



## Legislation Text

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**File #:** 23-215, **Version:** 1

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**SUBJECT:** Local Housing Trust Fund (LHTF) Program Policy Direction

### REPORT IN BRIEF

City Council is being requested to provide direction on key policy decisions related to the scale and potential use of program funds - program guidelines and operational approach, approach to meet program funding commitment including identification of a local funding commitment source and adjustments to the proposed 2023-24 Fiscal Year Budget as well as setting a grant funding request, and preparation of an application to the State of California Department of Housing and Community development (HCD) Local Housing Trust Fund Program (LHFT).

### RECOMMENDATION

**City Council** - Provide policy direction:

- A. Scale and potential use of program funds - program guidelines and operational approach; and,
- B. Approach to meet program funding commitment including identifying a local funding commitment source and adjustments to the proposed 2023-24 FY budget as well as setting a grant funding request: and,
- C. Provide direction to prepare a City Council Resolution declaring the establishment of a Local Housing Trust Fund; and,
- D. Prepare an application to the State of California Department of Housing and Community Development (HCD) Local Housing Trust Fund Program (LHFT).

### ALTERNATIVES

- 1. Approve as recommended by staff; or,
- 2. Approve, subject to other than recommended by staff (identify specific findings and/or conditions amended to be addressed in City Council motion); or,
- 3. Deny; or,
- 4. Refer to City Staff for reconsideration of specific items to be addressed in City Council motion); or,
- 5. Continue to a future City Council meeting (date and time to be specified in City Council motion).

### AUTHORITY

City of Merced Charter, Section 200; et. seq.

### CITY COUNCIL PRIORITIES

As provided for in the 2023-24 Adopted Budget and the City Council's Prohousing Policies.

## DISCUSSION

Annually, HCD provides a notice of funding availability (NOFA) for the Local Housing Trust Fund Program (LHTF). At the time of preparation of this report the NOFA has not been issued for 2023. In 2022 the NOFA was issued in April and the application deadline was May. It is anticipated that the 2023 cycle will follow a similar schedule.

The City of Merced is a potentially eligible applicant. The City's Housing Element is compliant, and the City has provided prior year Housing Element Annual Progress Report.

The program provides matching grants to housing trust funds established by a local jurisdiction. The minimum application for a New Trust - \$500,000. The maximum request is \$5,000,000. New trust sponsor must provide operating costs for minimum of 5 years if awarded at a minimum of \$100,000 per year. The program matches on a dollar-for-dollar basis.

### Uses of Funds

LHTF funding may be used for construction or permanent finance Loans at simple interest rate of 3% for predevelopment costs, acquisition, construction, or rehabilitation associated with affordable rental housing projects, emergency shelters, transitional housing, permanent supportive housing, homebuyer/homeowner projects to purchase for-sale housing units or to rehabilitate an owner-occupied dwelling. Funds may also be used for the construction, conversion, repair and rehabilitation of Accessory Dwelling Units (ADU's) or Junior Accessory Dwelling Units (JADU's).

Loans for multifamily rental housing projects require tenant income and rent restrictions imposed through a regulatory agreement for 55 years. When program funds are used to make loans for homeownership projects or units within a homeownership project, the Local Housing Trust is required to record a deed restriction in compliance with Health and Safety Code Section 50843.5(d)(3).

There are other specific funding requirements under the program. At least 30 percent of the Program Funds, after deducting administrative expense, and the Matching Funds shall be expended on assistance to Extremely Low-Income Households. To comply with this requirement, dwelling units or shelter beds must be Affordable to, and restricted for, Extremely Low-Income Households with a household income of no more than 30 percent of AMI. No more than 20 percent of the Program Funds, after deducting administrative expense, and the Matching Funds shall be expended on assistance to Moderate-Income Households. To comply with this requirement, dwelling units must be Affordable to, and restricted for, Moderate-Income Households with a household income of no more than 120 percent of AMI. The remaining Program Funds and Matching Funds shall be expended on assistance to Lower-Income Households. To comply with this requirement, dwelling units must be Affordable to, and restricted for, Lower-Income Households with a household income of no more than 80 percent of AMI.

### Ineligible activities

Based on the HCD FAQ's and Program Guidelines the following do not appear to be eligible activities

- housing navigation services

- tenant protection - fair housing and legal services
- financial - homeowner counseling services
- local match for other grants or programs such as Cal HOME
- staffing and overhead - separate from the allowable administration of 5%
- acquisition and rehabilitation of foreclosed homes or risk of foreclosure, including tax sales
- individual assistance through a contract conduit to a local community-based organization - nonprofit to address needs as a result of natural disasters such as flood recovery assistance

#### Steps necessary to apply

- The City Council set aside funding in the 2022-23 Budget for a Housing Trust. Based on the HCD program guidelines it appears that formal action through approval of a resolution or ordinance is necessary to demonstrate that a local trust has been established
- Develop Program Guidelines for the local trust - the City has a contract to perform this work and it is currently on going, policy decisions will guide the program guideline development process - this may be deferred prior to funding by State, but will need to be confirmed by HCD
- Issue a local Notice of Funding Availability (NOFA) to identify projects or activities for potential awards - if funded, necessary for HCD tie breaker
- Complete the HCD LHTF Application
- Prepare a Local Resolution identifying a dedicated local funding source, agreeing to program requirements, authorizing application to be submitted to HCD - there is a specific state template, and authorizing the City Manager or designee to execute all documents related to the program
- Adoption of the HCD LHTF Resolution by the City Council
- Submittal of application to HCD

#### Local Commitment - designated funding sources

The following are potential options for establishing a dedicated local funding source for funding match. These should be confirmed with HCD prior to the authorization resolution and final application. HUD requires that funding be deposited into the Trust Fund prior to their funding allocation.

