

RESOLUTION NO. _____

RESOLUTION APPROVING A SET OF GOALS AND PERFORMANCE MEASURES FOR EVALUATING CITY PARTICIPATION IN MIDDLE-INCOME WORKFORCE HOUSING PROPOSALS

WHEREAS, the City of Milpitas (the “City”), has been approached by the California Statewide Community Development Authority / Community Improvement Authority (Authority) to participate in a middle-income housing project involving an existing multi-family project in the City; and

WHEREAS, in advance of the City’s anticipated role in reviewing and approving this project and future income-based housing projects, the City Council desires to establish a set of Goals and Performance Measures for the purpose of uniformly evaluating and regulating City participation in these types of projects; and

WHEREAS, City staff have prepared a set of Goals and Performance Measures, attached hereto as Exhibit A, that provide a policy framework for evaluating middle-income workforce housing proposals, intended to apply to the current Authority project, as well as future Authority or similar housing projects by other entities; and

WHEREAS, these Goals and Performance Measures are intended to identify such factors as “affordability considerations,” “transparency and oversight,” “financial considerations,” and “level of capital investment” to guide the City Council in making a fair and balanced assessment of all middle-income workforce housing proposals it may consider; and

WHEREAS, it is in the public interest and for the public benefit that the City Council adopt these Goals and Performance Measures for the aforesaid purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

Section 1. The foregoing recitals are true and correct.

Section 2. The City hereby adopts the Goals and Performance Measures for evaluating potential City participation in middle-income workforce housing projects, in the form attached hereto as Exhibit A.

Section 3. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct any housing project or any refinancing of any housing project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, rehabilitation or operation of any housing project.

Section 4. This resolution shall take effect immediately upon its passage.

ADOPTED by the City Council of the City of Milpitas at a regular meeting of the City Council held on the ____ day of February 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Mayor

ATTEST:

City Clerk

SIGNATURE PAGE FOR JPA AGREEMENT

IN WITNESS WHEREOF, the CITY OF MILPITAS has caused this Agreement to be executed and attested by its duly authorized representatives as of the ____ day of February, 2022.

Additional Member:

CITY OF MILPITAS

By _____

Name:

Title:

ATTEST:

Clerk

EXHIBIT A:

Goals and Performance Measures for Evaluating City Participation in
Middle-Income Workforce Housing Proposals



City of Milpitas
Framework for Evaluating
City Participation in Middle-Income Workforce Housing Proposals

DRAFT GOALS AND PERFORMANCE MEASURES

AFFORDABILITY CONSIDERATIONS

GOAL A: AFFORDABILITY LEVEL

Project will primarily serve Moderate Income Households during the entire bond period.

Performance Measures:

- A1. Housing units will be below market-rate and affordable to Moderate-Income Households earning 81-120% average median income (AMI), as defined by the California Department of Housing and Community Development (HCD) maximum household income and rent limits for Santa Clara County. Units for Low-Income Households (80% AMI or below) as defined by HCD are also encouraged.
- A2. Maximum rents shall be based on Moderate Income Households paying a maximum of the 30% of their gross household income for housing costs consisting of rent and utility expenses paid by tenants.

GOAL B: RENT INCREASES

Rent increases will be limited to maintain the affordability of the project for primarily Moderate Income Households during the entire bond period.

Performance Measures:

- B1. Annual rent increases will not exceed 4% or the annual allowable percentage rent increase established by federal Department of Housing and Urban Development (HUD), whichever is lower.
- B2. Owner or Property Administrator agrees to submit proposed rent increases for City review and approval that verifies affordability requirements/covenants will continue to be maintained. City will be allowed 30 days to review and approve the rent increase proposal.

- B3. Owner or Property Administrator agrees to submit an annual report to City that certifies and confirms that affordability covenants, including rent increases, comply with HCD standards for affordability to Moderate Income Households.
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GOAL C: EXISTING TENANTS

Existing project tenants will not be displaced by the public benefit, regulatory, or other agreements.

Performance Measures:

- C1. Non-Qualified Tenants (exceeding 120% AMI per California Tax Credit Allocation Committee (CTCAC) standards) will be allowed to remain in unit paying market rents until they choose to move out.
- C2. Qualified Tenants (120% AMI or below per CTCAC standards) will be allowed to benefit from a minimum 10% reduction in current project market rents.
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GOAL D: LOCAL PREFERENCE POLICY

A preference program will be established for qualifying residents and employees with a primary work location in the City of Milpitas.

