



# City of Sunnyvale

## Agenda Item

24-0712

Agenda Date: 6/26/2024

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### REPORT TO HOUSING AND HUMAN SERVICES COMMISSION

#### SUBJECT

Consider Request from Charities Housing for Forgiveness or Extension of \$100,000 CDBG Loan for HomeSafe Santa Clara

#### BACKGROUND

In 2000, the City awarded a Community Development Block Grant (CDBG) loan to Charities Housing Development Corporation (Charities) and HomeSafe Santa Clara LP to develop a shared housing community that would serve 24 low/very-low income survivors of domestic violence, called HomeSafe. The City entered into a loan agreement with Charities for \$100,000 and issued a loan in December 2000 (Attachment 2). The 55-year loan was funded with federal CDBG funds and the property is deed restricted for fifty-five years to provide affordable housing. HomeSafe serves survivors of domestic violence with incomes at or below 80% of the Area Median Income.

The loan repayment directive is:

- A principal loan amount of \$100,000 with accrued interest (3% per year) being deferred for the loan term of fifty-five (55) years and due in full in 2055.

As of June 26, 2024, the loan with the City of Sunnyvale has a principal and interest balance of \$170,668.

HomeSafe received other construction loans of approximately \$1.5 million from the County and cities within the County. Subsequent to the initial construction, other loans have been awarded for maintenance and upgrades to the development.

In recent months, Charities has concluded that the current shared housing model does not have long-term sustainability and believe the most viable action is to demolish HomeSafe and construct a new 70-unit affordable housing development that will set aside 24 units for domestic violence survivors.

On May 1, 2024, Charities requested the City consider the following three potential loan disposition strategies (Attachment 3):

1. Forgive \$100,000 loan at time of HomeSafe demolition;
2. Extend loan maturity date for fifty-five (55) years to match new funding and subordinate to new funding sources; or
3. Make no changes to existing loan agreement and receive full payment at time of demolition.

The City Council will consider this item on July 23, 2024.

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## **EXISTING POLICY**

### **Housing Element of the General Plan**

**GOAL H-2 Affordable Housing and Home Buyer Assistance** - Assist in the provision of affordable housing to meet the diverse needs of Sunnyvale's lower- and moderate-income households.

**Policy H-2.1 Maximize Affordable Housing.** Leverage local financial assistance with other sources of funding and identify new funding sources for affordable housing to maximize the number of affordable units and to reach the deepest level of affordability.

**Policy H-3.4 Preservation of Affordable Rental Housing.** Work with property owners, tenants, and non-profit purchasers to facilitate the preservation of publicly-assisted rental housing and at-risk below-market rate units to maintain affordability to lower-income households.

## **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

## **DISCUSSION**

On May 1, 2024, Charities requested that the City Council consider (1) forgiving the total principal and interest of the HomeSafe CDBG loan at the time of demolition; (2) extending the loan repayment date an additional fifty-five (55) years (i.e., matures in 2080) and subordinate the loan to new funding sources; or (3) adhering to the existing loan agreement under which Charities would repay the loan at the time of demolition (Attachment 3).

HomeSafe has operated for twenty-two (22) years and Charities' capital operating reserve is approaching depletion without the capacity to put funding aside in reserves for loan repayments. Further, Charities has indicated that the repayment of loans has been very challenging. The main debt on the property is a loan from the California Department of Housing and Community Development (HCD), in a senior position, limiting Charities' ability to pay down junior loans (such as the one from the City), and several other HOME and CDBG loans from the County and other cities. As of the date of this report, Charities has not made payments to the principal of the loan as the loan is fully deferred. The principal remains at \$100,000 with current interest calculated at \$70,668 and future interest estimated to be an additional \$94,438 if no payments are made to the existing maturity date in 2055.

In the 22 years that HomeSafe has been operating, one household from Sunnyvale has moved into HomeSafe.

### **City Use of CDBG Loan Repayments**

When federal CDBG or HOME loans are repaid, whether that be through traditional payments, residual receipt payments, or loan maturity final lump sum payments, the payments are deposited as "Program Income" to the original funding source. Since this loan was funded with CDBG, the

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payments would be recorded as CDBG Program Income (PI). PI can then be used to fund future projects or deposited into a Revolving Loan Fund (RLF), which is an independent fund of other CDBG accounts, and is set up for the purpose of carrying out specific activities that generate payments in hopes the fund will be self-sustaining. In recent years, all CDBG PI is put into the City's CDBG Housing Revolving Loan Fund and used to operate the City's in-house Home Improvement Program (HIP).

The HIP program provides grants and low-interest deferred loans to lower-income Sunnyvale homeowners and can be used to fund roof repairs, mobile home repairs, energy efficiency projects, major home repairs (e.g., bathroom remodels), paint grants, emergency grants (e.g., water heaters, sewer line repairs, etc.), and more. There remains a high demand for all HIP grants and loans, especially with seniors that have extremely-low income but hope to remain in their homes and age in place. The City also uses this PI to fund three quarters of one full-time staff member to manage this Housing Division program from application all the way to final inspection.

Due to Sunnyvale's limited annual CDBG allocation, without PI being deposited into the CDBG RLP, the HIP program would simply not be able to operate. While the principal loan amount is only approximately 6.5% of the total CDBG and HOME funding that the project received, this amount would make an immediate impact in Sunnyvale's RLF to fund rehabilitation projects. The City has received \$366,000 in CDBG PI over the last three years and anticipates receiving approximately \$315,244 over the next five (5) years between residual receipt loan payments and loan maturity payment (not accounting for loan repayment of this loan for HomeSafe).

