

Measure A1 Implementation Policies

Homeowner Development 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 Measure A1 on November 8, 2017, and Alameda County’s Housing and Community Development Department (HCD) is implementing this program.

Of the Bond’s five programs, one is intended to increase the long-term affordable homeownership housing inventory in Alameda County. Detailed Implementation Policies have been developed to guide the use of the funds allocated to the Homeowner Development Fund.

Framework

When the Alameda County Board of Supervisors placed Measure A1 on the Ballot, the specific framework provided in the Bond Program description adopted at that time included:

1. To assist in the development and long-term affordability of homeownership housing for low-income first-time homebuyer households.
2. Funds will be made available to developers of homeownership housing for use in acquisition, predevelopment and construction of housing projects, with the intent that the funds remain with the housing units as subsidy for the low income first time homebuyers.
3. Homeownership Development funds will be available for County-wide geographic distribution with no regional allocations.

Policies for Affordable Homeowner Housing Development Program

A. Income Levels and First Time Homebuyer Status

Policy Adopted June 28, 2016

- i. Project funds will serve households with a maximum income of 80% of Area Median Income (AMI).
- ii. Sale of homes will be restricted to “First Time Homebuyers” as defined by the Internal Revenue Service (IRS).
- iii. Alameda County residents, those displaced from Alameda County, and Alameda County workforce will be given priority.

Proposed Policy: Eligible Homebuyer Criteria

- i. Unit must be the first-time homebuyer’s primary residence



- ii. Homeownership and financial counseling will be mandatory for homebuyers.

Proposed Policies: Homebuyer Selection Criteria

- i. A marketing plan will be required to ensure that current Alameda County residents and those displaced from Alameda County are aware of this opportunity to the greatest extent possible.
- ii. The marketing plan will include outreach to neighborhood-based organizations to help mitigate displacement of residents.
- iii. Selection of potential homebuyers will occur through a competitive process, which HCD will approve in advance (i.e. lottery).
- iv. Marketing Plan must include proactive notification of sales opportunities to Alameda County 211 as well as a wide array of realtors, agencies, nonprofit organizations throughout the County.
- v. Marketing plan must include a viable proactive strategy for securing applications from traditionally underrepresented population groups in homeownership.

B. Project Selection Criteria:

Policy Adopted June 28, 2016

- i. Projects must have units restricted to first time homebuyers at 80% of AMI and provide long term affordable homeownership housing.

Proposed Policy:

- i. Developer must have site control at time of application, unless project is a scattered-site home acquisition and rehabilitation proposal.
- ii. Financial feasibility and cost reasonableness will be rating factors.
- iii. Mixed-income projects including homes at moderate and/or market rate are eligible, but only the units below 80% AMI will receive Measure A1 project development funding.
- iv. GreenPoint Rating: Projects will be required to meet the minimum scores in each category in each GreenPoint Checklist section.
- v. Where applicable, HCD will use its existing Administrative Loan Terms (see Exhibit A) and detailed Housing Development Policies and Procedures for overall requirements, however these policies for Measure A1 funding will overrule any conflicts.
- vi. When acquiring a site, no displacement of existing low-income rental tenants will be allowed.
- vii. Proximity to employment centers or public transit will be a rating criteria.
- viii. Access to neighborhood services will be a rating criteria.
- ix. Developer must demonstrate market demand and previous success with homebuyers at this income level in the application.



- x. Projects will be equally eligible in either high opportunity areas or neighborhood stabilization areas.

C. **Eligible Types of Projects:**

Policy Adopted June 28, 2016:

- i. New construction

Proposed Policy:

- i. Projects must meet all Measure A1 policies and requirements.
- ii. It is anticipated that most projects will be new construction, however scattered site acquisition and rehabilitation projects are also eligible.
- iii. Land Trust/long term ground lease ownership projects are permitted.
- iv. Acquisition and rehab of occupied “naturally occurring affordable housing” is eligible.

D. **Eligible Uses of the Funds**

Policy Adopted June 28, 2016

- i. Uses of funds will be flexible, within the parameters of eligibility for use of general obligation bond proceeds
- ii. Land acquisition
- iii. Standard soft costs associated with development
- iv. Construction costs

Proposed Policies:

- i. Acquisition of land is eligible, so long as a project is developed in a reasonable amount of time. “Reasonable” is defined as starting construction within three years. This may be modified at the Housing Director’s discretion.
- ii. Long-term land banking is not expected to be funded under the Homeowner Development Fund.

E. **Form and Term of Development Financing:**

Policy Adopted June 28, 2016):

- i. Funds for project development will be provided in the form of loans, including a recorded deed of trust, regulatory agreement and executed promissory Note and loan Agreement.

