



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: March 29, 2019

TO: Honorable Council President Barbara Bry and Members of the City Council

FROM: Erik Caldwell, Deputy Chief Operating Officer, Neighborhood Services

SUBJECT: Informational Report Pursuant to the State of California Health & Safety Code 34176.1(f) for the fiscal year ended June 30, 2018

REQUESTED ACTION: Informational Item Only

SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE CITY COUNCIL.

BACKGROUND:

This Low and Moderate Income Housing Asset Fund Annual Report (Report) is being provided pursuant to California Health & Safety Code Section 34176.1(f). On October 13, 2013 Senate Bill No. 341 (SB 341) amended Section 34176 and added Section 34176.1, effective for January 2014.

SB 341 eliminated the former redevelopment agency's Low Mod annual reporting requirement to the California Department of Housing and Community Development (HCD). In its place SB 341 and subsequent legislation created a new set of requirements and restrictions on how the assets from the former Low Mod funds of the redevelopment agency should be used and reported. Section 34176.1(f) lists 13 reporting requirements for the annual report due on April 1, 2019.

The language of the adopted legislation is located on the HCD Website, <http://www.hcd.ca.gov/community-development/housing-element/index.shtml>, and requires that this report will be posted to City's Planning Department Website on or before April 1, 2019 and a paper copy will be attached as an addendum to the City of San Diego Housing Element Annual Report.

Attachment: Fiscal Year 2018 Low and Moderate Income Housing Asset Fund Annual Report

cc: Honorable Mayor Kevin Faulconer
Aimee Faucett, Chief of Staff, Office of the Mayor
Kris Michell, Chief Operating Officer
Stacey LoMedico, Assistant Chief Operating Officer
Rolando Charvel, Chief Financial Officer
Mara W. Elliott, City Attorney
Andrea Tevlin, Independent Budget Analyst

**REPORT ON THE LOW AND MODERATE INCOME HOUSING ASSET FUND
FOR THE FISCAL YEAR ENDING JUNE 30, 2018
PURSUANT TO
CALIFORNIA HEALTH AND SAFETY CODE SECTION 34176.1(f)**

The following Report (Report) on the Low and Moderate Income Housing Asset Fund (LMIHAF) has been prepared pursuant to Section 34176.1(f) of the California Health and Safety Code (Code) and is dated March 31, 2019. This Report sets forth certain details of LMIHAF activities performed by the City as housing successor (Housing Successor) to the former Redevelopment Agency of the City of San Diego (Redevelopment Agency) during the fiscal year ending June 30, 2018 (Fiscal Year). The purpose of this Report is to provide the required annual report on the housing assets and activities of the Housing Successor under Code sections 34176 and 34176.1.

The following Report is based upon information contained within the City of San Diego's Comprehensive Annual Financial Report (Audit) for Fiscal Year ending June 30, 2018, as audited by Macias Gini & O'Connell LLP (www.sandiego.gov/finance/financialrpts), and is organized into the following 13 sections to provide the information required by Code section 34176.1(f).

- I. Reinstated Loan Proceeds: This section shows the total amount received by the City of San Diego under reinstated loan agreements approved under Code section 34191.4(b)(3)(A).
- II. Amount Deposited into LMIHAF: This section provides the total amount of funds deposited into the LMIHAF during the Fiscal Year. Any amounts deposited pursuant to Code section 34191.4(b)(3)(B) or (C), and any amounts deposited for items listed on the Recognized Obligation Payment Schedule (ROPS), must be distinguished from other deposited amounts.
- III. Ending Balance of LMIHAF: This section provides a statement of the balance in the LMIHAF as of the close of the Fiscal Year. Any amounts held for items listed on the ROPS must be distinguished from the other amounts held in the LMIHAF.
- IV. Description of Expenditures from LMIHAF: This section provides a description of the expenditures made from the LMIHAF during the Fiscal Year by category. While not specifically required by Code section 34176.1(f), beginning in 2019, and every five years thereafter, this section will also provide the status of the Housing Successor's compliance with the requirements of Code section 34176.1(a)(3)(A). In addition, the Housing Successor may provide a status update in each annual report regarding its compliance with the requirements of Code section 34176.1(a)(3)(A) for informational purposes.

