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To: Supervisor Sheila Kuehl, Chair
Supervisor Hilda L. Solis
Supervisor Mark Ridley-Thomas
Supervisor Janice Hahn
Supervisor Kathryn Barger

From: Sachi A. Hamai
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Monique King-Viehland
Executive Director, Community Development Commission

INCREASING THE EFFECTIVENESS OF THE AFFORDABLE HOUSING PROGRAMS BUDGET UNIT (ITEM NO. 34.7-5, AGENDA OF SEPTEMBER 26, 2017)

Background

On September 26, 2017, the Board of Supervisors (Board) adopted a Motion (2017 Motion) by Supervisors Kuehl and Ridley-Thomas to increase the administrative expense cap for the Affordable Housing Programs Budget Unit (Budget Unit), to restructure the Affordable Housing Coordinating Committee (Coordinating Committee), and to direct the Chief Executive Officer (CEO) to work with the Community Development Commission (CDC) to report back to the Board in 120 days with new strategies for the construction and preservation of affordable housing. These strategies were to include the creation of a housing acquisition fund, expansion of the County's investment in affordable housing preservation, methods to increase the County's competitiveness for State and federal affordable housing funding, and the identification of opportunities to expand investments in affordable housing produced without Low Income Housing Tax Credits (LIHTC).

This 2017 Motion was preceded by an October 27, 2015 Motion (2015 Motion) by Supervisors Kuehl and Ridley-Thomas to create a new affordable housing budget unit within the General Fund, and to establish the Coordinating Committee to advise the Board on matters related to affordable housing. Pursuant to the 2015 Motion, the Budget Unit is scheduled to reach an annual allocation of $100 million per year in Fiscal Year 2020-21.

ESTABLISHING A HOUSING ACQUISITION FUND

The 2017 Motion directed the CEO, in partnership with the CDC, to explore specific strategies to create a housing acquisition fund, including a strategy to purchase former redevelopment agency property. A housing acquisition fund could potentially complement the CDC's Los Angeles County Housing Innovation Fund II (LACHIF), which is a $60 million revolving loan fund that provides site acquisition and predevelopment financing to advance affordable housing throughout both the incorporated and unincorporated County. These loans are available to for-profit and non-profit developers. The current LACHIF structure has been in place since October 2013, with the CDC participating in direct loans with its three lending partners: 1) Low Income Investment Fund, 2) Century Housing Corporation, and 3) Corporation for Supportive Housing. The maximum loan amount available per acquisition, or acquisition and predevelopment project, is $15 million.

On May 30, 2017, the Board directed the CDC to evaluate LACHIF's performance, and make recommendations about opportunities for increased flexibility, as well as improved terms and underwriting criteria, to facilitate a pipeline of affordable housing development. The CDC is currently working with their Community Development Financial Institution (CDFI) partners to finalize details of a potential restructure of LACHIF. This restructure would facilitate the process by which a developer may be loaned money to acquire property, but is not intended to loan money directly to the County itself for the purchase of property. A new housing acquisition fund would be needed if the County were to purchase affordable housing opportunity sites directly.

Strategies Presented

In evaluating best practices for an acquisition fund from other jurisdictions, the CEO found that the preponderance of government-sponsored acquisition and predevelopment funds are structured similarly to CDC's LACHIF. Several municipalities, including the Cities of Los Angeles and New York, as well as the State of California, have established revolving loan funds to aid affordable housing developers in acquiring property. In this structure, housing developers apply to the government agency and its CDFI partners for a bridge loan to acquire property, with the participating government entity typically in a top-loss position. Repayment of the loan typically occurs when the developer secures construction take-out financing. To build upon the structure presently in place with LACHIF, the CEO explored alternative mechanisms that would allow the County to more quickly and flexibly support affordable housing construction.

The CEO, in consultation with the CDC, stakeholders, and outside consultants, considered how to best use the County's limited resources to affect the greatest impact on affordable housing in Los Angeles County. Many affordable housing subsidies across the State, including in Los Angeles and San Francisco, have been put forward in the form of publicly-owned land offered to developers to enhance the financial feasibility and expedite the timeline of housing development. The CEO evaluated the concept of offering land as a subsidy for housing developers through the formation of an acquisition fund.

