



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

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MEMORANDUM

TO: Supervisor Wilma Chan
Supervisor Keith Carson
Board of Supervisors Health Committee

FROM: Chris Bazar, Director, Community Development Agency
Linda Gardner, Housing Director, Housing and Community Development

DATE: July 17, 2017

SUBJECT: Measure A1 Housing Bond Draft Policies – Rental Housing Development Fund and Rental Innovation & Opportunity Fund

Background

Measure A1, the countywide Housing Bond, was passed by over 73% of the voters in November 2016. It will fund three programs related to homeownership and two rental housing development programs. Implementation of the Bond programs is expected to be substantially completed over an eight-year period. On January 23, 2017, your Committee approved the initial Measure A1 Implementation Plan which focused on the initial implementation period through June 2018. The Implementation Plan included the development of implementation level program policies, building off of the board program descriptions approved by the Board of Supervisors on June 28, 2016 at the same time that the Board voted to place the Measure on the November 2016 ballot.

Rental Housing Development Fund

The goal of the Rental Housing Development Fund is to assist in the creation and preservation of affordable rental housing for vulnerable populations, including low-income workforce housing. The allocation is \$425 Million over the course of the bond program.

The Board of Supervisors adopted broad parameters for this program on June 28, 2016. Under the program parameters, this program will serve a variety of target populations. The majority of housing units will serve very low-income households with incomes between 30% to 60% of Area Median Income (AMI). A portion of the funds are allowed to subsidize units for households at or below 80% of AMI, to create affordable housing for a mix of lower-income levels within developments. The program also includes a requirement that at least 20% of the units will be reserved for extremely low-income households at or below 20% of AMI. This income level includes homeless households, seniors and people with disabilities on Social Security Income (SSI), and others.

Uses of funds in this component will be flexible, within the parameters of eligibility for use of General Obligation Bond proceeds, including predevelopment and development

financing for new construction, acquisition, rehabilitation to create or preserve affordability. A city may decide to use a portion of its base allocation of funds to finance the development of interim crisis or transitional housing for homeless populations.

Criteria for selection of developments to be financed under this component of the bond program will include leveraging other sources of affordable housing financing, including State, Federal, and other local subsidy sources. In addition, financed developments must include a financial contribution from the city in which they are located. Developments financed must remain affordable for no less than 55 years.

Selection criteria will also include priority for one or more of the following target populations within the income limits described above:

- Homeless people, including individuals and families, chronically homeless people with disabilities and other homeless populations
- Seniors
- Veterans
- People with disabilities, including physical and developmental disabilities and mental illness
- Re-entry
- Transition age youth aging out of foster care
- Lower-Income Workforce

Funds in the Rental Housing Development Program will be distributed across the County in two ways, based on formulas which take into account different levels of need in various parts of the County as well as ensuring that funds are available to address needs in each city, including the Unincorporated County. The geographic allocation model used creates a minimum allocation of funds for use in each city and also creates regional funding pools which can be drawn on to support developments located anywhere in that region of the County.

The County will administer the funds in both the regional pools and the city base allocations, working in cooperation with the cities. Developments financed with Bond funds must have the support and approval of the cities in which they are located.

Innovation and Opportunity Fund

The goal of this component of the bond program is to support the ability for affordable housing developers to respond quickly to opportunities that arise in the market, to preserve and expand affordable rental housing and prevent displacement of current low-income tenants, for example through the creation of a rapid-response, high-opportunity site acquisition and predevelopment loan program under which pre-qualified developers can apply for quick-turnaround, relatively small loans, to secure properties for purchase. These properties can include, for example, vacant land, existing apartment buildings, or motels that can be converted to housing, that become available for sale in the market. If existing, occupied apartment buildings are acquired, lower-income qualified current residents will not be displaced, but rather the buildings may be

renovated if needed and affordable rents either maintain or instituted. The funding allocation from the Bond program is \$35 million.

The housing developed under this component must meet the requirements of the Rental Housing Development Program, however the program will be administered differently to allow for rapid response to market opportunities and to allow for flexibility and innovation, within the general obligation bond and program requirements. These funds will be available on a countywide basis, to enable the program to respond to opportunities that arise throughout the County.

Program Implementation Policies

Exhibit A to this staff report is the current draft of the implementation policies for both of the programs outlined above. The draft implementation policies incorporate changes due to comments received from both the public meeting process described in Exhibit B as well as public comments received by July 10, 2017 at 5pm during the formal public comment period. There are several noted policy areas are incomplete and still being worked on.

Exhibit B describes the iterative and inclusive public process that HCD has conducted to date towards the creation of program implementation policies that are specific to these Measure A1 programs. Copies of all written comments received during the 30 day public comment period can be found on HCD's website: <http://www.acgov.org/cda/hcd/bond.htm>. Exhibit C describes the themes found in the comments received by 5 PM on July 10, 2017, the end of the public comment period.

The framework under which the implementation policies are being developed includes the goals of utilizing the Measure A1 funds to increase affordable housing opportunities throughout the county as soon as possible, while ensuring that the income levels, target populations, geographic distributions, and other policies and parameters adopted on June 28, 2016 and approved by the voters are achieved. In addition the policies must meet the requirements related to the general obligation bond financing.

As noted in the Implementation Plan approved by your Committee on January 23, 2017, as part of the Measure A1 implementation HCD is working on several related initiatives, which have implications for the implementation policies. These include linking the Bond program with related job training, apprenticeship, and employment opportunities for the target populations of the Bond's housing programs, and an initiative to streamline the ways that households seeking affordable rental housing locate potential housing opportunities and simplifying the application processes for affordable rental housing. An additional related initiative is the Small CBO/Faith Organizations Housing Development Capacity Building Program, proposed to be funded by 'boomerang' funds set aside by the Board for affordable housing and homeless programs.

Next Steps

Staff will continue to develop policies in the identified areas, as well as take comments on the current draft policies since this is the first opportunity commenters have had to review the revised policies after the close of the formal public comment period. Staff anticipates bringing

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formal recommendations on policies to this Committee as early as possible in September and to subsequently bring recommendations to the full Board as soon as possible after the Committee's approval.

cc: Each member, Board of Supervisors
Susan Muranishi, County Administrator
Steve Manning, Auditor Controller
Donna R. Ziegler, County Counsel
Andrea Weddle, Deputy County Counsel
Pat O'Connell, County Administrator's Office
Melanie Atendido, County Administrator's Office

Exhibit A

DRAFT Measure A1 Implementation Policies

Rental Housing Development Fund & Innovation and Opportunity Fund

On June 28, 2016, the Alameda County Board of Supervisors placed Measure A1 on the November ballot for \$580 million in general obligation bonds designated for affordable housing, and adopted a program summary outlining basic parameters of programs to be funded. The residents of Alameda County voted to support the Measure A1 Bond by 73% in favor on November 8, 2017. Alameda County's Housing and Community Development Department (HCD) is implementing this program.

Of the Bond's five programs, two are intended to increase the affordable rental housing inventory in Alameda County. Implementation-level policies have been developed within the framework of the program parameters approved by the Board in June 2016 in order to guide the use of the funds allocated to the Rental Housing Programs.

Framework

When the Alameda County Board of Supervisors placed Measure A1 on the ballot, program summaries of the programs to be funded by the Bond were adopted at the same time.

- To create and preserve affordable rental housing for the County's most vulnerable current and displaced households, including low-income workforce households.
- The rental housing allocation includes funding for a Rental Housing Development Fund as well as for a Rental Housing Innovation and Opportunity Fund.
 - a. The Rental Housing Development Funds will be distributed throughout the county by formula in two different ways: Creation of four regional pools (North/Mid/South/East) and "Base City Allocations" for financing projects in each jurisdiction.
 - b. The Rental Housing Innovation and Opportunity Fund will be available county-wide with no geographic distribution by formula.

The adopted Program Summary provides the overarching framework for these program. These implementation policies, once adopted by the Board will provide implementation-level parameters for how the programs will operate. In addition, HCD will continue to use its existing Administrative Loan Terms (see Attachment A) and detailed Housing Development Policies and Procedures for specific project requirements. Specific policies to guide implementation of the Measure A1 Rental Housing Development Fund and the Rental Housing Innovation and Opportunity Fund are outlined under Sections I and II below. Projects that received early commitments of Measure A1 Base City Allocation financing in Spring 2017 will not be subject to new or conflicting provisions in these policies. However, those projects will be subject to any A1 Bond Requirements as required by Bond Counsel.

It is anticipated that some of these initial Implementation Policies will evolve over time. HCD will track and report on implementation on an annual basis, including recommendations for any needed modifications to policies to ensure achievement of Measure A1 goals.