- V. Value of Real Property and Loans and Grants Receivable Held by the Housing Successor: This section provides the statutory value of real property owned by the Housing Successor, the value of loans and grants receivable, and the sum of these two amounts.
- VI. Description of Transfers to Other Housing Successors: This section describes any transfers from the LMIHAF to another housing successor made in previous fiscal years pursuant to Code section 34176.1(c)(2), including whether the funds are unencumbered and the status of any projects for which the transferred funds will be used.
- VII. Project Descriptions: This section describes any project for which the Housing Successor receives or holds property tax revenue pursuant to the ROPS and the status of that project.
- VIII. Status of Compliance with Code section 33334.16: For interests in real property acquired by the former Redevelopment Agency prior to February 1, 2012, this section provides a status update on compliance with Code section 33334.16. For interests in real property acquired on or after February 1, 2012, this section provides a status update on the project.
- IX. Description of Outstanding Obligations Pursuant to Code section 33413: This section describes any outstanding inclusionary and replacement housing obligations pursuant to Code section 33413 that remained to transfer to the Housing Successor on February 1, 2012, the Housing Successor's progress in meeting those obligations, and the Housing Successor's plans to meet unmet obligations.
- X. Status of Compliance with Code section 34176.1(a)(3)(B) and (C): This section provides the information required by Code section 34176.1(a)(3)(B) and (C), which only applies for the report issued in 2019 and every five years thereafter, and only if it is determined that the expenditure restrictions of Code section 34176.1(a)(3)(A) have not been met during the preceding five fiscal years.
- XI. Senior Housing Test: This section provides the percentage of units of deed-restricted rental housing restricted to seniors and assisted individually or jointly by the Housing Successor, its former Redevelopment Agency, and its host jurisdiction within the previous 10 years in relation to the aggregate number of units of deed-restricted rental housing assisted individually or jointly by the Housing Successor, its former Redevelopment Agency and its host jurisdiction within the same time period.
- XII. Excess Surplus Test: This section provides the amount of any "excess surplus," as defined in Code section 34176.1(d), the amount of time that the Housing Successor has such excess surplus, and the Housing Successor's plan for eliminating the excess surplus.

- XIII. Inventory of Homeownership Units: This section provides an inventory of homeownership units assisted by the former redevelopment agency or the Housing Successor that are subject to covenants or restrictions or to an adopted program that protects the former Redevelopment Agency's investment of affordable housing funds pursuant to subdivision (f) of Section 33334.3.

This Report shall be provided to the Housing Successor's governing body and included in the report required under California Government Code section 65400. This Report is available to the public on the City's website at www.sandiego.gov/planning/genplan/documents. In addition, the former Redevelopment Agency's pre-dissolution implementation plans are available to the public on Civic San Diego's website at <http://civicsd.com/archives/>.

I. REINSTATED LOAN PROCEEDS

During the Fiscal Year, the City of San Diego received a total of \$10,696,624 in repayments under reinstated loan agreements pursuant to Code section 34191.4(b)(3)(A), and twenty percent of such amount was deposited into the LMIHAF in accordance with Code section 34191.4(b)(3)(C), as specifically described in section II below.

II. AMOUNT DEPOSITED INTO LMIHAF

According to the Audit, a total of \$6,990,669 was deposited into the LMIHAF during the Fiscal Year. Of the total funds deposited into the LMIHAF during the Fiscal Year, a total of \$0 was held for items listed on the ROPS, a total of \$0 was deposited pursuant to Code section 34191.4(b)(3)(B), and a total of \$2,139,325 was deposited pursuant to Code section 34191.4(b)(3)(C).

III. ENDING BALANCE OF LMIHAF

Pursuant to the Audit, at the close of the Fiscal Year, the ending cash balance in the LMIHAF was \$53,959,061 of which \$0 is held for items listed on the ROPS.

IV. DESCRIPTION OF EXPENDITURES FROM LMIHAF

In compliance with Code section 34176.1(f), the following table describes the expenditures from the LMIHAF by category during the Fiscal Year:

	LMIHAF
Monitoring & Administration Expenditures	\$ 1,879,180
Homeless Prevention and Rapid Rehousing Services Expenditures	-
Housing Development Expenditures	
Low Income Units (80% to 60% of area median income)	1,081,875
Very-Low Income Units (31% to 59% of area median income)	4,269,918
Extremely-Low Income Units (30% or less area median income)	1,758,234
Total LMIHAF Expenditure in Fiscal Year	8,989,207

Source: City Department of Finance and Civic San Diego

V. VALUE OF REAL PROPERTY AND LOANS AND GRANTS RECEIVABLE HELD BY THE HOUSING SUCCESSOR

This section includes the statutory value of real property owned by the Housing Successor, the value of the Housing Successor's loans and grants receivable, and the sum of these two amounts.

Under Code section 34176.1(a)(1) and for purposes of this Report, "statutory value of real property" means the value of properties formerly held by the former Redevelopment Agency as listed on the housing asset transfer form approved by the Department of Finance pursuant to Code section 34176(a)(2), the value of the properties transferred to the Housing Successor pursuant to Code section 34181(f), and the purchase price of properties purchased by the Housing Successor.