Performance Measures:

- D1. Subject to City review and approval, Owner or Property Administrator agrees to establish and administer a tenant preference program with administrative guidelines, marketing plan, and screening procedures that define benefiting households and employees. Confirm compliance with state and federal fair housing regulations.
- D2. Priority will be provided to qualifying teachers and administrative, maintenance, and support staff that are employed by the Milpitas Unified School District or other public education institution with a Milpitas job location.
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GOAL E: REGIONAL HOUSING NEEDS ALLOCATION (RHNA) CREDIT

Projects will qualify for full or partial RHNA credit, if feasible.

Performance Measures:

- E1. Project complies with AB 787 criteria for full or partial RHNA credit:
- a. No existing units affordable to very low, low, or moderate-income households;
 - b. Affordable to moderate income households for 55 years;
 - c. At least 10% reduction in average monthly rents from previous 12 months;
 - d. Rents based on 100% AMI established by CTCAC;
 - e. Units in decent, safe, and sanitary condition;
 - f. Project not acquired by eminent domain;
 - g. Government monitoring program established to ensure affordability and occupancy by qualifying households; and
 - h. A public entity shall hold an assignable right to purchase development.

FINANCIAL CONSIDERATIONS

GOAL F: QUALIFICATIONS OF PROJECT TEAM

Project will be owned and managed by a highly experienced and reputable Property Administrator and Property Manager.

Performance Measures:

- F1: Property Administrator demonstrates a minimum of ten years of extensive expertise and financial capability in financing, developing, and managing at least 5,000 units of comparable market-rate and affordable (income and rent restricted) residential projects in California.
- F2: Property Manager demonstrates a minimum of ten years of extensive financial and operations experience managing a portfolio of at least 5,000 units of comparable market-rate and affordable (income and rent restricted) residential projects in California, including administering local preference programs.

GOAL G: CITY EVALUATION OF PROPOSALS

Proposals will be evaluated for compliance with Goals and Performance Measures with professional and technical assistance as necessary.

Performance Measure:

- G1. Project proponent deposits funds as determined by the City to retain independent financial, economic, and/or property management consultants to analyze the proposal and provide findings and recommendations on affordability terms, cashflow analysis, pro forma, property condition assessment, capital improvement needs, bond/financing structure, administrative fees, and draft agreements.

GOAL H CITY REVENUES

City participation will not result in a loss of City property taxes, special taxes, or property tax in lieu of vehicle license fees (PTILVLF).

Performance Measures:

- H1. Project will fully backfill the City's any lost property tax and PTILVLF revenues through an upfront and/or annual payment of a Host Fee to the City with an annual increase of 2%. Host Fee shall be based on the post-sale assessed valuation of the property.
- H2. Host and other applicable City fees will be paid before operating expenses, administrator fees, debt service (bond principal and interest), and any bond reserve fund deposits, and will be paid from other sources if operating revenue is insufficient to meet this obligation.
- H3. For mixed used projects, property taxes pertaining to the non-residential portion of the property will continue to be paid.

- H4. Where applicable, an annual Infrastructure Fee will be paid equivalent to City special taxes pertaining to inclusion in a community facilities district or assessment district with annual increase as specified.
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GOAL I. PROJECT FINANCIAL VIABILITY

Project demonstrates positive cashflow and ability to fully cover its debt service and operating expenses during the bond or agreement period to reduce financial risks and assure long-term viability.

Performance Measures:

- I1. Through consultation with an independent real estate or economic consultant, income and expense assumptions conservatively reflect historical trends for residential projects in Milpitas or Santa Clara County.
 - I2. Project Condition Report demonstrates a minimum 1.0 Debt Coverage Ratio (DCR) during the entire bond period with rental income based on conservative assumptions and the affordability goals and performance measures in Goals A and B.
 - I3. Cash flow analysis and pro forma demonstrates ability to cover amortized principal and interest payments during the bond term based on conservative assumptions.
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GOAL J: CITY FINANCIAL RISK/BOND STRUCTURE

The financing plan and bond structure for the project is sound and consistent with industry standards for multi-family revenue bonds and reduces City risks and liability.