RENTAL HOUSING DEVELOPMENT FUND POLICIES

Measure A1 Specific Policies for Rental Housing Development Fund – Applies to Both Base City Allocations and Regional Pools

I. Income Levels

Policy Adopted June 28, 2016

- A. The majority of the housing units will serve very low-income households with incomes between 30% and 60% of Area Median Income (AMI).
- B. A portion of the funds may be allowed to subsidize units for households at or below 80% of AMI to create affordable housing for a mix of lower-income levels within developments.
- C. At least 20% of the units funded by this program will have an income cap and serve extremely low-income households at or below 20% of AMI.

Additional Proposed Policy:

- A. The maximum amount of funding allowed to be spent on units at 80% of AMI is 5% of each funding Base City Allocation and each Regional Pool.
- B. Each city must restrict at least 20% of the units financed by its base city allocation to 20% of AMI and at least 20% of the units financed by each regional pool must be restricted at 20% AMI. HCD's goal will be to meet this requirement with each funding allocation round of the Regional Pools.
- C. Any unit with a project-based voucher shall be counted towards meeting the 20% unit requirement, so long as the unit has a preference for households at 20% of AMI, even if the voucher specifies that it can serve households with incomes up to 50%.

Note: HCD will work to identify and coordinate with sources that can provide operating subsidies in coordination with capital funding provided by Measure A1. Measure A1 funds cannot pay for operating subsidies or services, capitalized operating reserves, services, or services reserves.

II. Project Selection Criteria:

Policy Adopted June 28, 2016

- A. Projects must be affordable for a minimum of 55+ years.
- B. Proposed affordable developments must include a financial contribution from the city in which they are located. (See **Match** section for more details.)

- C. Priorities for one or more of the following target populations, within the income limits described above:
 - 1. Homeless people, including individuals and families, chronically homeless people with disabilities and other homeless populations
 - 2. Seniors
 - 3. Veterans
 - 4. People with disabilities, including physical and developmental disabilities and mental illness
 - 5. Re-entry
 - 6. Transition-age youth aging out of foster care
 - 7. Lower-income workforce
- D. Alameda County residents and workforce will be given priority for these housing units.

Additional Proposed Policy: Staff has not yet completed its review and policy development in this area.

- A. The term of affordability will begin upon issuance of the Certificate of Occupancy.
- B. Alameda County HCD will track units dedicated to each of the target populations. Annually, the target populations of the projects funded and units produced will be reviewed and such review may impact future Request for Proposals (RFP) points scoring in order to ensure a spread of units serving these target populations.
- C. Projects funded from the Base City Allocation must include units targeting one or more of the above target populations.
- D. Applications for funding will require specificity regarding which target populations and income levels will be served.
- E. Additional points in competitive project selection processes may be awarded to incentivize specific target populations, additional units for the target populations and income levels, and use of tenant screening tools that screen these vulnerable populations into the projects rather than out of the projects.
Notes: Landlords are prohibited under State law from requesting information about immigration status unless required to do so by federal law.
- F. Affirmative Fair Marketing Plans are required for each project to ensure that current Alameda County households, those displaced from Alameda County, and current Alameda County workforce are aware of each housing opportunity to the greatest extent possible and the leasing of the project provides fair and equal access.
 - 1. Affirmative Fair Marketing Plans will be approved by HCD.
 - 2. All marketing efforts to include, at minimum, listing the openings with 211, notifying parties on an HCD-established “Housing Opportunities” list service, and broadly advertising to community and faith-based organizations, service providers, all members of the Board of Supervisors, and others that register to receive such information.
 - 3. All marketing and outreach materials must be provided in the core languages as specified in each jurisdiction’s Language Access Plan.

- G. Should a core application or single wait list or point of entry be created, all units will utilize such a process.
- H. Referrals to all homeless Permanent Supportive Housing will be made from the Coordinated Entry System.
- I. All financed projects must provide to residents and post a Tenant Rights and Responsibilities document (to be developed by HCD based on the HUD Tenants Rights and Responsibilities document).
- J. All projects must meet the Alameda County Housing and Community Development Department Administrative Loan Terms and underwriting requirements, as modified by the adopted Measure A1 Bond Policies. See Attachment A for summary details or the HCD website for the full document.

III.

Eligible Types of Projects:

Policy Adopted June 28, 2016: This component of the bond program will assist in the creation and preservation of **affordable rental housing** for vulnerable populations; including:

- A. New construction
- B. Acquisition/rehabilitation
- C. Acquisition only
- D. Rehabilitation of existing affordable housing with extended affordability

Additional Proposed Policy:

- A. Projects must meet all Measure A1 Rental Housing Development Fund policies and requirements.
- B. It is anticipated that most projects will be multi-family projects of 5 or more units
- C. Scattered site single-family homes, accessory dwelling units (ADU's), small houses and shared housing are eligible, provided that they are financially feasible, they meet all the requirements per A above, and they do not place an undue burden on the County to monitor compliance.
- D. Projects that will permanently displace current low or moderate income residents are ineligible for Measure A1 funding.
- E. In order to prevent displacement while allowing Measure A1 funds to be used for acquisition of existing rental housing, at least 85% of the existing households must be income eligible under Measure A1 requirements. The existing 'over income' households whose incomes exceed Measure A1 limits, will be allowed to remain. Upon unit turnover, the unit must be filled by a Measure A1 income-qualified household. Alternatively, Measure A1 funds may be used to finance less than 100% of the units in a building. For example, in a 50 unit building in which 25 of the households have incomes at or below Measure A1 limits (50% of units), Measure A1 fund would only be used to subsidize a total of 32 units (25 units plus an additional 15% of the total units or 7 units), and the remaining 18 units would not be financed with Measure A1 funds.
- F. Should a project need to temporarily relocate residents, the existing low-income residents shall have the first right of refusal to return to their previous or comparable unit at comparable or lower rents after the rehabilitation of the project is complete.

Temporary relocation benefits must be provided, utilizing State of California standards for such benefits.

- G. Measure A1 funds may not be used for development of units that are built to comply with local requirements such as density bonus, inclusionary zoning, or on site alternatives to payment of impact fees, unless the Measure A1 funding will result in units with a deeper level of affordability than otherwise required, with corresponding lower rents.

IV. **Eligible Uses of the Funds**

Policy Adopted June 28, 2016:

Uses of funds will be flexible, within the parameters of eligibility for use of general obligation bond proceeds, which include land acquisition and capital improvements, as defined by the Internal Revenue Service (IRS).

- A. Predevelopment period costs: Subject to securing a deed of trust and regulatory agreement, acquisition of real property and standard soft costs are eligible.
- B. Construction period costs: New construction and rehabilitation to preserve affordability are eligible
- C. Permanent Financing: Take-out of construction financing is eligible so long as the uses paid with construction financing meet the Measure A1 requirements.
- D. General obligation bond proceeds may not be used to fund services or operations costs, including capitalized operating or services reserves.

Additional Proposed Policy:

- A. Acquisition of land is eligible, provided that a project is developed in a reasonable period of time. "Reasonable" is defined as having a financing plan in place within two years from acquisition and starting construction within three years from acquisition. An extension of one additional year may be granted by the Housing Director, as long as the project is making significant progress towards construction start.
- B. For Acquisition/Rehabilitation or Rehabilitation only projects, only Capital Improvements, as defined by the IRS, may be funded with Measure A1 funds.
- C. For Acquisition/Rehabilitation or Rehabilitation only projects, after completion of rehabilitation the project must meet applicable building codes of the jurisdiction in which it is located.
- D. Long-term land banking is not expected to be funded under the Rental Housing Development Fund program.
- E. Temporary Relocation Costs are an allowable project cost, as part of the normal costs of development, and may, upon approval of Bond Counsel, be an eligible cost for Measure A1 funding.

V. **Amount of Measure A1 Investment per Project/Unit**

Guiding Principles:

- A. Maximize leverage and produce the largest number of units possible.
- B. Select feasible projects that can compete well for State/Federal financing.

- C. Fund projects at a level to ensure viability for the life of the regulatory period.
- D. The Measure A1 Bond proceeds must fill a gap and not supplant other funding.

