to set standards in accordance with industry best practices and Title VI of the Civil Rights Act of 1964, the Fair Housing Act, California’s Fair Employment and Housing Act, and other applicable local, state, and federal laws. These laws ensure that residents or applicants for housing are not discriminated against on the basis of race, color, religion, national origin, disability status, family status, veteran or military status, gender or sexual orientation, source of income, or any other protected class or arbitrary characteristic. A key means of implementing fair housing policies is through the marketing and selection of tenants in affordable housing.

#### *Marketing*

Narrow or informal marketing efforts such as locally distributed flyers and word-of-mouth advertising may limit the ability of the public to be informed about leasing opportunities. Examples of best practices promoted by the ordinance include advertising to a diverse range of demographic groups, providing clear information about accommodations for disabilities, and setting procedures for addressing grievances and complaints by applicants or tenants. Such practices would ensure a smooth, fair, and transparent process for the leasing and management of affordable housing.

#### *Tenant Selection*

Similarly, tenant selection practices such as first-come, first-served waitlists may unfairly advantage one demographic group or applicants with a personal connection to the developer or management agent. To mitigate concerns and promote equity in the process, the City has been requiring that affordable housing owners with regulatory agreements with the City, carry out robust marketing efforts, with special outreach to groups least likely to apply for such housing and select tenants via a randomized lottery.

State policy, [California Government Code 7061](#) (SB 649, 2022) supports local tenant preferences for lower income households that are subject to displacement risk within affordable housing projects financed through

low-income housing tax credits (LIHTCs) and tax-exempt private activity bonds, provided the policy is implemented and applied in a manner consistent with robust state and federal fair housing laws. Effective January 1, 2023, local governments adopting a tenant preference are required to create a webpage on their internet website containing authorizing local ordinance and supporting materials and inform the Department about any local tenant preference ordinance the local government maintains in the HE Annual Progress Report submitted April 1 of each year.

At a local level, the City has determined those most vulnerable of displacement risk are those impacted by government action or currently working to stabilize housing through a program with the HHSD (e.g. rental assistance or unsheltered working with the Homeless Outreach Team) or impacted by no-fault termination of tenancy subject to [CVMC Chapter 9.65](#), “Residential Tenant Protections”. The proposed ordinance would therefore establish a preference system for affordable housing applicants, generally as follows:

- First preference would be given to Chula Vista residents displaced due to government action or individuals referred by HHSD;
- Second preference would be given to tenants within two years of being issued a no-fault termination of tenancy that was subject to Chapter 9.65, “Residential Tenant Protections”;
- Third preference would be given to Chula Vista residents and workers; and
- Fourth preference would be given to all other eligible members of the general public.

Such a preference system would help prioritize the needs of Chula Vista’s most vulnerable residents and ensure that Chula Vista residents benefit from new production of affordable housing, while still providing access for the general public. The priority preference for individuals referred by HHSD would allow City staff to provide housing referrals for individuals residing in a City-owned shelter or other individuals actively seeking permanent housing and currently receiving assistance through a program administered by the department on their path to self-sufficiency.

Chapter 19.94, via Ordinance A, provides clearer and more concise requirements for the marketing, application, lottery, and waitlist processes for affordable housing projects regulated by the City or the Housing Authority of the City of Chula Vista. These include, but are not limited to, City-funded projects, projects subject to a Successor Agency regulatory agreement pursuant to an allocation of tax-exempt bonds, projects subject to a Declaration of Covenants, Conditions, and Restrictions through the Balanced Communities Policy, and projects subject to a density bonus regulatory agreement. While some funding sources may require another prioritization system (e.g. Project-Based Vouchers may require use of the regional Continuum of Care or target specific populations), the adoption of Ordinance A provides a priority system to ensure those at greatest risk of displacement and those already living or working within the City are prioritized for a wider array of affordable housing units.

### **Parkland Fee Exemptions for Affordable Units (Ordinance D)**

The City requires all residential development projects to dedicate park land and construct parks or pay park in-lieu fees. The Parkland Acquisition and Development (“PAD”) in-lieu fee consists of an acquisition component and a development component. The acquisition component provides funding to acquire land to create new parks, while the development component provides funding to carry out park improvements. The fees are assessed based on a standard of providing at least three acres of parkland per 1,000 residents.

CVMC section 17.10.070 currently grants City Council the authority to waive all or any portion of the PAD in-lieu fee “in the interests of stimulating the construction of housing for low- and moderate-income families.” This justification for the waiver leaves room for interpretation, which has created uncertainty when applying



the statute. The proposed amendments shown in redline in Attachment 5 would clarify that projects may be administratively exempted from the fee if 100% of units, excluding any units set aside for exclusive use by management or staff, are restricted as affordable to low, very low, extremely low, and/or moderate-income households through a recorded regulatory agreement with the City of Chula Vista, the California Tax Credit Allocation Committee (“CTCAC”), or the Department. It would further clarify that mixed-income developments, in which only a subset of units are set aside for low, very low, extremely low, or moderate-income households, may continue to seek waivers from the PAD in-lieu fee at the discretion of City Council.

