DATE: January 16, 2018

AGENDA ITEM # 1

TO: City Council

FROM: Katy Wisinski, City Attorney's Office
Christopher J. Diaz, City Attorney

SUBJECT: 2017 Legislative Housing Package

RECOMMENDATION:

Receive presentation from the City Attorney's Office.

PURPOSE

Last fall, the Legislature passed and the Governor signed 15 new housing bills into law. Collectively, these bills will substantially change how proposed housing applications are processed, approved or denied, and documented. The City Attorney's office has prepared a brief overview of the relevant bills and will present it to the City Council for their consideration. No action is anticipated on the part of the Council this evening.

BACKGROUND

As is frequently noted in the press, California faces a severe housing shortage. The reasons for this are complex and varied, and include high land prices, uncertainties posed by environmental challenges, opposition from neighbors, and soaring demand in urban areas. In addition, however, there is a popular belief among some lawmakers that a prominent factor in this shortage is the reluctance of local governments to approve housing projects, particularly those that include affordable units. While land use is generally a realm over which local governments have considerable dominion, the State of California has determined that this shortage has reached critical levels and is not merely a municipal concern. After many years of efforts to legislate the way to more affordable housing, in the 2016-2017 legislative session, multiple bills were passed that seek to expedite housing approvals. This brief overview will review how these bills affect Los Altos.

Housing is not an inexpensive proposition, and since the death of Redevelopment, finding a stable funding source for affordable housing has been an elusive goal. Tonight we will also look at some of the new funding measures that the State has authorized (and one that voters will be asked to approve this November) to provide new funding for affordable housing.

DISCUSSION

The housing package consists of 15 bills that fall into roughly six categories: (1) reinstituting inclusionary requirements for rental residential projects, (2) increasing housing data collection and analysis, (3) enforcement, (4) strengthening the Housing Accountability Act and No Net Loss laws, (5) streamlining local approval of housing projects, and (6) providing funding assistance for housing.

Reinstituting inclusionary requirements for rental residential projects

Prior to 2009, inclusionary housing ordinances, which generally require construction of affordable housing units or payment of a fee in lieu thereof in conjunction with market rate residential development, were traditionally been popular ways to boost affordable housing production. Indeed, Los Altos has its own inclusionary rental requirement, found in Los Altos Town Code Section 14.28.030(D)(1).

In 2009, however, a California Court of Appeal issued a decision in the case of *Palmer/Sixth Street Properties v. City of Los Angeles* which held that a city inclusionary requirement to include affordable housing (or pay a fee in lieu of doing so) violated the Costa-Hawkins Rental Housing Act (Civil Code § § 1954.50, et seq.). This is because the Costa-Hawkins Act reserves to residential landlords the right, with some exceptions, to set initial and subsequent rents. Inclusionary housing in the rental context conflicts with this right by requiring that landlords charge an "affordable" rent for certain units, said the Court of Appeal.

As a result of the *Palmer* decision, local inclusionary requirements all over the state were repealed or simply not enforced. The Legislature has been trying to implement a Legislative 'fix' for this issue for years, including considering AB 1506 last session, which would have repealed the Costa-Hawkins Act. Ultimately, another bill, AB 1505, was enacted. It amends existing Government Code § 65850, which enumerates specific powers held by local governments, to specifically include the authority to impose inclusionary requirements on residential rental projects through adoption of a local ordinance. Per the new legislation, cities adopting or amending an inclusionary mandate of more than 15% or more after September 15, 2017, may be required to submit their ordinances to HCD for review and may likewise be required to prepare an economic feasibility study to demonstrate that the new inclusionary mandate does not "unduly constrain the production of housing." In addition, any ordinance must include alternative means of compliance, such as payment of an in-lieu fee, land dedication, or the like.

- Council has previously expressed an interest in revisiting the City's approach to inclusionary housing. If Council wishes to explore an inclusionary requirement for rentals in an amount greater than 15%, it might also consider commissioning an economic feasibility study to support that work. This would allow the Council to make a more informed decision and forestall any surprises in the event of an HCD request for the same. Finally, alternative means of compliance should be added to the ordinance to satisfy the new requirements in that vein.

Increasing Housing Data Collection and Analysis

By way of background, all California cities are required to adopt a general plan to provide for the comprehensive planning of the community. The general plan is composed of a number of chapters or elements, including the housing element. While the contents of most general plan elements are substantially left to cities, the substantive requirements of housing elements are very specific and detailed.

