OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

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Agenda Item **No.5(e)**
Meeting of October 3, 2023

TO: Community Investment and Infrastructure Commissioners

FROM: Thor Kaslofsky, Executive Director

SUBJECT: Informational Update on the legislative status of Senate Bill No. 593 authorizing OCII to finance the construction of replacement affordable housing units

EXECUTIVE SUMMARY

Senate Bill No. 593 (Wiener) has been approved by both the Senate and Assembly and is with Governor Newsom for signature. Senate Bill No. 593 authorizes the Office of Community Investment and Infrastructure ("OCII"), to use a limited form of tax increment financing to fund and develop the 5,842 units that the former San Francisco Redevelopment Agency the ("Former Agency") destroyed and that were never replaced ("Replacement Housing Obligation"). SB 593 authorizes debt financing secured by redevelopment property tax increment that would otherwise be allocated to the City and County of San Francisco ("City") after other existing obligations of OCII are paid. This source of funding is limited and thus issuing bonds to pay for the housing construction will occur over many years.

With the limited pool of tax increment, there is a need to prioritize the use of these funds. During the legislative, public hearing, and outreach process, we received questions and feedback about if OCII would develop affordable housing in areas where urban renewal era displacement occurred and or in existing Project Areas, and if there would be near-term affordable housing opportunities, especially to Certificate of Preference holders ("COP"). OCII will be seeking further stakeholder input to create a broad policy framework for prioritization of Replacement Housing projects.

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DISCUSSION

Background for Replacement Housing

The Community Redevelopment Law ("CRL") required redevelopment agencies to construct affordable units whenever it destroyed or removed units that had been occupied by low- or moderate-income households. Cal. Health & Safety Code § 33413 (a). This requirement became effective January 1, 1976. It applied only to future actions of a redevelopment agency and established several standards for the type of housing developed as replacement housing.

Prior to 1976, the Former Agency had destroyed, as part of federally-funded urban renewal, 14,207 affordable units, but only produced 7,498 affordable units. In 2000, at the urging of the Former Agency and the City, the California legislature adopted Senate Bill No. 2113 (Burton) (Chapter 661 of the Statutes of 2000) authorizing the Former Agency to use tax increment financing to fund and develop affordable housing to replace those units destroyed by the Former Agency. Cal. Health & Safety Code § 33333.7. Under SB 2113, HCD certified, in 2003, "a net loss of 6,709 units the Agency must replace."

Prior to its dissolution, the Former Agency was only able to approve and develop 867 replacement units out of the total 6,709 leaving an outstanding balance of 5,842 affordable units that needed to be replaced. Since the 2012 dissolution of the Former Agency, the City and OCII unsuccessfully sought on several occasions to establish that the Replacement Housing Obligation was required to continue after the dissolution of the Former Agency.

One of the requirements for replacement housing units was that they be replaced within four years after they are destroyed or removed from the market. This requirement is not feasible for the replacement of units destroyed 50-60 years ago through urban renewal, but it does highlight the need for expeditious action in replacing the units. Additionally, as a policy goal, any replacement housing units built prior to 2031 will contribute to the 46,600 units affordable to low- and moderate-income households that the City is required by the State of California to build pursuant to San Francisco's approved Housing Element.

Senate Bill ("SB") 593

Senate Bill No. 593 (Wiener) has been approved by the Senate and Assembly and is with Governor Newsom for signature. Senate Bill 593 authorizes OCII to use a limited form of tax increment financing to fund and develop the 5,842 units that are the Replacement Housing Obligation. Senate Bill 593 authorizes debt financing secured by redevelopment property tax increment that would otherwise be allocated to the City after other existing obligations of OCII are paid. Although this source of funding is limited, it protects funding for schools and other taxing entities that receive property tax revenues and thus had widespread support in the legislature. Given the limited pool of tax increment available for this purpose, completion of the 5,842 affordable units will take many years.

Specifically, SB 593 authorizes OCII to issue bonds or incur other indebtedness for the purpose of financing the construction of replacement affordable housing units demolished and not replaced by the former redevelopment agency and the replacement of the obsolete affordable units that were constructed previously. SB 593 relies on the standards in the Community Redevelopment Law for developing replacement housing. See SB 593, Section 1 (n) (providing that OCII shall "to the greatest extent feasible, replace the amount of lost units . . . according to the formulas in Section 33413 of the Health and Safety Code"). Section 33413 provided that the replacement housing units:

- may be built anywhere within the territorial jurisdiction of the city or county in which the redevelopment agency was located;
- must be available at "affordable housing cost to persons in the same or a lower income category (low, very low, or moderate), as the persons displaced from those destroyed or removed units;"
- must remain affordable "for the longest feasible time, [which] includes, but is not limited to, unlimited duration;"
- must be subject to affordability restrictions enforceable through recorded covenants; and
- are independent of a redevelopment agency's other obligations to produce housing.