	Book Value As of End of Fiscal Year
Statutory Value of Real Property Owned by Housing Successor Agency	
Capital Assets	\$ 31,222,721
Land Held for Resale	20,778,046
Total Real Property Owned by Housing Successor Agency	52,000,767
Value of Loans and Grants Receivable	262,773,104
Total Value of Real Property and Loans and Grants Receivable	314,773,871

VI. DESCRIPTION OF TRANSFERS TO OTHER HOUSING SUCCESSORS

The Housing Successor did not make any LMIHAF transfers to other housing successors pursuant to Code section 34176.1(c)(2) during the Fiscal Year.

VII. PROJECT DESCRIPTIONS

The following is a description of projects for which the Housing Successor receives or holds property tax revenue pursuant to the ROPS as well as the status of the projects as of the end of the Fiscal Year:

			Funding Source	
Project Name	Description	Status of Project	Bonds	RPTTF
Yale Lofts	14 units - Affordable Rental Housing Project	Monthly Lease Obligation Payment		X

Source: Civic San Diego

VIII. STATUS OF COMPLIANCE WITH CODE SECTION 33334.16

Code section 33334.16 requires that the Housing Successor initiate affordable housing development activities regarding real property acquired before February 1, 2012, using moneys from the former Low and Moderate Income Housing Fund, within five years from the date the property was acquired. The five year period may be extended for an additional five years by a resolution adopted by the local agency's legislative body. Pursuant to Code section 34176.1(e), these time periods are deemed to commence as of the date the Department of Finance approved the real property as a housing asset, which occurred on January 4, 2013, for all housing assets transferred to the Housing Successor. These five year time periods apply only to interests in real property acquired by the former redevelopment agency moneys from the former Low and Moderate Income Housing Fund before February 1, 2012.

The City Council adopted Resolution R-311416, effective November 20, 2017, extending the time period to initiate affordable housing development activity on remaining real property housing assets acquired before February 1, 2012, using moneys from the former Low and Moderate Income Housing Fund, for an additional five year period, until January 3, 2023.

The following table provides a status update on the properties acquired by the former redevelopment agency using moneys from the former Low and Moderate Income Housing Fund prior to February 1, 2012:

Address of Property	Date of Acquisition	Deadline to Initiate Development Activity	Status of Housing Successor Activity
See Schedule A			

Source: Civic San Diego

The following table provides a status update on the properties that have been acquired using monies from LMIHAF on or after February 1, 2012:

Address of Property	Date of Acquisition	Deadline to Initiate Development Activity	Status of Housing Successor Activity
See Schedule B			

Source: Civic San Diego

IX. DESCRIPTION OF OUTSTANDING OBLIGATIONS PURSUANT TO SECTION 33413

Replacement Housing: The former Redevelopment Agency did not have any replacement housing obligations at the time of dissolution.

Inclusionary / Production Housing: Code section 34176.1(f)(9) does not specify whether inclusionary and production housing obligations should be reported by individual redevelopment project areas or aggregated without regard to project areas. If viewed in the aggregate, there are no outstanding inclusionary or production obligations. If this obligation is reported by project areas, as of February 1, 2012, the production obligation totals were 86 very low income and 79 low/moderate income units in Southeastern San Diego, College Community, Crossroads, Grantville and Naval Training Center project areas, collectively. In FY 2015, COMM22 was completed and contributed 9 very low income units toward the outstanding obligation. In FY 2016, Alpha Square was completed and contributed 59 very low income units toward the outstanding production obligation. In FY 2017 Atmosphere was completed and contributed 18 very low income units and 79 low/moderate income units toward the outstanding production obligation. Therefore, the total outstanding production obligation for all project areas has been completed. The following table provides a status of outstanding obligations pursuant to Code section 33413.

As of February 1, 2012	Completed FY 2015	Completed FY 2016	Completed FY 2017	No Outstanding Obligations as of June 30, 2017
See Schedule C				

Source: Civic San Diego

X. STATUS OF COMPLIANCE WITH CODE SECTION 34176.1(a)(3)(B) AND (C)

Code section 34176.1(a)(3)(A) requires that at least 30% of the funds remaining in the LMIHAF after the expenditures allowed pursuant to Code section 34176.1(a)(1) and (2) be expended for development of housing affordable to and occupied by households earning 30% or less of the area median income (Extremely-Low Income Housing). Under Code section 34176.1(a)(3)(B), if the Housing Successor fails to comply with this Extremely-Low Income Housing requirement in any five year report beginning with the five year report to be issued in 2019, then the Housing Successor must ensure that at least 50% of the remaining LMIHAF expended in each fiscal year following the latest fiscal year following that five year report are expended for the development of Extremely-Low Income Housing until the Housing Successor demonstrates compliance with the Extremely-Low Income Housing requirement in an annual report.