Generally, the housing element must include "an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and

scheduled programs for the preservation, improvement, and development of housing." (Government Code § 65583(a).) The parameters for the required identification and analysis are spelled out in detail in the Housing Element Law.

Housing element changes. This year, as part of the housing package, the housing element content requirements have grown in number and now include:

- An analysis of any locally adopted ordinances that directly impact the cost and supply of residential development;
- An analysis of requests to develop housing at densities below those anticipated in the analysis required by 65583.2(c) and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a city's share of the regional housing need in accordance with Section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the city's planning for the development of housing for all income levels and the construction of that housing;
- In its program identifying a schedule of actions that the city is undertaking or intends to undertake to implement the policies and achieve the goals of the housing element, the city must now address and - where appropriate and legally possible - remove both governmental *and nongovernmental* constraints to the maintenance, improvement, and development of housing. (Previously, only governmental constraints were subject to this requirement.)

➢ Los Altos adopted its most recent housing element in 2015 and need not adopt an update until 2023, so these requirements will take some time to take effect. However, they should be kept in mind as land use decisions are made between now and then.

Annual progress reports. In addition, current law requires general law cities, such as Los Altos, to prepare an annual progress report that sets out the status of the general plan, particularly the housing element, and its implementation. These reports must be submitted to the city council, the Office of Planning and Research, and HCD by April 1st of each year. Under the new legislation, all cities (general law and charter) must now submit these annual progress reports to the state. Moreover, the categories of information that must be included in these reports has grown substantially to now include:

- the number of housing development applications received in the prior year;
- the number of units included in all development applications in the prior year;
- the number of units approved and disapproved in the prior year;
- a listing of sites rezoned to accommodate whatever portion of the city's share of the regional housing need for each income level that could not otherwise be accommodated, as well as any additional sites that may have been required to be identified by Government Code § 65863.

- the number of net new units of housing (rental and for-sale) that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category that each unit of housing satisfies; and

- the number of applications submitted, location and total number of developments approved, total number of building permits issued, and total number of units (rental and for-sale, by area median income category) constructed pursuant to SB 35.

HCD will be required to post all annual progress reports online so that they will be accessible to the public. HCD creates and publishes the forms that cities use to complete their annual reports; these forms will require significant modification in order to capture all of the newly required information. In November, HCD released guidance providing that "[t]here will be no changes to the Annual Progress Report forms for the 2017 reporting period, due April 2018. The new data requirements will impact the 2018 Annual Progress reporting due April 2019, and the forms will be changed leading up to that."[1]

- The City may wish to consider implementing steps to begin capturing all of this information so that records can be developed.

Enforcement

HCD, which was previously empowered by statute to review cities' housing elements for conformance with the Housing Element Law, has gained considerable enforcement authority through the new package of housing laws. Specifically, AB 72 gives HCD the authority to:

- Review any action (or failure to act) by any city that HCD determines is "inconsistent with an adopted housing element or [the Housing Element Law]." No standard is set forth in the statute for HCD to reach such a determination.

- Issue written findings on its determination to the city in question, which will, in turn, trigger a requirement that the city respond to the findings within 30 days.

- Revoke the Department's certification of the city's approved housing element "until [HCD] determines that the city … has come into compliance" with these requirements.

- Consult any local government, public agency, group, or person, and receive and consider any written comments from any party concerning the city's decision being evaluated.

- Notify the city and, at HCD's discretion, the state Attorney General, that the city is in violation of state law if it determines that the city's action or inaction is inconsistent with its housing element, the Housing Element Law, or a host of enumerated, housing related laws (the Housing Accountability Act, the Not Net Loss law, the density bonus law, or

[1] Department of Housing and Community Development, "Housing Element Annual Progress Report Frequently Asked Questions," dated November 30, 2017, available online at: http://www.hcd.ca.gov/community-development/housing-element/docs/APR_FAQs11302017.pdf

the statutory prohibition against discriminating against affordable housing found in Government Code § 65008.)

HCD has previously unilaterally decertified approved housing elements without statutory warrant; now, the Department is expressly vested with this authority. No appeal measures are provided for cities facing such action, and burdens of proof or presumptions of validity are acknowledged that would shape HCD's determination. In the absence of these safeguards, some legislators have already opined that this new authority violates the constitutional separation of powers doctrine.

- The City needs to be aware that HCD will take reports of noncompliance with the laws listed above seriously and may initiate a decertification determination if it finds the City has failed to act in accordance with the housing element or these laws.