### **Setting Precedent**

The concern about precedent is also justified, as various borrowers have approached staff during recent years to inquire about the potential of modifying the terms on other City loans. The City has received three formal requests for loan forgiveness of CDBG funds in the past five years:

- a \$400,000 CDBG loan to Sunnyvale Community Services which was forgiven (RTC No. 19-0929);
- approximately \$47,500 CDBG loan to Second Harvest which was denied (RTC No. 22-1124), though the City Council repaid that loan with Council set-aside funding (RTC No. 23-0143); and,
- the subject request.

This volume of loan forgiveness requests is an indication that more borrowers may come forward with such requests in the future, depending on how the Housing and Human Services Commission (HHSC) and City Council respond to this request. The federal Department of Housing and Urban Development (HUD) allows loan forgiveness or extensions but recommends these practices do not become a regular occurrence.

If the loan forgiveness request is approved, the balance of the loan would be \$0 at the time of demolition and relocation of tenants. If the loan is extended, the loan and affordability period would extend for fifty-five (55) additional years, i.e., approximately 2080. As the current loan agreement provides that \$100,000 of the total loan shall be deferred for fifty-five (55) years, the new extended Loan Agreement can also remain deferred or can be amended at the discretion of Council.

If the loan is not forgiven or extended, the loan would be due and payable in full (currently \$170,668)

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upon demolition of HomeSafe in accordance with their existing Loan Agreement.

### **FISCAL IMPACT**

If the request to *forgive* the CDBG loan is approved, it would reduce projected loan payment revenues to the CDBG Revolving Loan Fund in 2055 by \$265,107 including principal and interest. If the request to *extend* the loan is approved, the City would not collect payment on the loan until approximately 2080. The current fund balance of the City's CDBG Housing Revolving Loan Fund is very low, and loan repayments are critical to replenishing available revenue to fund ongoing operations.

Program Income is extremely difficult to predict as some loans are paid off early, but a steady decline in PI has occurred for several years. The main reason is due to a HUD program change in Program Year 2017. Starting in Program Year 2018, HUD began requiring RLF fund balances in the citywide timeliness calculation, and thus the City must have an RLF balance that only reflects what can be spent each year, to avoid timeliness issues. Sunnyvale is only allowed to have 1.5 times their annual allocation (roughly \$1.5 million) as a total account balance (RLF and regular CDBG entitlement funds) at the end of every fiscal year, which limits any city's availability to store funds for low PI revenue years.

### **PUBLIC CONTACT**

Public contact was made by posting the Housing and Human Services meeting agenda on the City's official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website.

### **ALTERNATIVES**

Recommend the City Council:

1. Approve the CDBG Loan Forgiveness Request from Charities for HomeSafe Santa Clara and waive all financial requirements of the loan agreement and authorize the City Manager to enter into a loan forgiveness agreement.
2. Approve the CDBG Loan Extension Request from Charities for HomeSafe Santa Clara for a new 55-year term and Authorize the City Manager to enter into an amendment to the Loan Agreement and an agreement to subordinate to new funding sources for new construction.
3. Do not approve the CDBG Loan Forgiveness or Extension Request from Charities for HomeSafe Santa Clara, and require the loan be due and payable upon HomeSafe demolition in accordance with the Loan Agreement.
4. Other Council Direction.

### **RECOMMENDATION**

Alternative 3: Do not approve the CDBG Loan Forgiveness or Extension Request from Charities for HomeSafe Santa Clara, and require the loan be due and payable upon HomeSafe demolition in accordance with the Loan Agreement.

While the financial stability of HomeSafe and their services is important, the difficulty of maintaining an appropriate balance in the RLF causes the delay of payment to be critical to the fund. While the

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City does not wish for Charities to be burdened with an earlier payment schedule, it is noted that the project transition from community living to affordable housing in Santa Clara could further affect the service level to the Sunnyvale community, and the repayment of this CDBG loan would allow the City to award greater funds to Sunnyvale residents through the HIP over future years.

If the City Council decides to extend the loan, the new housing would still be available to help Sunnyvale residents who are victims of domestic violence, plus there will be additional housing units for other lower income households. The additional housing units will have a local preference for City of Santa Clara residents; therefore, Sunnyvale residents may have a lower priority access to the new housing.

### **LEVINE ACT**

The Levine Act (Gov. Code Section 84308) prohibits city officials from participating in certain decisions regarding licenses, permits, and other entitlements for use if the official has received a campaign contribution of more than \$250 from a party, participant, or agent of a party or participant in the previous 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. For more information see the Fair Political Practices Commission website: [www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html](http://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html)

A check or "Y" in the checklist below indicates that the action being considered falls under a Levine Act category or exemption:

#### **SUBJECT TO THE LEVINE ACT**

- Land development entitlements
- Other permit, license, or entitlement for use
- Contract or franchise

#### **EXEMPT FROM THE LEVINE ACT**

- Competitively bid contract
- Labor or personal employment contract
- General policy and legislative actions

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### **ATTACHMENTS**

1. Reserved for Report to Council
2. Existing Loan Agreement for HomeSafe Santa Clara
3. Loan Strategy Request from Charities Housing