City Council has routinely approved fee waivers that have been sought for 100% affordable projects. Some recent projects that were approved by Council resolution include Congregational Place, located at 305 E Street (Resolution No. 2023-185) and Chula Vista Seniors, located at 178 3<sup>rd</sup> Avenue (Resolution No. 2024-060).

For a 100% affordable project of between fifty and one hundred units, a PAD exemption would reduce total project costs by roughly \$500,000 to \$1,600,000, which is a meaningful difference in shaping project viability. Additionally, an administrative exemption could help speed up development timelines, thereby reducing project costs. Finally, a PAD exemption for affordable housing is a meaningful way of attracting state and federal investment in affordable housing in Chula Vista, which is nearly always necessary for 100% affordable projects. Fee waivers and exemptions are treated as a local monetary contribution to affordable projects when applying for highly competitive funds from CTCAC and the Department; such waivers boost the all-important “tiebreaker” score on applications for low income housing tax credits and can be critical in securing financing.

City Council’s approval of Ordinance D would continue to be required on a case-by-case basis for any waivers of PAD in-lieu fees on affordable units in mixed-income projects. Such waivers may provide an incentive for the production of mixed-income housing, such as inclusionary or density bonus projects. This policy may encourage developers of market-rate housing to provide affordable units onsite, rather than paying in-lieu fees. Such waivers could also help further the City’s efforts to affirmatively further fair housing, by facilitating the development of economically integrated communities.

Total City fees, including Development Impact Fees and permitting fees, typically exceed 10% of project costs. For 100% affordable projects financed in part by the City, the local fees assessed often exceed the amount provided in direct financing from the City. The PAD fee is one of the larger development impact fees assessed by the City; reducing housing construction costs by providing administrative exemptions (for 100% affordable projects) and discretionary waivers (for mixed-income projects) is one straightforward way to facilitate production of low-, very low-, and moderate-income housing and make progress towards the City’s RHNA targets.

### **Set-Up and Compliance Fees for Non-Bond Projects (Resolution B)**

The City incurs costs associated with the ongoing monitoring of affordable housing developments to ensure compliance with the regulatory agreement or restrictive covenants. Generally, project monitoring consists of annual file audits to ensure compliance with the project’s income and rent restrictions, and tri-annual physical inspections of the project’s common areas and a portion of the affordable units to ensure that the project is being maintained in decent, safe, and sanitary condition. The City retains a third-party service to perform site inspections and file reviews, and incurs costs associated with maintaining a third-party web portal for compliance monitoring. City staff oversee the third-party providers, perform file and physical inspections as needed, and respond to developer inquiries related to ongoing compliance.

The cost of the monitoring services, website maintenance, and in-house oversight and administration has been calculated to total \$70 per unit per year, as further described in Attachment 6. This fee will be applied going forward to all developments with a new regulatory agreement with the City of Chula Vista or the Chula Vista Housing Authority, other than projects receiving an issuance of tax-exempt bonds through the Chula Vista Housing Authority. (Such bond projects have a separate fee structure in the Master Fee Schedule.) Existing projects will continue to be subject to the fees set forth in their project regulatory agreements.

Attachment 7 provides the redlines that would be made to the Master Fee Schedule Chapter 19-100 to add a new section entitled “Compliance Fees (Non-Bond)”, through adoption of Resolution B.

### **Chula Vista Housing Authority Bond Policy (Resolution E)**

Resolution E amends the Multifamily Bond Policy previously adopted by Housing Authority Resolution 2018-01, and revised by Housing Authority Resolution 2020-248, to change requirements for multifamily housing revenue bonds allocated by the California Debt Limit Allocation Committee (“CDLAC”) to affordable housing projects in Chula Vista (see Attachment 8).

Multifamily housing revenue bonds, also known as private activity bonds, are a common method of financing affordable housing developments. CDLAC and the California Tax Credit Allocation Committee (CTCAC) are closely aligned agencies; tax-exempt bonds are nearly always paired with federal 4% low-income housing tax credits. The bonds are attractive to investors because their interest income is exempt from state and federal taxes. The federal government sets a “bond cap” limiting the amount of bonds that can be issued annually within each state. To control the bond capacity, CDLAC determines which projects are to receive an allocation of bonds, and then transfers the authority for that amount to the bond issuer.

Currently, bonds may be issued either by the Chula Vista Housing Authority or by other qualified entities such as the California Statewide Community Development Authority (“CSCDA”), the California Municipal Finance Authority (“CMFA”), or other joint powers authorities. The proposed change would require the Chula Vista Housing Authority to be the bond issuer for all affordable projects located within Chula Vista, except in rare circumstances.