For informational purposes, the following provides the status of the Housing Successor's compliance with the Extremely-Low Income Housing requirement as of the fifth fiscal year ending June 30, 2018 (includes fiscal years 2014 through 2018):

Extremely-Low Income Test	
First 5 Year Test	LMIHAF
Extremely-Low Income Units	\$ 4,191,778
Total Expenditures for Low Income Units	13,849,987
Extremely-Low Income Test	30.3%

Source: City Department of Finance and Civic San Diego

XI. SENIOR HOUSING TEST

The Housing Successor is to calculate the percentage of units of deed-restricted rental housing restricted to seniors and assisted by the Housing Successor, the former Redevelopment Agency and/or the City within the previous 10 years in relation to the aggregate number of units of deed-restricted rental housing assisted by the Housing Successor, the former Redevelopment Agency and/or City within the same time period. Under Code section 34176.1(b), if this percentage exceeds 50%, then the Housing Successor cannot expend future funds to assist additional senior housing units until the City, in its capacity as the Housing Successor or as host jurisdiction, assists and construction has commenced on a number of restricted rental units that is equal to 50% of the total

amount of deed-restricted rental units assisted by the Housing Successor, the former Redevelopment Agency and/or City within the time period described above.

The following table provides the Housing Successor's Senior Housing Test for the 10 year period from July 1, 2008 to June 30, 2018:

Senior Housing Test	FY 08/09 to FY 17/18
# of Assisted Senior Rental Units	356
# of Total Assisted Rental Units	3396
Senior Housing Percentage	10.48%

Source: Civic San Diego and San Diego Housing Commission

XII. EXCESS SURPLUS TEST

"Excess surplus" is defined in Code section 34176.1(d) as an unencumbered amount in the LMIHAF exceeding the greater of one million dollars (\$1,000,000) or the aggregate amount deposited into the LMIHAF during the Housing Successor's preceding four fiscal years. Code section 34176.1(d) does not indicate whether "preceding four fiscal years" includes the Fiscal Year for which the excess surplus is being calculated (e.g., whether fiscal years 2014-2017 or fiscal years 2015-2018 period is the appropriate four year period for calculating the excess surplus existing at the close of fiscal year 2018). To address this ambiguity, the Housing Successor relies on the context provided by Code Section 33334.12(g) governing calculation of excess surplus for the former Low and Moderate Income Housing Fund held by the former redevelopment agency prior to redevelopment dissolution, which provides in relevant part:

"Excess surplus" means any unexpended and unencumbered amount in the agency's Low and Moderate Income Housing Fund that exceeds . . . the aggregate amount deposited into the Low and Moderate Income Housing Fund . . . during the agency's preceding four fiscal years. The first fiscal year to be included in this computation is the 1989-90 fiscal year, and the first date on which an excess surplus may exist is July 1, 1994. (Code section 33334.12(g)).

Under Code Section 33334.12(g), the deposits made during the four fiscal years preceding the fiscal year for which the excess surplus is being calculated are included in the calculation. While Code section 34176.1(d) does not include a similar example, the absence of any evidence of legislative intent to change the applicable four year period calculation of the LMIHAF excess surplus indicates that it should be using the same four year period provided in Code section 34176.1(d).

As the general purpose of the excess surplus calculation is to ensure that money in the LMIHAF is timely expended for low-income housing purposes, the best practice for the Housing Successor is to expeditiously encumber or expend money currently on deposit in the LMIHAF.

As of June 30, 2018, the Housing Successor does not hold any excess surplus in the LMIHAF, as demonstrated in the following table:

Excess Surplus	Deposits	Unencumbered
FY 2018 Unencumbered		\$ 41,858,973
FY 2014 Deposits	13,762,309	
FY 2015 Deposits	9,988,969	
FY 2016 Deposits	21,075,082	
FY 2017 Deposits	19,348,350	
Total Deposits - 4 preceding years		64,174,710
Excess Surplus Calculation		(22,315,737)

Source: City Department of Finance and Civic San Diego

XIII. INVENTORY OF HOMEOWNERSHIP UNITS

Assembly Bill 1793 requires the annual reporting of any homeownership units assisted by the former Redevelopment Agency or the Housing Successor that are subject to restrictions, covenants, or an adopted program that protects the former Redevelopment Agency's investment of moneys from the former Low and Moderate Income Housing Fund pursuant to Code section 33334.3(f).

The following table provides a status of inventory of homeownership units:

Inventory of Homeownership Units
See Schedule D

Source: Civic San Diego