Additional Proposed Policy:

- A. The maximum amount of Measure A1 funds per project shall be the lower of the State of California HCD maximum loan subsidy limit for each Measure A1 funded unit in the project or a percentage of the Total Project Costs (TPC), except as modified under items 3-4 below:
 - 1. For 9% Low Income Housing Tax Credit projects, a maximum of 25% of the TPC or the State 9% subsidy limit per unit size (See Attachment B) whichever is lower;
 - 2. For 4% Low Income Housing Tax Credit projects, a maximum of 35% of the TPC or the State's non 9% subsidy limit per unit size (See Attachment B) whichever is lower;
 - 3. For small projects, defined as 20 units or less, or Special Needs projects (i.e. Extremely Low Income, Homeless, or Supportive Housing), an additional 10% increase (i.e. from 25% of TPC to 35% of TPC or from 35% of TPC to 45% of TPC) in subsidy may be allowed should the project demonstrate a financial need in order to be feasible and leveraging from other available financing sources have been sought;
 - 4. Minor changes to these maximum amounts, associated with a small funding gap in a previously approved project, may be approved at the discretion of the Housing Director in order to ensure project feasibility and readiness to proceed
- B. The maximum Measure A1 subsidies are a combined total of any Base City Allocation and any Regional Pool funds in a project.
- C. The maximum Measure A1 subsidy levels will be reviewed at least annually to determine if modifications are needed in order for Measure A1 funded projects to compete successfully for Low Income Housing Tax Credits or other competitive State or Federal funding.

VI. **Match Requirements**

Policy Adopted June 28, 2016:

- A. All projects funded by Measure A1 Bond proceeds must include match from the city in which the project is located.

Additional Proposed Policy:

Type: Match must have a determinable financial value, including, but not limited to, any combination of such things as:

- 1. Cash, including HOME, CDBG and other federal or State funds that flow through the jurisdiction and are funding sources on which the jurisdiction relies.
- 2. Donated or cost written down land
- 3. Waived planning, building or impact fees

4. Cash or land donated by developer as a result of a negotiated deal with the city or due to a city policy
 5. The additional loan amount leveraged by a local housing authority's commitment of project based vouchers.
- A. The following are not eligible sources of match:
 1. City staff time
 2. Use of Base City Allocation
 - B. A city may make a "future commitment" of match funds not yet available (e.g., inclusionary housing fees or ongoing revenue generated by the city), so long as they are backed by a City commitment that will replace this "future commitment" should the identified original funding source not become available.
 - C. Amount: The minimum amount of match must equal the city planning and building fees, not including impact fees, for the city in which the project is located. Additional amounts are encouraged.
 - D. Base City vs. Regional Pools: The minimum amount of required match will be the same for projects funded by the Base City Allocations and projects funded by a Regional Pool.
 - E. The formal Match Commitment must occur in advance of construction loan closing, but the city must administratively determine the amount of proposed match at the time of application in order for a project to qualify for Measure A1 funding.

VII. **Leverage Requirements**

Policy Adopted June 28, 2016:

HCD seeks to leverage other sources of affordable housing financing including State, Federal and other local subsidy sources.

Additional Proposed Policy:

Additional points may be awarded in competitive processes to incentivize leverage in applications for funding.

VIII. **Wage Levels and Employment Opportunities**

Policy Adopted June 28, 2016:

Projects must meet all applicable County wage and hiring requirements.

Policy Adopted July 19, 2016:

All rental development projects funded by Measure A1 are required to pay Prevailing Wages.

Additional Proposed Policy: Staff has not yet completed its review and policy development in this area.

- A. HCD will monitor for compliance of Prevailing Wage
- B. Should HCD establish Job Training and Career Pathway programs, projects funded subsequent to establishment of the program with Measure A1 Bond shall meet the requirements, as applicable.
- C. HCD may provide additional points in an RFP for those projects that coordinate with and propose use of career pathway programs.

IX. **Single Core Tenancy Application/Posting for Unit Openings**

Goal: HCD desires to create a robust and easy to access way for low-income households seeking subsidized housing to locate and be informed of unit availability and a single core tenancy application system to streamline the application process for low income households of the county.

Additional Proposed Policy:

A. Should HCD develop such a system, all projects funded by Measure A1 will be required to utilize the system.

X. **Geographic Distribution of Funding**

Policy Adopted June 28, 2016:

A. Regional Pools - \$200,000,000 will be divided into four regional pools which can be used to finance projects located in these regions, as follows:

HALF OF FUNDS TO REGIONAL POOLS		
Regional Pools Allocations by:	% of Total	Need-Blend of Poverty and RHNA LI & VLI
North County	44.7%	\$89,325,065
Mid County	24.9%	\$49,803,134
East County	13.7%	\$27,332,372
South County	16.8%	\$33,539,429
ALAMEDA COUNTY TOTAL	100.0%	\$200,000,000

North County Region: Albany, Berkeley, Emeryville, Oakland and Piedmont.

Mid County Region: Alameda, Hayward, San Leandro, and Unincorporated County.

South County Region: Fremont, Newark and Union City.

East County Region: Dublin, Livermore, and Pleasanton.

B. Base City Allocation - \$225,000,000 will be divided by formula into base amounts for use in each city and the unincorporated county as follows:

HALF OF FUNDS TO BASE CITY ALLOCATIONS	
City Base Allocations by:	Total Population
City of Alameda	\$10,370,727
City of Albany	\$2,588,918
City of Berkeley	\$15,796,369
City of Dublin	\$8,831,465
City of Emeryville	\$2,799,109
City of Fremont	\$33,264,459
City of Hayward	\$20,298,294
City of Livermore	\$12,722,700
City of Newark	\$6,029,275
City of Oakland	\$54,803,565
City of Piedmont	\$2,431,300
City of Pleasanton	\$13,720,684
City of San Leandro	\$11,907,775
Unincorporated County	\$19,671,892
City of Union City	\$9,763,468
ALAMEDA COUNTY TOTAL	\$225,000,000

Measure A1 Specific Policies for Base City Allocations

(Note: In the policies below, the term “city” shall apply to the Unincorporated County in terms of its use of its Measure A1 Base City Allocation)

I. Procurement Process

Policy Adopted January 23, 2017:

- A. Cities will follow their own procurement processes to preliminarily select projects to be funded and to propose the amount of Base City Allocation to be awarded to each project, subject to the Measure A1 maximum subsidy limits.

Additional Proposed Policy:

- A. Cities will submit an application for each selected project to HCD. HCD will review for compliance with Measure A1 bond program requirements and HCD’s Rental Housing Development Policies and underwriting requirements.
- B. HCD will accept applications in an over the counter process, with specific deadlines established to be included in annual or biennial bond issuance pools as needed.
- C. Alternatively, a city may request that HCD administer the project selection process for all or a portion of the city’s Base City Allocation, in which case HCD will run the city’s selection process concurrently with the regional pool competitive RFP process, with the city approval of the Measure A1 eligible project(s) to be funded from its Base City Allocation.
- D.

II. **Types of Projects**

Policy Adopted June 28, 2016:

- A. In addition to the types of projects listed above, cities may use a portion of the Base City Allocation to finance the development of interim, crisis, or transitional housing for homeless households provided the city has identified funding for operating and services subsidies.

Additional Proposed Policy:

- A. If a city uses a portion of its Base City Allocation for crisis, interim, or transitional housing, the city must identify funding sources for associated operations and services prior to HCD approval of use of Measure A1 funds.
- B. The “portion” of the Base City Allocation that may be used for crisis, interim, or transitional housing is defined as up to 10% for cities with Base City Allocations over \$15 million, 15% for cities with Base City Allocations under \$15 million and over \$10 million, and up to 20% for cities with Base City Allocations under \$10 million.
- C. A city may use a portion of its Base City Allocation to finance a regional-serving project located in another jurisdiction should it choose to do so.

III. **Loan Administration**

Policy Adopted June 28, 2016:

- A. HCD will administer the Measure A1 funding, including negotiating deal terms and executing County loan documents.
- B. HCD will collect sufficient information to ensure that the projects meet Measure A1 policies and requirements.

IV. **Commitment Deadline**

Proposed Policies:

- A. Cities will have up to 3 years (until December 31, 2020) to commit funds to specific projects, with possibility of extension should a feasible project be identified.
- B. “Commitment” is defined as a City Council action to allocate funds to a project.
- C. Funds not committed by the city will be moved into the Regional Pool in which the city is located on January 1, 2021, unless an extension has been granted by the Housing Director.
- D. The Cities will have up to three years from commitment of the funds to start construction on the project and up to five years to expend the funds.

Measure A1 Specific Policies for Regional Pools

I. Procurement

Policy Adopted June 28, 2016:

A. Developments financed with bond funds must have the support and approval of the cities in which they are located, including financial support [as defined under the Match section of these policies].

Policy Adopted January 23, 2017:

A. HCD will use a competitive Request for Proposals (RFP) process to select projects.

Additional Proposed Policy:

A. It is a goal to use the Regional Pool funds to finance projects in various locations around each region, not only in one jurisdiction. In the competitive process, regional geographic spread will be considered.