The primary reason for the proposed change is that it would give the City greater oversight over affordable developments in Chula Vista. The City, through the Housing Authority, would have regulatory oversight over the projects, and therefore would be able to take a more hands-on approach to addressing any maintenance or compliance issues. The City has a vested interest in ensuring the long-term success of affordable developments in Chula Vista, whereas the other conduit bond issuers have little connection to Chula Vista beyond the limited scope of their role as bond issuer. Ultimately, the City is already expected to ensure that its housing stock is free of blight, crime, and nuisance activity; having a regulatory agreement in place would allow the City to intervene more quickly to address problem activities. Additionally, bond origination fees and ongoing compliance fees will provide an ongoing source of revenue to cover the costs of program administration. Outside issuers would still be able to issue bonds to projects where warranted by special circumstances, such as a bond issuance spanning multiple jurisdictions.

The proposed changes were drafted in consultation with the San Diego Housing Commission, City of San Jose, and City of Los Angeles, who have all adopted similar policies.

### **Appropriating Funds into the Local Housing Trust Fund Project (Resolution F)**

The Department administers a [Local Housing Trust Fund \(“LHTF”\) Program](#) that provides dollar-for-dollar matching grants to qualified local housing trust funds. The grants have traditionally been issued annually on

a competitive basis and may be spent on affordable housing development, transitional housing shelters, and other activities that increase the supply of affordable housing.

The City has never created a local housing trust fund or applied for matching grant funds. Staff have created a “Project” within the City’s accounting structure, nested in the “Housing Inclusionary” fund, to serve as the City’s local housing trust fund. The proposed Resolution F would authorize the transfer of \$500,000 (the minimum local match amount for new local housing trust funds) from the Housing Inclusionary parent folder into the LHTF sub-folder. This would serve as the local contribution when applying for state matching funds. Through the establishment of the LHTF, the City also receives 2 points in the Prohousing application, discussed further in Item G.

Once the Department issues a Notice of Funding Availability (“NOFA”) to provide matching funds for FY 2024/25 to eligible local housing trust funds, staff would return to Council for approval to submit an application. Typically, the Department sets aside a portion of matching grant funds for first-time applicants; staff is optimistic that the City will score competitively enough to secure a match.

If awarded matching funds, staff intends to carry out a competitive Notice of Funding Availability (“NOFA”) to identify qualifying development projects. Staff will seek City Council approval to commit funds to any specific projects. Loans for multifamily rental housing projects require tenant income and rent restrictions imposed through a regulatory agreement for 55 years and require at least 30% of each allocation assists extremely low-income households. The deeper income targeting requirements of this program mean that it may be an appropriate funding source for permanent supportive housing projects for formerly homeless households and assist the City in meeting its most difficult RHNA goals.

### **Applying to the Prohousing Designation Program (Resolution G)**

The [Prohousing Designation Program](#) was established by the California 2019-20 Budget Act, as part of a package of supports, incentives, and accountability measures to help California meet its goal of building 2.5 million homes by 2030, with at least one million of those homes affordable to people at lower income levels. The Prohousing Designation Program encourages jurisdictions to pass and implement policies that accelerate housing production, promote favorable zoning and land use, reduce construction and development costs, and provide financial subsidies.

Communities that earn the Prohousing Designation receive incentives such as additional points or other preferences in the scoring of competitive funding programs administered by the Department, giving them an advantage over other jurisdictions. Sometimes these incentives are based on the number of points a jurisdiction has received, and therefore it is desirable to have more than the minimum points for qualification.

Staff has completed an assessment of eligibility for the program, as further described in Attachment 9, and is requesting authorization, through Resolution G, for the City Manager to submit the City of Chula Vista’s application.

### **Conclusion**

Tonight’s action is responsive to the 2021-2029 HE goals, Council referrals, and current market conditions in Chula Vista through codifying longstanding practices and increasing transparency for the HHSD working with the development community. The proposed amendments will streamline project approvals, increase affordable project competitiveness for funding, assist in reducing barriers for Chula Vista residents to access affordable units, and promote the production of affordable housing in Chula Vista.

## **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

## **CURRENT-YEAR FISCAL IMPACT**

There is no impact to the General Fund because of these actions. Costs associated with the development and amendment of these policies are covered by Housing Authority funds and/or Local Action Planning Grants (LEAP) funds.

## **ONGOING FISCAL IMPACT**

There is no ongoing impact to the General Fund. Future costs associated with the review and implementation of policies are covered through the establishment of processing and monitoring fees adopted in the Master Fee Schedule.

The exemption of 100% affordable projects from the PAD fees would reduce the City's PAD fee revenue by between \$10,783 and \$16,484 per unit, depending on the project location. However, many affordable projects have already been obtaining such waivers through City Council adoption. The overall fiscal impact of the proposed change on Parkland Acquisition and Development revenue is therefore likely to be small.

## **ATTACHMENTS**

1. Planning Commission 4/24/24 Resolution
2. RSG Inclusionary & In-Lieu Fee Feasibility Study
3. Existing Balanced Communities Policy, RSG Proposed Recommendations, & Public Comment
4. Redlines to Master Fee Schedule Chapter 16-100
5. Redlines to CVMC section 17.10.070
6. Compliance Fees (Non-Bond) Cost of Service Analysis
7. Redlines to Master Fee Schedule Chapter 19-100
8. Redlines to Chula Vista Housing Authority Multifamily Mortgage Revenue Bond Policies
9. Prohousing Assessment

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