Strengthening the Housing Accountability Act and No Net Loss Laws

Though less print has been devoted to changes in the Housing Accountability Act and No New Loss law, substantial modifications made to both of these important regulations will bear closely on local land use decisions and require careful analysis.

The Housing Accountability Act. The Housing Accountability Act (the "HAA," found at Government Code § 65589.5) was originally enacted in 1982 in order to make it more difficult for cities to deny housing projects that complied with their land use regulations but which did not enjoy popular or council support. Sometimes called the "Anti-NIMBY" law, it has been used by housing advocates to encourage approval of residential projects, particularly those involving affordable housing, that might otherwise face denial. While many of the provisions in the law apply only to affordable housing projects, a 2011 Court of Appeal decision (*Honchariw v. County of Stanlisaus*) found that others apply to all housing projects.

Generally, under the Act, when a proposed residential project complies with applicable objective general plan, zoning, and subdivision standards and criteria, certain findings must be made in the event the city wishes to either (a) deny the project, or (b) approve the project on the condition that it be developed at a lower density. These findings are (1) that the housing development project would have a "specific, adverse impact" upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density, and (2) that there is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than the disapproval of the project or the approval of the project upon the condition that it be developed at a lower density. If the project includes certain percentages of affordable housing, further findings are required.

The HAA, which is part of the larger Permit Streamlining Act, has procedural and substantive requirements that have been modified by legislation passed in 2017. The changes include:

- *Modifying the housing development projects covered by the Act.* Now called 'housing development projects' (rather than simply 'housing projects'), the developments covered by the Act include those consisting of solely residential units, transitional or supportive housing, and (as

modified this year) mixed-use developments where at least 2/3 of the project's square footage is designated for residential use.

- *Imposing new notification standards on cities.* Once an applicant proposes a housing development project, if the city believes it to be inconsistent with an applicable plan, program, policy, ordinance, standard, requirement or other similar provision, it must notify the applicant in writing of the inconsistency and explain its rationale within certain time limits, which vary depending on the project size. Failure to meet these timelines will mean the project is deemed consistent with such provisions.

- *Introducing a new standard.* The HAA now provides that a proposed shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision "if there is substantial evidence that would allow a *reasonable person* to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity." (Emphasis added.) This is a much stricter standard than generally applies to consistency determinations made by local governments as to their own standards, which decisions are generally upheld in the absence of a finding that the decision makers acted arbitrarily, capriciously, or without evidentiary basis. Notably, the Act provides that the receipt of a density bonus does not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with applicable land use requirements.

- *Heightening the standard of proof necessary to deny or condition projects.* If the city wishes to deny a housing development project or condition its approval on the condition that it be developed at a lower density, and the project complies with all applicable objective general plan, zoning, and subdivision standards and criteria, the city must base its decision on written findings addressing specific factors. Such findings were previously only required to be supported by 'substantial evidence;' now, any such findings must be based on 'a preponderance of evidence' in the record, which is a higher burden for cities to meet. This higher standard of proof is required throughout the Act where cities are required to defend their decisions.

- *Broadening the definition of 'lower density.'* Approving a housing development project on the condition that it be developed at a 'lower density' includes not only lowering the number of dwelling units per acre that can be developed, but also includes "any conditions that have the same effect or impact on the ability of the project to provide housing," according to the new changes in the law.

- *Introducing substantial fines.* Previously, a challenger contesting the city's actions under the HAA was free to bring a judicial action seeking the court's issuance of an order or judgment compelling the city to comply with the law. Now, those provisions have been strengthened considerably, by empowering the courts to (a) order the city to approve the housing development project at issue (if it finds the city acted in bad faith), (b) impose fines of at least $10,000 per unit (if the court finds the city failed to comply with a court order demanding compliance with the law), (c) authorize a five-fold increase in the fine in certain instances, and (d) issue further orders as necessary, including deeming projects approved.

➢ The City Attorney's Office is happy to work with the Community Development Department to ensure that new HAA timelines are incorporated into the City's application processing practices

and that applications seek all relevant information necessary to make consistency determinations. Applications subject to this law will need to be carefully reviewed against these new statutory requirements.