II. Commitment Deadline

Proposed Policy:

A. HCD will use its best efforts to commit all funds in each Regional Pool within 4 years (by December 31, 2021).

B. Once funds are committed, a project will have up to 3 years to start construction, and up to five years to expend funds.

C. Should a Regional Pool not have eligible, feasible projects requesting funding, after December 31, 2021, the funds in such a Regional Pool may be moved to another Regional Pool which has eligible, feasible projects requesting funds which exceed that Pool's available funds.

D. If uncommitted funds remain in any Regional Pool after January 1, 2022 those funds will be made available county-wide through a competitive RFP process.

RENTAL HOUSING INNOVATION AND OPPORTUNITY FUND POLICIES

I. Use of Funds:

Policy Adopted June 28, 2016

- A. The goal of this component of the Measure A1 Bond program is to support the ability of affordable housing developers to respond quickly to opportunities that arise in the market, to preserve and expand affordable rental housing and prevent displacement of current low-income Households.
- B. Eligible properties can include vacant land, existing apartment buildings and motels, or other buildings to be converted into eligible housing.

Additional Proposed Policy:

- A. This fund is specifically meant to be used to acquire property for the development of long-term affordable rental housing. Acquisition of land and related soft costs are all eligible use of funds.
- B. Funds will be awarded for short-term loans, with an initial maximum loan term of three years. This fund is not permanent financing.
- C. Repayments to this fund will provide funding for additional projects over time.

II. Criteria:

Policy Adopted June 28, 2016

The housing developed under this program must meet the requirements of the Rental Housing Development Fund.

III. Geographic Distribution:

Policy Adopted June 28, 2016

The Innovation and Opportunity Fund is available countywide for eligible projects.

IV. Procurement:

Policy Adopted June 28, 2016:

- A. HCD will issue a Request for Qualifications (RFQ) to select and pre-qualify developers to participate in the program.
- B. Once approved for participation, selected developers will be able to submit over-the-counter applications for funding.

Proposed Policy:

- A. **Requirements for developers:** To be considered for the pool of pre-qualified developers, developers must meet HCD's Tier One Developer requirements.

V. Leveraging

Proposed Policy:

Encourage developers to leverage funds to the greatest degree possible.

VI. **Maximum or Minimum Loan Amounts:**

Proposed Policy:

HCD will work with other community-based lenders to establish minimum and maximum Measure A1 loan amounts, in order to combine Measure A1 funds in this program component with other, leveraged funds to the maximum extent possible.

VII. **Loan Terms:**

Proposed Policy:

- A. These funds will be provided in the form of short-term loans. It is expected that the initial loan term will be a maximum of three years, however this may be modified if necessary to leverage other financing. It is not expected that the maximum term will not exceed five years.
- B. The loans will be documented with a full set of loan documents, including a recorded deed of trust, regulatory agreement, signed promissory note and loan agreement.
- C. Regular reporting on the projects progress will be required.

VIII. **Match Requirements:**

Proposed Policy:

- A. Formal Commitment of City matching funds is not required at this stage of development as a prerequisite for award of Opportunity Fund loans..
- B. City support and approval of the project is required at the time of the loan.

Attachment A

Alameda County Housing and Community Development Department Administrative Loan Terms

Alameda County Housing and Community Development Department (HCD) maintains a set of Administrative Loan Terms and Housing Development Policies and Procedures used to implement its Affordable Housing Development Program. These policies are updated periodically, as changes occur in the affordable housing finance field, including programmatic changes at the State (CalHFA, California State Housing and Community Development, California Tax Credit Allocation Committee and California Debt Limit Allocation Committee) and Federal (Housing and Urban Development) levels.

The below is a very high level overview of HCD policies and do not represent all requirements of HCD funding. For additional details, see HCD's Affordable Housing Development Policies and Procedures, an annual Request for Proposals document, and HCD's Loan Documents, available on HCD's website. For the Measure A1 Bond program, also see specific Measure A1 policies and requirements, available on HCD's website.

A. Loan Documents:

It is anticipated that regardless of how funds are initially used, they will roll into permanent financing secured by long-term debt against the real estate secured by a Deed of Trust and Regulatory Agreement. In addition, borrowers will sign a Promissory Note and Loan Agreement documenting the County's investment. HCD's existing affordable housing development program policies as of the date of the contract will govern loan terms and HCD-imposed requirements.

1. Contract for funding, approved by the Board of Supervisors
2. Loan Agreement
3. Regulatory Agreement
4. Promissory Note
5. Deed of Trust
6. Subordination Agreement(s) (as applicable)

B. Term

In general, a 59-year loan term and regulatory period is required for affordable housing projects funded by HCD. This term has, on occasion, been reduced with the Housing Director's approval to 55 years in tax credit projects, when borrower's counsel justifies the reduction due to tax credit requirements. The term begins as of the date of initial occupancy, which can be set by either the Certificate of Occupancy or by the first occupancy of the building as reported in the closeout report.

C. Interest Rate

3% simple interest, owed as of the date of disbursement unless the Promissory Note indicates otherwise.

D. Payments

1. HCD loan may be amortized over a 59-year period, with equal payments throughout the term (amortized loan); or
2. In special needs projects that serve Extremely Low Income Households, payments may be deferred, at the Housing Director's discretion in order to make the project financially feasible; or
3. HCD loan may be repaid through a proportionate share of residual receipts. HCD may allow the General Partner of the borrower partnership to retain up to 50% of the residual receipts as an "Incentive Management Fee", but may restrict this to only 25% if there are soft lenders in addition to HCD sharing repayment from residual receipts. Should the Partnership Agreement not allow the GP to keep the full amount of the Incentive Management Fee, HCD will require that the amount of the soft lender share of residual receipts be increased to capture those funds.

E. Security

Deed of trust recorded against fee title or leasehold interest.

F. Regulatory Agreement

The HCD Regulatory Agreement must be recorded against the fee title interest on the property and in senior lien position to bank loan documents. In leasehold transactions, the Regulatory Agreement must be on the fee title. HCD's Regulatory Agreement includes a prohibition against discrimination based on the source of a tenant's income and requires acceptance of rental assistance programs like Shelter Plus Care and Section 8 Vouchers.

G. Income Restrictions

See the Measure A1 Specific Policies for Income Restrictions.

H. Rent Increases

Rent increases are subject to the requirements of the funding source(s) invested in the project. Rent may be increased by not more than 5% annually (unless approved in writing by the Housing Director in advance of the increase based on feasibility of the project). HCD will consider allowing rents to "Float Up" if a project based voucher contract is not renewed.

I. 4% MFMR Bond Projects

In any project funded by Alameda County Housing and Community Development, HCD will be the issuer of the Bonds, subject to the Housing Director.

J. Replacement Reserve

0.6% of the replacement cost of the structure annually, up to \$600 per unit for family developments and \$500 per unit for senior developments. These amounts may change annually as part of the RFP process to reflect updates or changes to State HCD program requirements.

K. Operating Reserve

- L. Three months of operating expenses must be capitalized at conversion. Developers must make payments in schedule approved by the County until the reserve reaches 6 months of operating expenses. A larger deposit is encouraged.

M. Developer Fees

For 9% Tax Credit projects, the maximum allowed by TCAC which will generally be equal to \$2.2 Million. In 4% Tax Credit Projects, the maximum amount the Developer may take out of the Development Costs is equivalent to a 9% deal, however additional fee to increase basis is allowable if matched general partner capital contribution or taken out of the Borrower's share of cash flow over the tax credit compliance period. For non Tax Credit projects, the maximum developer fee is 10% of TPC, subject to the Housing Director's approval.

N. Retention

\$50,000 of HCD's loan funds must be allocated toward the developer fee and held as a performance retention, to be paid upon completion of construction and delivery of close out items. This amount can be adjusted for smaller projects, at the Housing Director's discretion.

O. Asset/Partnership Management Fees

Combined \$25,000 limit with no escalator; unpaid fees do not accrue; any fees above this amount or escalators must come from borrower's 50% Incentive Management Fee. State HCD is currently proposing new limits, but has not yet adopted them. The Housing Director may revise this policy to be in conformance with any new State policies on this issue.

P. Loan Fees

HCD may charge a loan closing fee.

Q. Monitoring Fees

HCD will charge a monitoring fee for each HCD-restricted unit. The current fee is \$300 per restricted unit per year.

R. Insurance Minimums

1. Workers Compensation: to the extent required by law, including Employer's Liability coverage, at least \$1,000,000 each accident
2. Commercial General Liability: \$2,000,000 per occurrence
3. Commercial Automobile Liability: \$1,000,000 per occurrence
4. Builder's Risk/Property: 100% of property replacement value
5. Commercial Crime: covering all officers and employees, for loss of HCD loan proceeds caused by dishonesty
6. Borrower must ensure that any general contractor or subcontractors maintain the insurance in #1-3 in the amount of \$1,000,000 each.