The CEO recommends the creation of an acquisition fund to facilitate the County's ability to offer land as an affordable housing subsidy. Given the dearth of viable affordable housing sites currently in the County's asset portfolio, the CEO proposes the creation of an Affordable Housing Acquisition Fund (Acquisition Fund) to bring prime sites for affordable housing development into the County portfolio, record affordable housing deed restrictions, and then assign the sites to a developer, at or below the purchase price. Sites would be acquired within the incorporated and unincorporated County and would be prioritized based on competitiveness for subsidies, such as LIHTC and State Housing and Community Development (HCD) funding.

The Acquisition Fund would be for the acquisition of sites that have potential for affordable housing development throughout the County and would be funded by money allocated to the Budget Unit. The Acquisition Fund would serve to acquire properties, perform short-term maintenance, and then deed or long-term ground lease the properties to affordable housing developers, with specific deed restrictions.

To operationalize this Acquisition Fund, the CEO would first assess the more than 1,300 former redevelopment agency sites for possible acquisition. Factors to consider in determining the potential for acquisition may include:

- Funding source for initial purchase of property such that future uses may be restricted
- Comparable land values and most viable product types for private development
- Current zoning and land-use restrictions on the property
- Square footage of property to support housing uses
- Location of property and needs of surrounding community
- Opportunity for Transit Oriented Developments (TODs)

Upon completion of the evaluation of the properties, the CEO proposes to generate a list of those former redevelopment agency properties that may be underutilized and most viable for affordable housing. During this process, the CEO and the CDC will engage experienced affordable housing practitioners to perform feasibility analyses to ensure that all identified sites are, in fact, suitable and financially viable for affordable housing development. The final approval for all acquisitions will be provided by the Board following submittal of a formal recommendation for funding by the CEO.

Before implementing the Acquisition Fund, the CEO will establish a list of pre-qualified affordable housing developers through a Request for Statement of Qualifications (RFSQ) process. Once the Board approves a purchase through the Acquisition Fund, the CEO would work to release a Request for Solicitations (RFS) to the pre-qualified affordable housing developers no later than 60 days from the close of escrow. This model would ensure that the County enters into agreements for the development of each acquired property more quickly than the traditional Request for Proposals (RFP) process.

After a project secures all necessary financing, the CEO will convey the property to the chosen developer at or below the original purchase price, and place deed restrictions on the property to guarantee affordable housing on the site. The CEO will monitor the construction process to ensure timely completion of the project. The CEO believes that an Acquisition Fund of the scope described herein would require a minimum $10 million annual line of credit from the Affordable Housing Budget Unit to use as sites are identified for acquisition. Any unused funds would be made available at the close of the fiscal year for other eligible uses within the Budget Unit, such as the CDC's Notice of Funding Availability (NOFA) process.

EXPANDING INVESTMENT IN AFFORDABLE HOUSING PRESERVATION

The term "preservation of at-risk housing" has predominantly referred to multifamily rental properties that have received government financing or rental subsidies, which are near the end of the affordability compliance period. Funding subsidies can be provided through federal, state, or local government, all of which have different compliance requirements. A summary of at-risk housing categories is provided in Attachment A to this memorandum, and includes both subsidized and non-subsidized rental units.

The majority of federally assisted affordable housing projects have renewable Project-Based Section 8 Vouchers (PBVs), which the Department of Housing and Urban Development (HUD) can renew or replace. According to the Community Development Commission, Los Angeles County has a total of 232 HUD-assisted properties comprised of 13,883 subsidized units with affordability set to expire within the next five years. Of these, 4 percent are in the unincorporated areas of the County, 67 percent in the City of Los Angeles, and 29 percent in the remaining jurisdictions. It is recommended that the CDC continually monitor the federally assisted portfolio, as well as develop tools to identify, track, and preserve non-federally assisted projects with expiring affordability commitments.

The strategies presented below expand on the recommendations in the 2017 Affordable Housing Outcomes Report (Outcomes Report) produced for the Board and the Coordinating Committee. The Outcomes Report recommended that the County invest in preservation by providing funding to preserve properties at high-risk of becoming market rate, by developing infrastructure to track and monitor rental properties at risk of conversion, and by providing technical assistance to tenants, owners, and government agencies around preservation.

Strategies Presented

Building upon the recommendations in the Outcomes Report, the CEO created the Los Angeles County Housing Preservation Work Group (Preservation Work Group) comprised of the Departments of Regional Planning and Public Works, the CDC, and the CEO. The Preservation Work Group reviewed strategic approaches to prevent the loss of both subsidized and non-subsidized housing throughout the region. Additionally, members of the Preservation Work Group became participating members of a recently reinstituted workgroup led by HUD that allows for the sharing of best practices, data, and outreach approaches throughout the County. In consultation with the above parties, the CEO and the CDC have explored the following strategies to leverage the Affordable Housing Budget Unit to support preservation.