'No Net Loss' Law. Previously, the 'No Net Loss' law (found at Government Code § 65863) required that all housing elements include an inventory of housing sites that can accommodate the city's unmet share of the regional housing need at all times during that housing element planning period. Moreover, cities were prohibited from approving the development of any parcel at a density less than what was projected for the site in the housing element inventory (or, where rezoning is necessary, at a density less than what was projected be developed in the housing element program), unless the city makes certain findings. These findings are (a) that the reduction is consistent with the adopted general plan (including the housing element), and (b) the remaining sites in the housing element are adequate to accommodate the city's share of the RHNA. A city was able to reduce the density on a parcel if it identified sufficient additional, adequate and available sites with an equal or greater residential density so there was no net loss of unit capacity. Under this version of the law, the total unit count on each parcel in the inventory was the relevant metric.

Under SB 166, these requirements have become much more stringent. Now, the law is much more concerned with ensuring that cities maintain enough capacity to meet their RHNA obligations *by income category*. This new affordability focus displaces the prior, broader 'total unit' count concentration. Moving forward, if a city approves development of any parcel with fewer units by income category than were identified in the housing element for that parcel, the city must make a detailed, written finding (supported by substantial evidence) as to whether remaining sites identified in the housing element will meet the city's RHNA for that income category. If there are not enough sites to meet the city's RHNA for that category, the city must identify and make available other sites to meet this need (potentially by rezoning to a density that will accommodate affordable housing) within 180 days. The fact that such rezoning may be necessary is explicitly *not* a grounds for denying a proposed project.

- It would be advisable to take stock of where the City is at with meeting its RHNA (by income category) for this planning period. All new applications for sites in the housing element inventory will require careful review and analysis with regard to these new provisions.

Streamlining Local Approval of Housing Projects

Much of the press surrounding the new housing bills has focused on SB 35, which institutes a streamlined, ministerial approval process for qualifying housing projects. This bill is actually just one of a trio (SB 35, SB 540, and AB 73) that offer expedited approval for housing. SB 35 is a developer-initiated process, while SB 540 and AB 73 establish mechanisms for cities to initiate streamlined processes.

SB 35. The talk of the last Legislative session, SB 35 will allow residential developers to seek streamlined, ministerial approval of qualifying housing projects, provided all of the 10 enumerated "objective planning standards" are met. The exacting nature of these standards mean that many projects will not qualify for processing under the new law. They include:

- *Project size requirements*. To qualify for SB 35 streamlining, the proposed project must be a multifamily housing development that contains two or more residential units.

- *Project site requirements*. The project site must be a legal parcel (or parcels), in an urban area with at least 75% of the perimeter developed, on a site zoned for residential or mixed-use and designated for residential or mixed-use by the general plan, with at least 2/3 of the square footage of the proposed development reserved for residential use.

- *Eligibility requirements*. In order for a city to be subject to SB 35, the city must have either (a) failed to permit as many housing units (in each income category) as required to meet the city's share of the RHNA for that reporting period (either the first or last half of the housing element planning period), or (2) not submitted its annual progress report to the state for two consecutive years.

- *Affordability requirements*. The project must include set percentages of affordable units, generally either 10% or 50%, depending on the city's attainment of its RHNA goals for particular affordable income segments for that portion of the housing element reporting cycle. If the city has not met certain requirements, the developer will be authorized to choose which affordability requirement will apply. (Note that higher percentages will apply if cities adopt greater local requirements.)

- *Land use regulation consistency requirements*. Projects must meet "objective zoning standards and objective design review standards" in place at the time the application is submitted to the city. Per the statute, this means "standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal." (Government Code § 65913.4(a)(5).) Any additional density or any other concessions, incentives, or waivers of development standards granted under a density bonus must be excluded from the city's analysis as to whether a proposed project is consistent with objective standards. (Id.)

- *Certain lands not eligible for SB 35 development*. The statute contains a list of 11 categories of lands not eligible for SB 35 development, including, for example, wetlands, flood plains, coastal zones, prime farmlands, et cetera. Separately, the statute also prohibits SB 35 streamlining from being used for projects that would require the demolition of affordable

housing, housing subject to rent or price control, and housing that has been occupied by tenants within the last 10 years, among other things. This represents a significant limitation on the use of the new process.

- *Labor requirements.* SB 35 projects of 10 or more units must either be designated 'public works' or construction workers must generally be paid prevailing wages. In addition, a 'skilled and trained workforce' must be used on projects of qualifying sizes that are not entirely subsidized affordable housing. These concessions to labor will likely severely undercut the use of the process by private developers.