7. Commercial General Liability and Automobile Liability insurance policies must be endorsed to name as an additional insured HCD, and its officers, agents, employees and members of the County Board of Supervisors.

S. Record Retention

Records related to Alameda County bonds or loans used to fund construction or rehabilitation of low-income housing, including individual homeowner loans through large affordable housing developments must be kept for the length of time the property is owned plus 6 years.

T. Reports

1. Quarterly progress reports required during construction and with any invoice;
2. Quarterly reports required during the first year of operations, starting from certificate of occupancy;
3. Annual Reports required (within 180 days of the end of the fiscal year) after the first year and for the term of the loan.

U. Change Orders

For construction period loans, construction change orders are subject to HCD's approval.

V. Subcontracts

1. Contractor must submit proof that subcontractors are not debarred prior to construction loan closing.
2. HCD requires competitive bidding for all subcontractors.

W. Construction Contingency

1. **New Construction:** 10% required at initial application, but can drop down to 5% remaining after construction bids are known.
2. **Rehab:** 15% construction contingency required.

X. Jobs/Hiring

See the Measure A1 Specific Policies for Job/Hiring requirements.

Y. Subordination

HCD will not accept standstill provisions or enter into a standstill agreement requested by senior lenders that prohibits HCD from exercising remedies during a specified period after a default

Z. Developer Criteria

HCD awards funds to Tier One developers. In order to be considered for funding under the Tier One criteria, a developer must demonstrate experience and capacity to complete the project. Experience includes the successful development and completion of three projects of a similar size and scope by the developer.

Capacity includes having staff on board and assigned to the project who have worked on similar projects and whose resume's demonstrate their ability to guide the project through all stages of the development process.

For developers that do not meet these requirements, a partnership with a Tier One developer is required.

Long term ownership entity must include a Tier One developer and its capacity to oversee the asset management of the building over the course of the regulatory agreement.

AA. HCD's Costs

Borrower (or Project) to pay for required 3rd party environmental review (NEPA/CEQA), HCD's legal costs associated with development and execution of project legal documents, wage monitoring associated with the project, and construction management costs associated with overseeing the progress of construction.

These administrative loan requirements are updated regularly in connection with the annual Request for Proposals process and in connection with changes at the State and Federal level to standard affordable housing finance policy, and subsequently approved by the Housing Director. HCD's objective is funding affordable housing that is financially viable over the long term loan and regulatory period as well as meets the County's fiduciary responsibilities in relationship to funding sources.

Attachment B – Maximum Loan Limits for Measure A1 Bond Funds

Proposed Measure A1 Maximum Loan Limits – Projects without 9% Tax Credits State HCD Loan Limits for Alameda County 2016**

Alameda County	Efficiency	1 BR	2 BR	3 BR	4+ BR
Income Limit					
80% AMI	\$110,000	\$110,000	\$110,000	\$110,000	\$110,000
60% AMI	\$125,000	\$125,000	\$125,000	\$125,000	\$125,000
55% AMI	\$137,244	\$138,252	\$140,845	\$143,294	\$145,311
50% AMI	\$149,632	\$151,361	\$156,690	\$161,588	\$165,765
45% AMI	\$161,876	\$164,613	\$172,536	\$179,882	\$186,076
40% AMI	\$174,120	\$177,721	\$188,237	\$198,032	\$206,387
35% AMI	\$186,508	\$190,830	\$204,082	\$216,326	\$226,841
30% AMI	\$198,752	\$204,082	\$219,927	\$234,620	\$247,152
25% AMI	\$211,140	\$217,190	\$235,772	\$252,914	\$267,607
20% AMI	\$223,384	\$230,443	\$251,474	\$271,064	\$287,918
15% AMI	\$235,628	\$243,551	\$267,319	\$289,358	\$308,228

*80% AMI has been calculated by HCD

**Note: Maximum loan limits are adjusted annually.

Proposed Measure A1 Maximum Loan Limits – Projects with 9% Tax Credits State HCD Loan Limits for Alameda County 2016**

Alameda County	Efficiency	1 BR	2 BR	3 BR	4+ BR
Income Limit					
80% AMI	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000
60% AMI	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000
55% AMI	\$57,244	\$58,252	\$60,845	\$63,294	\$65,311
50% AMI	\$69,632	\$71,361	\$76,690	\$81,588	\$85,765
45% AMI	\$81,876	\$84,613	\$92,536	\$99,882	\$106,076
40% AMI	\$94,120	\$97,721	\$108,237	\$118,032	\$126,387
35% AMI	\$106,508	\$110,830	\$124,082	\$136,326	\$146,841
30% AMI	\$118,752	\$124,082	\$139,927	\$154,620	\$167,152
25% AMI	\$131,140	\$137,190	\$155,772	\$172,914	\$187,607
20% AMI	\$143,384	\$150,443	\$171,474	\$191,064	\$207,918
15% AMI	\$155,628	\$163,551	\$187,319	\$209,358	\$228,228

*80% AMI has been calculated by HCD

**Note: Maximum loan limits are adjusted annually.

Attachment C – Sample Projects with Maximum Loan Amounts

Below are three projects in development within Alameda County, using the proposed loan limits for projects without 9% tax credits to test whether the projects would be feasible.

Alameda County's Measure A1 - Loan Limits Test and Per Unit Subsidies				
Projects Using State HCD's Loan Limits with 4% Tax Credits				
Family Housing - 65 units with no project-based section 8 vouchers				
# of Bedrooms	AMI	# of Units	HCD Loan Limit	Total
1	20%	2	\$230,443	\$460,886
1	50%	5	\$151,361	\$756,805
1	60%	8	\$125,000	\$1,000,000
2	20%	7	\$251,474	\$1,760,318
2	50%	14	\$156,690	\$2,193,660
2	60%	12	\$125,000	\$1,500,000
3	20%	4	\$271,064	\$1,084,256
3	50%	7	\$156,690	\$1,096,830
3	60%	6	\$125,000	\$750,000
		65	Maximum Subsidy	\$10,602,755
Total Other Public Funding Committed (non A1 Funding)				\$12,763,468
<i>Other Public Funding Per Unit</i>				<i>\$196,361</i>
<i>Other Public Funding as % of TPC</i>				<i>33%</i>
Total Tax Credit Equity				\$18,088,535
<i>Tax Credit Equity Per Unit</i>				<i>\$278,285.15</i>
<i>Tax Credit Equity as Percentage of TPC</i>				<i>47%</i>
Total County Measure A1 Bond Funding Needed for 4% Feasibility				\$7,650,000
<i>Per Unit of Measure A1</i>				<i>\$117,692</i>
<i>Measure A1 as % of Total Project Costs</i>				<i>20%</i>
Total Development Cost				\$38,502,003

Projects Using State HCD's Loan Limits with 4% Tax Credits				
Senior Housing - 71 units with 30 project-based vouchers				
# of Bedrooms	AMI	# of Units	HCD Loan Limit	Total
studio	20%	1	\$223,384	\$223,384
studio	40%	1	\$174,120	\$174,120
1	20%	13	\$230,443	\$2,995,759
1	40%	8	\$177,721	\$1,421,768
1	50%	29	\$151,361	\$4,389,469
1	60%	19	\$125,000	\$2,375,000
		71	Maximum Subsidy	\$11,579,500
Total Other Public Funding Committed (non A1 Funding)				\$11,437,292
<i>Other Public Funding Per Unit</i>				<i>\$161,089</i>
<i>Other Public Funding as % of TPC</i>				<i>29%</i>
Total Tax Credit Equity				\$18,986,748
<i>Tax Credit Equity Per Unit</i>				<i>\$267,418.99</i>
<i>Tax Credit Equity as Percentage of TPC</i>				<i>48%</i>
Total County Measure A1 Bond Funding Needed for 4% Feasibility				\$9,251,230
<i>Per Unit of Measure A1</i>				<i>\$130,299</i>
<i>Measure A1 as % of Total Project Costs</i>				<i>23%</i>
Total Development Cost				\$39,675,270

Projects Using State HCD's Loan Limits with 4% Tax Credits				
Family Housing - 80 units with 20 Project-Based Vouchers				
# of Bedrooms	AMI	# of Units	HCD Loan Limit	Total
1	20%	8	\$ 230,443	\$ 1,843,544
1	40%	8	\$ 177,721	\$ 1,421,768
1	50%	9	\$ 151,361	\$ 1,362,249
1	60%	5	\$ 125,000	\$ 625,000
2	20%	4	\$ 251,474	\$ 1,005,896
2	40%	6	\$ 188,237	\$ 1,129,422
2	50%	7	\$ 156,690	\$ 1,096,830
2	60%	8	\$ 125,000	\$ 1,000,000
3	20%	3	\$ 271,064	\$ 813,192
3	40%	6	\$ 198,032	\$ 1,188,192
3	50%	8	\$ 161,588	\$ 1,292,704
3	60%	7	\$ 125,000	\$ 875,000
		79		\$13,653,797
Total Other Public Funding Committed (non A1 Funding)				\$13,801,500
<i>Other Public Funding Per Unit</i>				<i>\$174,703</i>
<i>Other Public Funding as % of TPC</i>				<i>28%</i>
Total Tax Credit Equity				\$25,075,609
<i>Tax Credit Equity Per Unit</i>				<i>\$317,412.77</i>
<i>Tax Credit Equity as Percentage of TPC</i>				<i>51%</i>
Total County Measure A1 Bond Funding Needed for 4% Feasibility				\$9,910,632
<i>Per Unit of Measure A1</i>				<i>\$125,451</i>
<i>Measure A1 as % of Total Project Costs</i>				<i>20%</i>
Total Development Cost				\$48,787,741

Below is a project in development within Alameda County, using the proposed loan limits for projects with 9% tax credits to test whether the projects would be feasible.