Assign a Preservation Coordinator within the CDC. Following the recommendation in the Outcomes Report, the CEO and CDC recommend the creation of a designated Preservation Coordinator to effectively monitor and intervene on properties at risk of becoming market rate. The Preservation Coordinator would be tasked with developing the infrastructure to proactively track and monitor the risk of conversion for existing affordable rental housing. This would include working with government agencies and stakeholders to establish and maintain the preservation database described below. Further, the Preservation Coordinator would work with asset managers at HUD and the State HCD to obtain early warning of potential conversions, and contact property owners of the highest risk properties to determine their intentions and explore preservation options.

The Preservation Coordinator would lead affordable housing preservation interventions with landlords, lead on-site meetings between property owners and tenants as soon as potential conversion risks are identified, advise parties of their rights, provide a direct line of communication with government entities, develop outreach materials to tenants and landlords, provide technical resources to landlords seeking to leave subsidized programs, and track and market existing affordable units.

The CDC recommends that the Board allocate one new position to establish the Preservation Coordinator within the CDC. If approved, any such position would be funded by the Budget Unit and would not result in new net County cost.

Create and maintain a comprehensive preservation database. The CEO and CDC recommend the implementation of a Countywide Preservation Database to include at-risk affordable housing data from HUD and other national, statewide, and local housing databases. The database would also include the financial and programmatic requirements of projects funded by the CDC and the Housing Authority of the County of Los Angeles (HACoLA), as well as any other affordability covenants attached to properties in Los Angeles County. Initially, the database would focus on the County unincorporated areas and those cities that don't have the means to track housing preservation within their boundaries. The Preservation Coordinator would work closely with the City of Los Angeles to evaluate their existing database and incorporate any relevant features into the County system. The proposed database would expand the data collected to a wider range of affordable project types than just properties with expiring HUD or Section 8 commitments.

A Countywide database that consolidates affordable at-risk housing data would enable the efficient tracking of units with expiring covenants and promote information sharing between HUD, government entities, foundations, and affordable housing operators. The goal would be for these entities to craft intervention strategies to maintain affordable units and prevent displacement. Direct engagement with tenants and the community, when appropriate, would further inform these intervention strategies and provide anecdotal data to support the database.

Authorize CDC Loan Restructuring for At-Risk Affordable Units. In order to facilitate a flexible preservation strategy, the CEO and CDC recommend that the CDC Executive Director be authorized to re-structure prior CDC or HACoLA funded loans to non-profit affordable housing property owners. This delegated authority would extend to small or distressed projects that have operating deficits or major systems deficiencies. The existing loans are typically $500,000 or less, and the restructuring would include extending the term of the loan, reducing interest, or forgiving interest on the loan, which could reduce the amount of repayment to the CDC. However, the authority to restructure such loans would allow the CDC to negotiate the principal and interest on these projects to extend their affordability periods and improve living conditions. There are currently five projects with less than 30 units each that would benefit from the CDC's authority to restructure the loan.

Consider developing a flexible Emergency Preservation and Tenant Protection Fund. The CEO and the CDC recommend that the Preservation Coordinator explore the feasibility of an appropriately sized flexible fund to prevent tenant displacement, provide for critical repairs and needs assessments, as well as technical assistance for at-risk non-profit projects in the CDC loan or bond portfolio. This fund could provide funding options for at-risk projects that are not able to leverage tax credits or bonds for re-capitalization. This would typically apply to small projects of less than 30 units that aren't competitive for tax credits and don't generate sufficient income to qualify for conventional financing. These projects are owned by nonprofits and are occupied by Extremely Low-Income (ELI) tenants, many of whom have special needs or disabilities. The CDC reports that it currently has 27 projects with less than 30 units each that were placed in service between 1988 and 2004, and might be considered candidates for such a fund.

Additionally, this flexible fund could serve to provide short-term tenant assistance for individual units with expiring affordability, as approved by the CDC's Executive Director. This would be used only when vulnerable tenants are facing economic displacement due to expiring affordability commitments that do not have tax credits, or Section 8 tenant or project based assistance attached. The rental subsidies from the fund would be utilized until such time that the tenants can be successfully relocated.