Direction is being sought on the funding approach and sources of funds.

Funding approach - the LHTF requires ongoing commitment through a five-year period there appear to be two potential options.

- Utilize the \$500,000 from the 2022-23 FY Budget allocation and spread that across the entire grant award period - \$100,000 per year, total local commitment would be \$500,000
- Utilize the \$500,000 allocation and add additional funds each year over the grant award period, \$100,000 per year, total local commitment would be \$1,000,000

## Grant Request

As noted, the minimum request is \$500,000 and the maximum is \$5,000,000. The program provides a dollar-for-dollar match, so the request is contingent on the funding approach decision - \$500,000 or \$1,000,000.

### Sources of local funding commitment

- In lieu payment from Inclusionary program - the City's RHNA Production Program may qualify - the City Council will be asked to consider adopting in lieu fees under this program in Spring 2023
- Permanent Local Housing Allocation (PLHA) - the current approved plan does not include this specific activity and all funds for five-year period committed by letters of commitments to projects, this could be a source for future LHTF applications as part of the next funding cycle
- Pro Housing Incentive Pilot Program (PIP) - the intent is to apply for this funding program concurrently with the pro housing designation to HCD in March - anticipate approximately \$900,000 to \$1,000,000 award, this is currently not a source the City has
- Regional Early Action Planning Program 2.0 (REAP) - administered by MCAG, this program will have a jurisdiction direct allocation and competitive program portion, funds must be expended by 2026
- Other local sources such as General Fund, local Housing Bond or Measure, and public or private contributions. The City has currently allocated \$500,000 in the 2022-23 FY Budget. It is unclear if HCD would consider this as an eligible allocation since it was a one-time lump sum. This needs to be further discussed with HCD. Staff has contacted them regarding this issue and others and has been advised to check back in later as the program NOFA gets issued and workshops are organized

Ineligible match sources include Housing Successor Agency Funds or HUD (CDBG & HOME) sources.

## Policy Decisions - Direction - Recommendations

- Program Guidelines - scale of the use of funding. For example, assistance to homeowners for down payment - owner occupied rehabilitation vs. financial support to affordable multifamily projects.

Recommendation - it is recommended program funding be used in support of affordable rental housing projects. This is the highest need from the HUD Consolidated Plan and Annual Action Plans. It also potentially leverages the highest number of units to be produced. It also ensures the specific income level targets from the program can be met.

- Operations - RFP for services vs. in house, depends on program priorities or guidelines, no internal loan underwriting capability.

Recommendation - if the program approach is to support affordable rental housing this approach would require fewer total awards at a potentially higher value per application and would likely eliminate the need for an outside RFQ/RFP to manage the program. A down payment assistance or rehabilitation program would require selection of an outside consultant through an RFQ/RFP, similar to the CalHome 21' by Self Help Enterprises. The cap on admin costs of 5% may not cover the full costs to loan underwriting and processing. Currently Staff does not have an estimate for these costs.

- Source of funding commitment - the program requires on going funding commitments and the grant application requires a specific request at a dollar-for-dollar basis.

Recommendation - it is recommended that the Council provide direction on the funding approach. Options include leveraging the current \$500,000 budget allocation over the five-year period, \$100,000 per year or leveraging the \$500,000 budget allocation and additional funding in the amount of \$100,000 per year for a total of \$1,000,000. Based on that decision the grant request needs to be on dollar-for-dollar request, minimum request is \$500,000.

It is unclear if HCD would allow the current \$500,000 to be matched since lump commitments do not appear to be eligible. This would need to be confirmed with HCD.

Staff is also seeking direction on the source of funds. If the decision is to utilize the current \$500,000 budget pledge spread across the five-year period, then no other decision is necessary. If the decision is to provide the current pledge and additional funding each year, staff is recommending the Council consider the following sources - PIP, or a combination of REAP 2.0 through 2026 and future PLHA after the REAP 2.0 period expires. An additional source may also include in lieu payments from RHNA production program.

- Other options to consider - establishment of a city specific vs. a county or regional level trust

Recommendation - Staff has no specific recommendation; however a county-wide regional trust is being evaluated by MCAG and could potentially leverage more funding than a local program. There are other specific requirements that would have to be met to form a trust at this level including partnership agreements.

## **IMPACT ON CITY RESOURCES**

No appropriation of funds is needed at this time. Depending on City Council Policy Direction funding will need to be allocated within the 2023-24 Annual Budget. Depending on the proposed use of funding it may require preparation of an RFP or RFQ to identify qualified partners to implement the program on behalf of the City.

## **ATTACHMENTS**

1. Presentation
2. 2022 HCD LHTF NOFA
3. 2020 HCD LHTF Program Guidelines
4. 2022 HCD LHTF FAQ's
5. Current City of Merced Affordable Housing Funding Resources