Alameda County's Measure A1 - Loan Limits Test and Per Unit Subsidies				
Project Using HCD's Loan Limits with 9% Tax Credits				
Family Housing/Nonprofit Homeless Set-Aside - 89 units with 60 project-based vouchers				
# of Bedrooms	AMI	# of Units	HCD Loan Limit	Total
studio	15%	3	\$155,628	\$466,884
studio	30%	3	\$118,752	\$356,256
studio	50%	6	\$69,632	\$417,792
1	15%	5	\$163,551	\$817,755
1	20%	2	\$150,443	\$300,886
1	50%	3	\$71,361	\$214,083
2	15%	6	\$187,319	\$1,123,914
2	30%	10	\$139,927	\$1,399,270
2	50%	16	\$76,690	\$1,227,040
3	15%	6	\$209,358	\$1,256,148
3	30%	13	\$154,620	\$2,010,060
3	50%	15	\$81,588	\$1,223,820
		88		\$10,813,908
Total Other Public Funding Committed (non A1 Funding)				\$4,895,000
<i>Other Public Funding Per Unit</i>				\$55,625
<i>Other Public Funding as % of TPC</i>				10%
Total Tax Credit Equity				\$33,115,812
<i>Tax Credit Equity as Percentage of TPC</i>				71%
Total County Measure A1 Bond Funding Needed for 4% Feasibility				\$8,800,000
<i>Per Unit of Measure A1</i>				\$100,000
<i>Measure A1 as % of Total Project Costs</i>				19%
Total Development Cost				\$46,810,812

Exhibit B

Public Process and Comments Received

Measure A1 Rental Housing Development Policies

Public Process to Date

An inclusive and multi-faceted community input process has been utilized for the development of implementation policies. A series of input meetings were held prior to release on June 8, 2017 of the Draft Rental Program policies for a formal comment period which ended on July 10th. Input from these meetings was taken into consideration in the development of the draft implementation policies released for comment. The input process included:

- The Measure A1 Implementation Schedule and list of community meetings to be held was widely publicized on April 20, 2017 through emails to everyone who signed up to receive notices on HCD's Measure A1 and Interested Developers listserves, encompassing approximately 1400 email addresses of interested individuals and organizations.
- HCD convened individual meetings with staff from all of the cities in the County in late January and early February 2017 to discuss broad concepts related to the Rental Program policies and an additional meeting with all housing staff from the cities was held in late April to gather their initial input on key policy issues.
- In May and June 2017, three open community meetings were held and attended by a diverse array of advocacy organizations, realtors, faith-based organizations, developers, city staff, and interested individuals. An outline of the June 28, 2016 adopted policy areas, and key outstanding questions was distributed and discussed at these meetings in iterative versions. Records of all comments received were kept and influenced the content of the draft policies.
- HCD received additional comments via email, phone, and letters during this period.
- On June 8, 2017, a draft of implementation policies was released for public comment, with comments due by July 10th. The initial deadline requested written comments to be submitted by 10 a.m., although staff accepted and included public comments received until close of business on July 10th. Comments were received via U.S. Mail, email, and hand delivery. Additional input was provided by Board of Supervisors staff.

In total, 40 written public comments were received regarding the draft rental policies during the comment period. Copies of these written comments may be found on HCD's website, <http://www.acgov.org/cda/hcd/bond.htm>. These written comments represent 38 organizations and were signed by 51 individuals.

Throughout the process to date, staff has received ongoing feedback regarding Rental Housing Development Fund policies, Innovation and Opportunity Fund policies, and HCD's Administrative Loan Terms for the Affordable Housing Development Program. Bond Counsel has performed a preliminary review of the public comment draft policies and will perform a

review of revised policies prior to staff making formal recommendation for adoption to the Board.

Schedule

While the January 23, 2017 Implementation Plan anticipated bringing proposed policies for adoption this month, due to the extent and depth of public comment received by July 10th and the complexity of several of the issues to be addressed, Staff is bringing this update without formal recommendation at this time. This change will also necessitate a change in the published schedule. Staff anticipates bringing formal recommendation on policies to this Committee as early as possible in September and to bring recommendations to the full Board as soon as possible after the Committee's approval.

Outstanding Key Issues

There are a number of key policy areas for which staff is still completing development of recommended policies, including analyzing comments received. These include policies related to the following areas:

- Workforce and employment, including Small, Local and Emerging Business requirements, Project Labor Agreements, local enterprise and hiring requirements, small contractor bonding program, and the Enhanced Construction Outreach Program,
- Tenant selection and screening, including Fair Housing-related issues.
- Priorities within target populations and geographic areas.

Exhibit A contains the draft policies with recommended changes to date incorporated from the public comment period, for your review and discussion. A redlined version of the draft policies will be available on HCD's website. Below is a summary of key changes made in response to the comments received during the comment period

Highlighted Policy Changes to Public Comment Draft Policies

Anti-Displacement

Several comments were received related to adding more explicit anti-displacement language to ensure that Measure A1 funding will be used to stem displacement and to safeguard against funded projects causing displacement of existing low- or moderate-income tenants. Staff has added language to explicitly prohibit Measure A1 funds from being used to finance projects that would permanently displace current low or moderate-income households. Additional language was added to make clear that in projects that require temporary relocation of current residents, for example to allow for rehabilitation of existing apartments, current low- and moderate-income residents will be provided with temporary relocation benefits and would be provided with first right of refusal to return when units are ready for occupancy, at comparable or lower rents.

In addition, a policy was added to address possible displacement of current residents of acquisition/rehabilitation projects whose household incomes exceed Measure A1 requirements. In acquisition/rehab projects where existing tenants' household incomes do not meet Measure A1 requirements, they may continue to reside in the project and upon turnover, income-qualifying tenants will be moved in.

Eligible Uses of the Funds

Some comments were received expressing concern that for acquisition of land using Measure A1 funds, the draft policy regarding the expectation that a project is developed with a ‘reasonable’ period of time, defined as starting construction within years, was overly restrictive and did not allow for enough time in which to either start construction or spend Measure A1 funds. The “reasonable amount of time” was established in order to prevent long-term land banking without timely development of housing. In response to the comments, the definition of reasonable amount of time has been modified to allow more flexibility while still encouraging development as quickly as possible. In the current draft, the milestones and time periods are defined as having a financing plan in place within two years and starting construction within three years. Extensions of up to an additional year are allowed as long as the project is making significant progress towards these milestones.

In addition, comments were received that the milestones and deadlines for cities in regards to projects selected for funding with Base City Allocations were insufficient and the Policy should include additional deadlines for the start of construction and expenditure of funds to ensure progress towards completion of Measure A1-assisted units. Staff recommends modifying the Policy to state that cities will have up to three years from fund commitment to start project construction and up to five years to expend those funds.

Income Levels

Clarification was requested on what percentage of units may be assisted for households between 61% and 80% of Area Median Income (AMI) since the Program Description allows that a “portion of the funds may be allowed to subsidize units for households at or below 80% of AMI to create affordable housing for a mix of lower-income levels within developments.”

In response, language was added to the draft policies defining the maximum portion of funds that can be spent of units at 80% of AMI at five percent (5%) of each Base City Allocation and each Regional Pool.

Comments were received that units should count towards the Board-adopted minimum requirement that 20% of Bond-assisted units be restricted to households with incomes at or below 20% of AMI if the units have project-based rental assistance, such as Section 8, even if the units are restricted at a higher AMI level (for example 50% of AMI). This appears to be reasonable so long as these units have preferences for households at or below 20% of AMI.