Explore the creation of a program to preserve Naturally Occurring Affordable Housing (NOAH). Naturally Occurring Affordable Housing (NOAH) is characterized as housing that is affordable without being financed through the assistance of programs such as LIHTC, Section 8 or other government subsidies. The CDC reports that NOAHs with low market rents are at risk of succumbing to gentrification or market pressures in several unincorporated area communities, resulting in the potential displacement of tenants. The CEO and CDC recommend proceeding with a risk assessment for Los Angeles County to determine if the County should direct resources towards preserving NOAH. This study would include an analysis of existing NOAH in the small and medium multifamily housing inventory and its relation to the overall housing stock. This would then inform the potential design of a small and medium multifamily housing pilot. This pilot could be similar to programs in the Cities of San Francisco and Oakland, where the municipalities were able to preserve the affordability of certain small buildings through government subsidies and ultimately, affordability covenants.

INCREASING COMPETITIVENESS FOR STATE AND FEDERAL AFFORDABLE HOUSING FUNDING

The Outcomes Report highlighted the shortfall of affordable housing in Los Angeles County, and provided recommendations as to how to best deploy the finite resources of the Affordable Housing Budget Unit. Among the recommendations, it was suggested that the County better leverage local, State and federal resources by further aligning the funding opportunities at the local level with those at the State and federal level.

To address this recommendation, the County has worked to increase its competitiveness for the State Affordable Housing and Sustainable Communities (AHSC) program, an annual funding source of over $250 million made available through State cap-and-trade auctions. In 2017, the County created a workgroup to identify and establish a pipeline of viable AHSC projects in the unincorporated areas that, if funded, could be financed with tax-exempt bonds and the associated 4 percent LIHTCs. Additionally, the County engaged a consultant to build capacity amongst County departments, public agencies, and developer partners to conceptualize, write, and fund grant applications to be as competitive as possible for State AHSC funds.

To further increase project competitiveness for this source of State funding, the CDC modified their NOFA to award an additional 100 points to every project in the County's AHSC pipeline. For the first time, through increased partnership and alignment, the County was able to submit four AHSC applications to the State, requesting over $45 million in funding. With the State legislature extending cap-and-trade through 2030, the County's AHSC pipeline and capacity building efforts will be a critical piece in leveraging multiple funding sources for affordable housing.

The County is also working to leverage funding opportunities with State Mental Health Services Act (MHSA) funds by providing additional funding through the CDC's NOFA process for housing the special needs population served by the MHSA. Further, the CEO and CDC continue to assist developers in leveraging federal non-competitive 4 percent LIHTCs by ensuring that per-unit subsidy levels are sufficient to maximize the feasibility of 4 percent tax credit transactions. The CEO and the CDC are committed to aligning the CDC's NOFA requirements with opportunities to leverage State and federal funding opportunities.

EXPANDING INVESTMENTS IN AFFORDABLE HOUSING PRODUCED WITHOUT LOW INCOME HOUSING TAX CREDITS

The CEO and CDC explored best practices from other jurisdictions, as well as innovative ways to deliver affordable housing produced without LIHTCs. The CDC notes, however, that affordable housing developers and lenders still consider the LIHTC program to be the most impactful source of capital (equity funds that reduce funding gaps) for the larger-scale development of permanent supportive housing, or housing targeting very low-income households. The strength of LIHTC as a viable method by which to deliver affordable housing has translated into the high demand and increased competitiveness for the 9 percent LIHTCs.

Affordable housing projects typically charge lower rents that cannot support much, if any, debt financing, and therefore LIHTCs incentivize the use of equity to fund project development costs. When the financing potential of LIHTC is removed, affordable housing production options are limited to smaller-scale projects that typically do not support deep affordability, but instead target Area Median Income (AMI) levels above 60 percent where there would be a higher cash flow resulting from the increased rent levels. It is possible that this higher-income targeting could allow projects produced without tax credits to perform better over time, and reach AMI levels that are typically not targeted by public funding sources, including LIHTC. The CEO and the CDC would caution, however, that such a program would likely require a rental subsidy from the County and/or the public donation of land.

Strategies Presented

Explore a "small sites" program to finance housing that typically does not qualify for tax credits. The County could consider an affordable housing model whereby smaller multi-family housing development would be financed and constructed by relying on less capital subsidy and instead accessing project financing from market-based sources and relying on a governmental rent subsidy. Rental subsidies would be able to bring more rental income to the project, which could then support private financing. An example of a rental subsidy that could potentially support such a program would be that offered through the Department of Health Services Housing for Health program. Additionally, a small sites approach would benefit from the use of efficiency studio units, by-right development, and the donation of land at no-cost. The CEO and the CDC recommend that further analysis of a small sites program be conducted and, should the Board decide to proceed with such a program, that a pilot site be chosen to operationalize the financing and construction.