Projects that meet all of these criteria will be entitled to very limited parking requirements. Generally, these will be no more than one space per unit, and no parking will be required if the project is located (a) within one-half mile of public transit, (b) within an architecturally and historically significant historic district, (c) on a site where on-street parking permits are required but are not offered to occupants of the project, or (d) where there is a car share vehicle located within one block of the project.

Once an application is submitted seeking SB 35 streamlining, cities will be required to issue written findings of conflicts with any objective planning standards within specified timeframes (within 60 days of submittal for projects of 150 units and less, 90 days for larger projects). Failure to meet those timelines will result in a 'deemed consistent' finding as to those standards.

Projects that qualify for SB 35 processing will be entitled to rapid, ministerial review: any design review or 'public oversight' by the city's planning commission or council will need to be completed within 90 days of submittal for projects of 150 units or less and within 180 days for larger projects. SB 35 qualifying projects cannot be required to seek a conditional use permit.

- SB 35 is a complex new law, which is only very broadly summarized here. The Council may wish to consider further analysis of its impacts on Los Altos, with a particular emphasis on the review of any subjective planning criteria the City may want to convert to objective regulations. Staff will need to be ready to rapidly identify all objective criteria against which any proposed project should be evaluated for determining consistency in the event an SB 35 application is submitted.

Workforce Housing Opportunity Zones (SB 540). SB 540 introduces a new type of housing development approval concept: the workforce housing opportunity zone. Under this new mechanism, cities will be able to establish such zones through the adoption of a specific plan and the certification of a supporting EIR that includes specific information. These zones must be drawn from parcels identified in the cities' housing elements' inventory of lands suitable for residential development, and each such zone can accommodate no more than 1,500 units. Once a specific plan has been adopted that sets out all development standards (including design review criteria) and mitigation measures that will uniformly apply to all projects within the zone have been adopted through the EIR, proposed projects that conform to these criteria will receive expedited processing (within 60 days of the application being deemed complete). Denial of a proposed project that meets the WHOZ criteria is tightly constrained and may only be carried out under narrowly enumerated circumstances. Like SB 35, WHOZ projects must either be designated 'public works' or pay prevailing wages to the construction workers. WHOZ specific plans and EIRs must be reviewed

every five years. Projects within WHOZ must collectively meet affordability limits: no more than 50% may be above moderate or market rate, at least 30% must be available to moderate income households, at least 15% must be reserved for lower income, and at least 5% must be designated for very low income households. These affordability measures must be secured for 45 years for for-sale projects and 55 years for rental projects.

- The City may wish to consider whether it would like to explore the development of a WHOZ, the planning of which may be eligible for SB 2 funding in 2018, as discussed below. While these are not required to be put in place locally, adoption of a thoughtfully-crafted WHOZ might capture the attention of developers who may otherwise consider using SB 35 to secure expedited processing.

Housing Sustainability Districts (AB 73). Housing sustainability districts are another new tool introduced during the last Legislative session. (Government Code § 66201.) These districts, which would function as overlays, are meant to spur development of housing on infill sites near public transportation. The general concept is similar to WHOZ: the city completes all planning and environmental review on the front end, and developers enjoy an expedited approval process when submitting applications for projects that conform to the new regulations in place.

HSDs will be subject to HCD oversight, beginning with the Department's review of draft ordinances (not specific plans, such as are used to establish WHOZ) and continuing with ongoing issuance certificates of compliance annually. HSDs must meet a host of very specific criteria, including:

- *Density*. Density ranges for multifamily housing must meet specified ranges and single family densities must permit at least 10 dwelling units per acre.

- *Residential use permitted ministerially*. The area must be zoned to permit residential use through the issuance of a ministerial permit.

- *No moratoria*. No use limitation or moratorium on residential use (other than imposed by court order) will apply to the area.

- *Scope limitations*. Unless otherwise allowed by HCD, no single HSD shall cover more than 15% of the total land area of the city, and all HSDs within a city must not exceed 30% of the city's land area.

- *Uniform development policies/standards*. All projects within a given HSD must be subject to uniform development policies or standards, including parking requirements.

- *Affordability requirements*. At least 20% of the units within the HSD must be affordable for a period of at least 55 years, and all above moderate projects must include at least 10% of units affordable to lower income households (unless the city has a higher local requirement). However, if the city includes its entire RHNA within an HSD, then the percentage of the total units constructed within the HSD must match the percentages in each income category for the city's RHNA.