Additional comments expressed that the 20% of Bond-assisted units at 20% of AMI requirement should be imposed on the regional pools by each RFP cycle round, as opposed to a per-project or per-jurisdiction for the Base City Allocations basis. Additionally, that points should be included in the Regional Pool RFPs to encourage greater than 20% of units in projects to be affordable at the 20% AMI level, based on this change would harness the experience that some developers have in managing 20% AMI units and that some communities can absorb more 20% AMI units than others. The implementation policies propose that the ‘20% at 20%’ requirement be met by each Base City Allocation and each Regional Pool, in order to provide flexibility regarding income levels in each specific project, while also ensuring that communities fund a share of these units and that the units will be geographically spread. In response to the comment, a goal has

been added that each RFP cycle for the Regional Pools fund 20% of the anticipated units at the 20% AMI level in order to ensure that these units are financed on an on-going basis and not left until the end of the implementation period. No change to the proposed requirement that each Base City Allocation also achieve the “20% at 20%” requirement was made.

Match Requirements

Comments requested that the match section be clarified to allow city match to include a combination of sources that constitute match in one project. That is the intention of the draft policies. Language has been added to make explicit that a combination of sources can be utilized as match in each project.

Commenters also noted that the County should be required to provide the jurisdictional match for the Unincorporated County’s portion of the City Base Allocation. Requiring an Unincorporated County match is equitable and feasible and this change has been incorporated.

Commenters also expressed some concern regarding the timing of the match commitment. Commenters requested that cities should be allowed to preliminarily commit matching funds conditional on award of Measure A1 funds and that the match commitment be formally finalized before the construction loan closes because for many financing sources, the commitment of both City and County funding will be needed to secure other sources, even if the City commitment is preliminary. The policies have been modified to allow for a city’s administrative commitment of the amount of matching funds at the time of Measure A1 application, with formal commitment of the match by city councils prior to construction loan closing.

Per-Project Maximum Amount of Measure A1 Funds

Several commenters noted that the proposed per-project cap of 25% of total project costs is too low and would result in funding gaps, especially for 4% Tax Credit projects, small, or special needs projects. Staff has modified the proposed policies to specify that the maximum per Measure A1 funds per project will be the lower of the State’s HCD maximum loan subsidy limit for each Measure A1 funded unit in the project or a percentage of the Total Project Costs (TPC).

Additional clarifying language is included in this section for Tax Credit Projects, as well as small and special needs projects. For 9% Tax Credit projects, the per-project cap will be a maximum of 25% of the TPC or the State 9% subsidy limit per unit size whichever is lower. In 4% Low Income Housing Tax Credit projects, a maximum per-project cap will be 35% of the TPC or the State’s non 9% subsidy limit per unit size, whichever is lower. For projects of 20 units or less, or special needs projects, an additional 10% increase in subsidy may be allowed should the project demonstrate a financial need in order to be feasible and leveraging from other available financing sources have been sought;

Target Populations

Some commenters requested clarification on how priorities will be given for target populations identified in the implementation policies as well as how the County will work to ensure that Measure A1 benefits all of the target populations over time. This is an area that HCD is still working on, however additional language has been added regarding an annual review of projects funded and cumulative units for each named target population and that this review may impact

future RFP scoring in order to ensure benefit to all target populations, in addition to use of tenant screening tools that don't unfairly screen out the Measure A1 target populations.

Tenants' Rights and Responsibilities

Comments were received that requested that strong tenant protections be incorporated into the Rental Program implementation policies, including requests that references to, and reliance upon, the HUD-produced Tenants Rights and Responsibilities document be included. A policy has been added that requires that projects must provide to residents and post a Tenant Rights and Responsibilities document to be developed by HCD based on the HUD Tenants Rights and Responsibilities document.

Types of Projects

Comments were submitted that there should be a cap on the percentage of each Base City Allocation that can be used for homeless crisis, interim or transitional housing, for example 10% of the city's base allocation, since the primary goal of Measure A1 is to create permanent housing opportunities. A policy has been added that sets a maximum percentage of Base City Allocations for this purpose, with different percentages scaled to the size of the Allocations: up to 10% for cities with allocations over \$15 million, 15% for cities with allocations under \$15 million and over \$10 million, and up to 20% for cities with allocations under \$10 million.

Additional Comments

Some comments were received on policies which are not yet being proposed, for example on the form and functions of the Oversight Committee. Per the Implementation Plan, staff will bring recommendations on the Oversight Committee by January 2018. These comments have been noted and will be considered as part of that work, however staff does not anticipate recommending that the Oversight Committee's purpose change from annual review of Measure A1 implementation to ensure that Bond proceeds are being spent in compliance with the ballot Measure to functioning more as a pro-active loan committee and decision maker on specific project loan terms.

EXHIBIT C - SUMMARY OF PUBLIC COMMENT MAJOR THEMES

MEASURE A1

RENTAL HOUSING DEVELOPMENT FUND & INNOVATION AND OPPORTUNITY FUNDDRAFT IMPLEMENTATION POLICIES

This document provides a summary of the major themes of the public comments that Alameda County Housing and Community Development Department (HCD) received during the 30-day public comment period on the draft Implementation Policies for the Measure A1 Rental Housing Development Fund and Innovation and Opportunity Fund. This document does not capture every comment but instead reflects common or similar themes made by several commenters. A full compilation of the public comments is posted on HCD's website at <https://www.acgov.org/cda/hcd/documents/PublicCommentsRentalFunds.pdf>.

Dates of Public Comment Period:

June 8, 2017 – July 10, 2017

Volume of responses received:

HCD received comments from 38 organizations/individuals during the public comment period, specifically:

- Housing development organizations (Affirmed Housing, Allen Temple Arms, Building Futures With Women and Children, East Bay Asian Location Development Corporation, Hello Housing, Eden Housing, MidPen Housing, Resources for Community Development, Satellite Affordable Housing Association)
- Individuals (Kitty Kelly Epstein, Charlene Jimerson, Joan Miro)
- Cities (Alameda, Berkeley, Hayward, Piedmont, San Leandro, Union City)
- Advocacy and service organizations (Affirmed Housing, Alameda County Building & Construction Trades Council, Beloved Community, California Association of Real Estate Brokers, Community Economics, East Bay Housing Organization, EBHO's Resident and Community Organizing Program Committee, Enterprise, EveryOne Home, Housing and Economic Rights Advocates, National Coalition of 100 Black Women, NPH/EBHO Measure A1 Working Group, Sierra Club) c

BASE CITY ALLOCATION AND REGIONAL POOL POLICIES

INCOME LEVELS

- Provide clarification on what percentage of units may be assisted for households between 61% and 80% of Area Median Income (AMI), such as specifying a given percent of bond funds that may assist these income levels (perhaps 5%).

- Consider an incentive system for targeting units to 20% AMI instead of requiring a specific amount (20% of the units at 20% or less of AMI); consider providing additional ranking points if a development provides more than 20% of the units at 20% AMI.
- Tie the 20% AMI units to having committed project-based rental subsidies; otherwise these units will not maintain financial feasibility.
- Require developers to apply for all types of project-based subsidies wherever available.

PROJECT SELECTION CRITERIA

- Provide clarification on how priorities will be given for target populations identified in policies: what does “priority” mean and will projects serving multiple target populations be given greater priority than serving only one?
- The definition of seniors needs to be flexible to match state and federal funding age levels (55 years, 62 years).
- Family housing (larger units) should be considered a priority target population
- Clarification is needed on how to operationalize marketing to people displaced from and no longer living in Alameda County; perhaps define as those displaced “through no fault of their own” and if rent burdened, overcrowded or living in substandard conditions.

ELIGIBLE TYPES OF PROJECTS

- Prioritize new construction over acquisition/rehab of existing housing.
- Prioritize acquisition/rehab of existing housing with tenants at risk of displacement.
- Rehabilitation should have a minimum requirement, such as \$50,000 per unit.
- Provide clarification on meaning of “Preservation of Affordable Housing” – does this include existing units that are income-restricted or naturally occurring affordable units that may present opportunity for long-term affordability?
- Scattered site and Accessory Dwelling Units should not be allowed because the 50+ year affordability term will make it financially infeasible.
- ADUs should be allowed since some communities are encouraging these as a mechanism for affordability.

ELIGIBLE USES OF THE FUNDS

- Concerns regarding possible land banking. Provide specific definition of “reasonable amount of time” for start of construction after land acquisition, such as within three years of award of A1 funds, or having a feasible development plan within two years and starting construction within four years.
- The County should consider allowing unsecured financing for predevelopment costs if there is a public agency commitment to provide publicly owned land.
- Ensure that A1 funding does not unintentionally result in displacement of existing low- or moderate-income tenants when funds are used for site acquisition, and ensure that strong tenant protections are incorporated into the policies.