SB 593 adds to existing OCII authority under Redevelopment Dissolution Law (Statutes 2015, Chapter 325, sections 9 & 27, *codified* at Cal. Health & Safety Code § 34177.7) to finance and develop affordable housing required under enforceable obligations previously approved by the Department of Finance, i.e. the Mission Bay North Owner Participation Agreement, the Mission Bay South Owner Participation Agreement, the Disposition and Development Agreement for Hunters Point Shipyard Phase 1, the Candlestick Point-Hunters Point Shipyard Phase 2 Disposition and Development Agreement, and the Transbay Implementation Agreement.

SB 593 adds replacement housing as an enforceable obligation under Redevelopment Dissolution Law requiring: the development, construction, repair, renovation, or reconstruction of up to 5,842 units of affordable housing by or on behalf of the City and County of San Francisco that shall be or remain affordable to, and occupied by, persons and families of extremely low, very low and moderate income households for the longest feasible time, but not less than 55 years for rental units and 45 years for owner-occupied units.

<u>Certificate of Preference Holders</u>

OCII and the Mayor's Office of Housing and Community Development ("MOHCD") currently provide a preference in all OCII and City-sponsored affordable housing to low- and moderate-income households who were displaced as a result of the demolition of units (COP holders). In 2022, the state legislature expanded this preference to include the descendants of displaced persons who are income-eligible for OCII and Former Agency projects. Since FY 13-14 OCII has undertaken significantly more robust early outreach and marketing protocols to maximize the number of COP holders who are aware of and apply for housing opportunities in San Francisco and will continue to evaluate and enhance that process in collaboration with the Commission's COP Subcommittee and present annual reports to the Commission. Staff also plans to conduct a COP holder survey in 2024, similar to the survey that was conducted in 2017, seeking updated information on COP holder housing needs. As with all OCII-funded projects, COP holders will receive first preference for all units developed using funds generated by SB 593, which will, expand affordable housing options for COP holders, including descendants, other preference populations and others in need of affordable housing.

Bond Financing and Timing

The funding for affordable housing under SB 593 will depend on future property tax revenues generated in former and current redevelopment project areas and on the funding needs of other OCII enforceable obligations, which will have a higher priority under law for the use of the property tax revenues. OCII is working on estimates of the amount of revenues that will be available, but staff projects its first bond issuance may occur in 2025.

There are several factors which could affect the size of the bond issuance, including estimated tax increment revenue, costs of the bond issuance, as well as estimated housing project costs. To determine the actual amount which could be issued, staff will begin a solicitation for a financing team in early 2024. The financing team will include a fiscal consultant that has specialized knowledge of the revenue base supporting the bonds and provides a revenue analysis that determines OCII's bonding capacity pursuant to SB 593.

Replacement Housing Priorities

In the near term, staff will develop and recommend to the Commission a "*Replacement Housing Priority Policy*" which will establish broad categories to prioritize the use of bonds to create replacement housing.

See the below planned outreach:

- *September 29, 2023*: Commission COP Subcommittee- Update on legislative status, summary of, and policy framework of SB 593.
- *October 3, 2023:* Commission Workshop- Update on legislative status, summary of, and policy framework of SB 593, discuss outreach/feedback process (no action)
- *October 12-16, 2023:* Citizen's Advisory Committees ("CAC") for Mission Bay, Transbay, and Hunters Point Shipyard/Candlestick Point - Update on legislative status, summary of, and policy framework of SB 593, discuss outreach/feedback process.
- *October 17, 2023*: Commission Workshop- Update on signing of SB 593, community feedback, and policy recommendation (no action).
- *November 7, 2023*: Commission- Community feedback and policy recommendation (action).

Projects should fit the Replacement Housing Priority Policy to be considered for award in each funding round. During the review of Replacement Housing projects, the community would be engaged through OCII CACs and public hearings, as well as during site selection and developer solicitation for particular projects. Also each project will undergo the same robust review and approval process that all current OCII-funded affordable housing projects, including compliance with OCII's Equal Opportunity Program, e.g. small business utilization, local hire, prevailing wage, etc., underwriting and financial review by the Citywide Affordable Housing Loan Committee, as well as public hearings at the Commission. COP holders will continue to be the highest priority for marketing and housing placement for Replacement Housing projects.

NEXT STEPS

- Provide SB 593 update to CACs and solicit input on a Replacement Housing Priority Policy
- Adopt a Replacement Housing Priority Policy; and
- Issue developer team solicitations for initial replacement housing priority projects; and
- Work with MOHCD and key constituents to determine priority projects; and
- Solicit bond financing team for the initial replacement housing bond issuance.

(Originated by Marc Slutzkin, Deputy Executive Director and Elizabeth Colomello, Housing Program Manager)

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