Performance Measures:

- J1. A minimum of 25% of the aggregate principal within 10 years of the bond issuance; bond term will not exceed 35 years.
- J2. Bonds will be optionally redeemable within 10 years of issuance with call premium consistent with investment grade municipal bonds.
- J3. Bond principal redemption will be mandatory and paid under the same lien position as bond interest payments.
- J4. Administrator fees will be paid after payment of bond interest and principal, any bond reserve fund deposits, and payable with annual excess cashflow only.
- J5. Bond issuance fees and expenses will be in line with other similar middle income housing programs in California.
- J6. Bond issuer will notify the City of any material changes to the project during the bond term, including updates to cashflow analyses or pro formas as needed.
- J7. Public Benefit Agreement or Regulatory Agreement includes indemnification clause that limits the City's liability and exposure at the Project Host and program participant.

- J8. City will be entitled to 100% of the property’s reversion value at the end of the bond term, without any obligation to share any proceeds to other taxing entities.

GOAL K: REFINANCING/ADDITIONAL DEBT

City will have the authority to approve any refinancing, restructuring, or issuance of additional debt.

Performance Measure:

- K1. Public Benefit Agreement, Regulatory Agreement, and/or Indenture includes provisions that stipulate the City's approval authority for any debt refinancing, restructuring, or issuance of additional debt or encumbrances during the bond term.

LEVEL OF CAPITAL INVESTMENT

GOAL L: CAPITAL IMPROVEMENTS

Capital improvement needs for the project are fully identified and funded for the entire bond or agreement period.

Performance Measures:

- L1. Capital improvement and replacement needs with estimated costs are determined that cover the entire bond period.
- L2. Project Condition Report (pro forma or cash flow analysis) demonstrates that capital improvement and replacement costs will be covered by project reserves and operating income during the entire bond period.
- L3. An updated capital improvement assessment will be prepared at least every five years, or sooner if requested by the City, that assesses the capital needs and expenses for the project during the remaining bond term and the sufficiency of reserve funds and operating income.
- L4. Owner or Property Administrator agrees to fund an independent consultant approved by the City to prepare the capital improvement assessment and agrees to adjust reserve funds to cover revised capital costs for the project, if necessary.

TRANSPARENCY AND OVERSIGHT

GOAL M: CITY ENFORCEMENT AUTHORITY

City will have enforcement authority over management of the project to ensure compliance with goals and performance measures during the bond or agreement period.

Performance Measures:

- M1. Public Benefit Agreement or Regulatory Agreement cites the City’s authority and remedies to enforce compliance with the housing affordability requirements.

- M2. Public Benefit Agreement or Regulatory Agreement defines the City's enforcement abilities, remedies, consequences, and resolution process if, upon review of annual certification and reports, project operations or responsible parties are found to be out of compliance with agreements.
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GOAL N: MONITORING AND REPORTING

City will be provided with regular reports regarding the financial and operational performance of the project during the bond or agreement period for project monitoring.

Performance Measures:

- N1. Certification: Owner or Property Administrator agrees to submit to the City an annual Certificate of Continuing Program Compliance for the project.
- N2. Property Financial, Management, and Maintenance Reports: Owner or Property Administrator agrees to submit an annual report to the City that describes the project operations and finances, including but not limited to:
- a. Rent roll and rent increases;
 - b. Vacancy rate;
 - c. Operating income and expenses;
 - d. Cashflow projection, operating funds, and reserves;
 - e. Bond interest and redemption payments and all bond specific payments;
 - f. Completed and planned capital improvements and replacements; and
 - g. Documentation on the general condition of the Project.
- N3. Independent Review: City reserves the right to require the property owner to fund an independent property and/or financial management consultant to review the reports required under G2 and provide an assessment of the project based on industry standards and best practices for management of residential property.
- N4. Monitoring Fee: Owner or Project Administrator agrees to submit to City an annual monitoring fee to cover City staff costs for project oversight and monitoring, with provision for an annual fee increase.
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GOAL O: PROJECT ADMINISTRATION AND MANAGEMENT

Project proponent demonstrates to the City that the project will comply with best real estate practices for management of residential property.

Performance Measures:

- O1. Owner or Property Administrator agrees to submit the following plans for City review and approval prior to execution of PBA: Tenant Selection Plan, with screening and qualification procedures; Local Preference Policy (per Goal D); Maintenance Plan; Property Management Plan, including staffing; and Marketing Plan.
- O2. City will have the authority to review and approve the selection of any replacement Property Administrator or Property Manager that may be proposed during the bond period, including new or revised agreements pertaining to the replacement company.