AMOUNT OF A1 INVESTMENT PER PROJECT/PER UNIT

- Concern that the proposed 25% cap on A1 funds (25% of the total project costs) is too low and may preclude on-time completion of projects since it will take developments longer to obtain all needed financing.
- Possibly use a higher cap of 35-40% of total development costs.
- Any unrestricted units' costs should not be included in the calculation.
- Allow flexibility and exceptions to rule to ensure projects continue moving forward. Review the cap annually.
- If the State HCD limits are used, consider applying a boost over those limits, such as \$50,000 per unit; review the cap annually.
- Don't use a per unit cap, apply the percentage of total development costs ratio instead.
- Provide clarification on how the policy will apply to Base City Allocation as well as the Regional Pool: Is the cap applicable to the total A1 investment, or treated separately for each allocation?
- A1 funding should allocate more funds to fewer projects in order to strategically be positioned as a key permanent funding source, allowing it to be coupled with non-competitive 4% tax credits and promoting quicker production of affordable units over the next several years of bond funding.
- Ensure that A1 funding is sufficiently flexible so that it can be allocated to work with both 4% and 9% tax credit projects.

MATCH REQUIREMENTS

- Concern about timing of the match contribution. Require match to be committed at the time of loan commitment instead of project application.
- Be flexible in the type of match accepted and when it is required. Instead of requiring it at time of application, accept match funding commitment that is conditional on award of Measure A1 funds, because for many sources, including tax credits, the commitment of County funding will be needed to secure other sources.
- Allow cities to be creative in reaching the match.

LEVERAGING

- The County should anticipate that the Measure A1 funds will be a major source of committed funds after City funding; thus Measure A1 will be used to leverage competitive funding from state and federal sources.

Base City Allocation should be allowed to count as leverage for the regional pool.

WAGE LEVELS AND EMPLOYMENT OPPORTUNITIES

- Requirements to comply with any future Job Training & Career programs should apply only to newly awarded projects and policies should state that the projects must comply with programs in place at time of funding award.
- The County should not impose additional requirements where local requirements for prevailing wage, local enterprise and hiring already exist.
- Ensure there is sufficient time to work out mutual labor agreements to maximize affordable housing development and sustain economic development strategy.
- Community-based and nonprofit organizations should not be exempt from SLEB or ECOP goals.
- SLEBs and Bay Area non-profit developers should be given preference in the selection process.

SINGLE CORE TENANCY APPLICATION/POSTING FOR UNIT OPENINGS

- This would streamline the application process and be ideal as a one-stop format.
- Concerns regarding how it would be operationalized, given nonprofit developers' existing property leasing and marketing processes. Developers would like to know what platform would be used to replace existing programs, and how it would work with cities' marketing requirements for new units.
- How will this system work with the coordinated entry system being developed now to provide a one-stop access for homeless individuals to housing and services.
- Developers would like to be involved in development of such a system.
- Flexibility was stressed so that other funding source requirements could be met.

BASE CITY ALLOCATION SPECIFIC POLICIES

TYPES OF PROJECTS

- Concern about allowing Accessory Dwelling Units (ADUs) and scattered site housing given the 55-year minimum affordability period.
- Good to include ADUs but to make it work need shorter affordability restrictions and other possible changes to rules.
- There should be a cap on the percentage of funds that can be used for crisis, interim or transitional housing, such as 10% of the city's base allocation, since Measure A1 was approved by voters to create permanent housing opportunities.
- Concern that some cities may apply their Base Allocation to housing in another jurisdiction to avoid developing affordable housing within their own jurisdiction.
- Desirable to allow cities to use portions of their Base City Allocations in other cities for regional serving housing developments.

LOAN ADMINISTRATION

- There should be a clearly stated cap for administrative fees for the Base City Allocation and Regional Pools.
- Loan administrative responsibilities should be outlined up-front and clarified; administration by both County and City complicates closings and could add costs.
- The County and cities should determine who will have lien priority, and determine costs of administration up front.

COMMITMENT DEADLINE

- The policy should include additional deadlines for the start of construction and expenditure of funds to ensure progress towards completion of Measure A1 units, such as a three-year expenditure deadline from the date of commitment.
- Cities should have the opportunity to reallocate their Base Funds (possibly to existing funded projects even if that would exceed per unit Measure A1 limits) before the funds are shifted to the Regional Pool.
- Provide ample time from timing of bond issuance to funding announcement for Base City Allocations to allow cities sufficient time to develop a local Notice of Funding Availability (NOFA) and select projects for funding.

REGIONAL POOL SPECIFIC POLICIES

PROCUREMENT PROCESS

- Recommend flexibility regarding the total investment from regional pools to avoid financing constraints on larger projects that may require additional funding beyond what is available in a given regional pool.
- Do not allow a full regional pool allocation to be allocated to a single city.

COMMITMENT DEADLINE

- Consider extending the commitment deadline to five years from four (to 12/31/22) to provide sufficient time to access local funds for project viability.
- Current policies allow for commitment of funds with enough flexibility to move funding towards jurisdictions with higher usage of funding.

INNOVATION AND OPPORTUNITY FUND POLICIES

- Define what “short period of time” means for term of loans, and consider this to be 3-5 years to allow for refinancing.
- Clarify the funding terms, including allowing the funds to be rolled over into permanent financing, reasonable repayment terms (3 years is recommended to mirror the length of

time a project needs to complete predevelopment), and establishing a cap on the maximum amount of funding for a project.

- Cities should be allowed to access these funds and not be subject to the RFQ process or match requirements.
- Concern that these funds could be used to purchase buildings that have tenants who are over 80% AMI; in this situation, what tenant protections will be put in place so that they are not displaced?
- The funds should be restricted to local nonprofits to ensure knowledge of local communities; set aside a percentage of funds for use by community-based organizations and faith-based organizations.
- Exceptions to the loan terms should be made through an oversight committee rather than at the sole discretion of the Housing Director.

EXHIBIT A - ALAMEDA COUNTY HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT ADMINISTRATIVE LOAN TERMS

- General Comments:
 - Certain policies (loan terms, rent increases, the County's role as issuer of 4% bonds) are recommended to be determined by an oversight committee, not be at the discretion of the Housing Director.
 - Concern that if new programs are established after a funding commitment is made, that the new program policies won't be retroactively applied to the project.
- Policy on Interest Rate should have a range and flexibility depending on needs of project and based on the determination of the Housing Director.
- Loan Payments Policy: Recommendation for more clarification on the County's residual receipts policy. A variety of comments were received, including using the 75/25 waterfall split if there are more than two soft lenders, application of residual receipts only for the Innovation Fund, and not requiring residual receipts payment for the City Base Allocation.
- Regulatory Agreement Lien Position Policy: Recommendation that the County not require that its agreement remain in senior lien position as this could cause difficulty securing financing from private lenders.
- Replacement Reserve Policy: Recommendation that the County should adjust its policy to conform to State HCD or consider adjusting to be comparable to other jurisdictions.
- Operating Reserve Policy: Request for additional clarification on this policy.
- Developer Fees Policy: A number of comments were received, including: to provide additional flexibility in the policy to allow fees over \$2 million to attract more equity in tax credit projects, to provide sufficient funds for development partnerships, and to defer to California Tax Credit Allocation Committee regulations in terms of allowable amounts of developer fees.

- Asset/Partnership Management Fees Policy: A number of comments were received to recommend higher fees and inflation/escalator factors.
- Monitoring Fees Policy: A recommendation was made to remove the fee and have cities monitor the projects, while another comment was received to ensure these fees are included in ongoing A1 administrative fees.
- Insurance Policy: The loss payee clause should only be triggered at losses over \$350,000.
- Developer Criteria: A recommendation was made to require that developers who have not completed five successful Bay Area projects partner with more experienced developers.
- HCD Costs Policy: Concern was raised about layering too many costs on these projects and not being duplicative, as this could negatively impact the maximum benefit of the A1 Program.

COMMENTS-GENERAL

OVERSIGHT COMMITTEE

- The Oversight Committee should have a pro-active function and not only review uses of funds annually. For example, for the Rental Housing Development Fund, the Oversight Committee could review and grant requests for certain policies to be waived or reconsidered rather than the Housing Director having that function, such as deferral of payments for special needs extremely low income projects, consideration of the per unit/project extension of commitment deadlines, or establishing loan terms and approving variances from those loan terms, and for the Innovation and Opportunity Fund, approving exceptions to the standard loan terms.

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