- *Labor requirements.* Projects of 10 or more units within HSDs must either be designated 'public works' or pay prevailing wages and may be required to use skilled and trained workforces.

As an inducement to use this new strategy, the law authorizes 'zoning incentive payments' to cities that adopt such ordinances. Half of the payment is authorized upon HCD's preliminary approval of the draft HSD ordinance, and the other half is payable within 10 days of submission of proof of issuance of building permits for the projected units within the zone. Notably, we are not aware that any money has been budgeted for these payments as of this date.

Providing Funding Assistance for Housing

Since the death of Redevelopment in 2011, the search has been on for a new 'permanent' source of funding for affordable housing and housing for needy populations. Many stopgap measures have been employed over the years, but nothing has approached the nearly $1 billion generated annually by Redevelopment. This year, the state has trained its sites on two revenue streams, one of which (SB 2) was approved by the Legislature and Governor, and the other of which (SB 3) will require voter approval in the November 2018 election in order to become law.

SB 2 (The Building Homes and Jobs Act). Under the Government Code, counties are authorized to adopt ordinances establishing a fee for recording and indexing the documents required or permitted by law to be recorded in the county's official records. The base rate may be no more than $10 for the first page and $3 for each additional page, with additional fees permitted for specific purposes.

SB 2 looks to "establish a permanent, ongoing source or sources of funding dedicated to affordable housing development," by imposing a new recording fee of $75 for every real estate instrument, paper, or notice required or permitted by law to be recorded (except those expressly exempted from payment of recording fees) up to a limit of $225. This new fee will not apply to any documents recorded in connection with a transfer of real property (1) consisting of a residential dwelling to an owner-occupier, or (2) subject to a documentary transfer tax.

The funds generated by this fee are to be remitted to the state for deposit in the newly created Building Homes and Jobs Trust Fund administered by HCD. It is anticipated that between $200 and $300 million may be raised annually through this mechanism – a far cry from the monies created by Redevelopment but still an extraordinary influx. These funds will be held by the state until local governments submit requests for their use and shall be made available to requesting local governments on the basis of two separate formulas:

- In 2018, half of the fees generated will be allocated to HCD to assist those experiencing or at risk of homelessness. The other half will be made available to local governments to "update planning documents and zoning ordinances in order to streamline housing production, including, but not limited to, general plans, community plans, specific plans, sustainable communities strategies, and local coastal programs." (Government Code § 50470(b)(1)(A).)

- Funds collected in 2019 and thereafter, are subject to a different distribution formula. The state will retain 30% of the funds for state incentive programs, housing for agricultural workers, and building mixed-income multi-family housing. The other 70% will be made

available to local governments using the same formula currently used for federal Community Development Block Grant funds.

The new law specifies the purposes to which these funds may be put, including development, acquisition and rehabilitation of affordable multi-family housing; affordable rental and ownership workforce housing; down payment assistance, and so forth.

- The City would be well-served by considering (1) what long-range planning work programs might be eligible for 2018 funds, (2) whether any existing housing element goals, policies, objectives, or programs might qualify for use of 2019 and beyond funds, and (3) the full list of purposes for which all future funds may be used in order to determine how these monies might be leveraged by the City to encourage qualifying housing developments.

SB 3 (The Veterans and Affordable Housing Bond Act of 2018). Funding affordable housing through bonds is not a new concept. This latest iteration approves a ballot measure seeking voter approval of a new $4 billion general obligation housing bond. (Voter approval is required by the State Constitution because it is a general obligation bond, which would be repaid through the state General Fund.)

If the measure passes in November, bonds would be sold to finance a host of housing programs, including the multi-family housing program ($1.5 billion), the CalVet Home Loan program ($1 billion), the transit-oriented development implementation program ($150 million), infill infrastructure financing grants ($300 m), the Joe Serna, Jr. Farmworker Housing Grant program ($300 m), the local housing trust matching grant program ($300 m), CalHome ($300 m), and the Self-Help Housing Fund ($150 m). The bill's authors argue that leveraging these monies would result in over $10 billion flowing to housing in the state.

- Prior to the November election, the City may wish to review in greater detail the local programs and efforts that would qualify for funding under SB 3 and determine whether any City projects dovetail with this list.

ENVIRONMENTAL REVIEW

No environmental review of this information is necessary, as the City Council's receipt of this material has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and thus is not a "project" under CEQA, per 14 CCR § 15378(a).

RECOMMENDED CITY COUNCIL ACTION

Receive report from City Attorney's office.