Explore a pilot "buy-down" program. The County could also consider a pilot "buy-down" program to turn vacant market rate apartments into affordable units. This would require a flexible subsidy to cover the difference between market rate and affordable rent, enabling families that make 40 to 80 percent of the area median income to occupy empty units. The City and County of Denver are currently implementing the Lower Income Voucher Equity Program (LIVE Denver), a two-year pilot program to create immediate affordable housing by connecting vacant market rate units with workforce families and individuals. The rent differential is covered by Denver's affordable housing fund and philanthropic support.

A buy-down program could first be piloted in downtown Los Angeles, where the supply of market rate rental units has significantly outpaced demand. The current vacancy rate in Downtown Los Angeles is 12 percent, which is nearly four times higher than the 3.3 percent estimated for the County of Los Angeles. Landlords may voluntarily choose to opt into the program, and they would be eligible to receive a subsidy to house a low-income or moderate-income tenant. The subsidy amount for the pilot program would depend on the level of affordability and length of County commitment and would be subject to further review upon development of pilot program guidelines.

Conclusion

The CEO and CDC recommend that the Board move forward with implementing a number of strategies outlined herein. The CEO supports and is prepared to operationalize an Acquisition Fund with a $10 million annual line of credit from the Affordable Housing Budget Unit. To advance affordable housing preservation, the CEO and the CDC also recommend the creation of a Preservation Coordinator position within the CDC and the development of a comprehensive preservation database. The CEO and the CDC further recommend that the Board authorize the CDC to restructure loans for at risk affordable units.

To expand investments in affordable housing produced without tax credits, the CDC and the CEO will explore with the Coordinating Committee both a small sites financing program and a pilot buy-down program. The CEO and the CDC will also continue to evaluate the need to establish an emergency preservation and tenant protection fund, and the merits of a NOAH program. It is expected that the Preservation Coordinator will lead the evaluation process on these latter two items.

The CEO is committed to using the Budget Unit to effectuate the greatest impact on affordable housing in Los Angeles County. If you have any questions regarding this report, please contact Doug Baron of this Office at (213) 974-8355, or dbaron@ceo.lacounty.gov.

SAH:JJ:DSB
CMT:acn

Attachment

c: Executive Office, Board of Supervisors
County Counsel
Health Agency
Health Services
Housing Authority of the County of Los Angeles
Mental Health
Public Health
Regional Planning

SUMMARY OF AT-RISK HOUSING TYPES

Type of Housing	Description	Comments
Federally – Assisted Portfolio Sections 221(d)3 ,236, 202, 811, Section 8	HUD "At-Risk" properties in which the owners opt of our Section 8 PBV contracts, HUD 202, HUD 811	Moderate risk
State-funded Properties	Rental Housing Compliance Program, CHRP, Multifamily Housing Program, MHSA, VHHP, Affordable Housing Sustainable Communities	Moderate risk
Multifamily Bond Properties (w/o LIHTC)	Properties that received bond financing prior to the advent of tax credits and automatic allocations.	High risk for a limited number of properties. The units affected are at 80% AMI affordability.
Multifamily Bond Properties (w/ LIHTC)	Projects that generally have 55-year commitments due to other financing source.	Low risk due to other financing covenants.
CDC/HACoLA – funded Properties	Funding includes, HOME, City of Industry Tax Increment, County General Fund, Community Development Block Grant, First5, HHPF, and other funding sources.	Low risk
Redevelopment – funded Projects	The CDC acted as the Redevelopment Agency for the County. There are no projects funded with redevelopment funds only. Other redevelopment agencies throughout the County have funded affordable units with redevelopment funds only. These properties are within the portfolios of Housing Successor Agencies.	Low risk due to length of affordability covenants.
Land-Use and Planning Requirements	Density Bonus, Mello Act, Specific Plan and other Discretionary Approval requirements for affordable units in residential projects.	Moderate risk for older projects with expiring commitments.
Naturally Occurring Affordable Housing (NOAH)	Projects with low market rents at risk to gentrification or market pressures.	Risk assessment need for all parts of Los Angeles County minus City of LA.