Proposed Policies:

- i. Upon sale of individual homes to eligible homebuyers, the developer loan will be retired and each homebuyer will assume a pro rata portion of the loan with new security documents recorded against the home purchased. Upon sale of the final affordable home in the development, the developer regulatory agreement will be removed from the property when all terms are met.
- ii. Terms will be structured so that property tax assessments apply only to affordable sale prices and not include Measure A1 Bond development financing associated with that unit.

F. **Leverage Requirements**

Guiding Principle Adopted June 28, 2016:

HCD seeks to leverage other sources of affordable housing financing.

Proposed Policy:

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

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

Guiding Principles Adopted June 28, 2016

- i. Maximize leverage and produce the largest number of units possible
- ii. Select feasible projects
- iii. Fund projects at a level to ensure viability for the life of the resale restriction.

Proposed Policies:

- i. The maximum amount of Measure A1 Bond Homeownership Development funds per unit will be based on reasonable and comparable development costs for similar



projects (as determined by County Housing Director) less the mortgage loans and required down payment.

- ii. The Measure A1 Bond funds must fill a gap and not supplant other funding.

H. **Maximum Sales Price Calculation**

Proposed Policies:

- i. Sale prices should be calculated using 10% below the maximum limit. For example, housing units targeted to households earning less than 80% AMI will utilize a sale price assuming income at 70% AMI. Price will not adjust based on specific homebuyer household income.
- ii. When setting sale prices, household size should be assumed as the number of bedrooms +1.
- iii. The Housing Cost to Income ratio will be a maximum of 35%, unless restricted by other sources. It will include principal, interest, taxes, insurance, utilities, minimum maintenance reserve, and (if required) mortgage insurance (PMI) and homeowner association fees.
- iv. The minimum homebuyer down payment required will be 3% of the restricted sale price.
- v. For sweat equity programs, the portion of down payment paid by homebuyer can be lower than 3% as approved by the Housing Director.
- vi. HCD will establish an occupancy standard regarding minimum household size.

I. **Homebuyer Affordability Terms:**

Adopted Policies (June 28, 2016):

- i. Repayment of Measure A1 Bond funding is deferred with no monthly payments to add to buyer cost burden.
- ii. Repayment of funds is only due if the home is sold or transferred to an ineligible buyer.

Proposed Policies:

- i. The affordability term length will be 99 years and will reset at each re-purchase or transfer by a new eligible homebuyer to achieve permanent affordability.
- ii. The homeowner's restricted future resale price will be calculated utilizing the original percent of Area Median Income (for example 70%) and other factors used to determine the initial sale price in order to maintain affordability over time at that income level.



- iii. Homeowner’s receipt of equity upon resale is limited to an amount equal to the restricted future resale price plus documented capital improvements, minus the first mortgage and any other liens on the property at the time of resale.
- iv. The Resale Restriction Agreement may include a Grant of the Right of Repurchase to the developer or its assignee.
- v. In the event of a resale where no eligible homebuyer can be found with reasonable marketing and outreach, the property may be sold at market rate with the housing Director’s approval, and all Measure A1 Bond funds and its percentage of the equity in the property at the restricted sale price will be returned to HCD.
- vi. HCD will establish a “no windfall” provision.

J. Layering of Down Payment Assistance Programs with Development Funding:

Proposed Policies:

- i. Allow down payment assistance programs to be layered with the homeownership development program, unless conflicting requirements render it infeasible
- ii. Layering of Measure A1 DALP funds is permitted, with an emphasis on targeting lower-income educators and first responders who meet the income requirements for this development.

K. Developer Requirements

Proposed Policies:

- i. The County will Fund Tier One Developers. See Exhibit A for Tier One Developer specifications. The developer team must demonstrate knowledge, experience with at least three similar projects, and measurable success.
- ii. Application must demonstrate current capacity of development team to accomplish project.

L. Contract Administration and Compliance

Proposed Policy:

- i. Post-closing compliance monitoring will be required with at least annual communication with homeowner and verifying evidence of occupancy. A fee may be charged for monitoring as part of eligible project costs.



M. Wage Levels and Employment Opportunities

Policy Adopted June 28, 2016:

Projects must meet all applicable County wage and hiring requirements. These currently include:

- i. Small, Local and Emerging Business (SLEB) requirement of 20% for all local funding. community-based organizations and nonprofits are exempt from this requirement.
- ii. First Source hiring requirement for all contracts over \$100,000.

Proposed Policy:

- i. Should HCD establish Job Training and Career Pathway programs, projects funded by the Measure A1 Bond shall meet the requirements, as applicable.
- ii. HCD may provide additional points in a Request for Proposals (RFP) for projects that coordinate with, and propose use of, career pathway programs.

****See attached Exhibit A for specific Administrative Loan Terms**

Submit Comments to: achousingbond@acgov.org

Join HCD's Email Lists,
including Measure A1:
<http://www.acgov.org/cda/hcd/esubscribe.htm>

Download HCD's
Current Housing
Development Policies
and Procedures

Measure A1
Webpage
<http://www.acgov.org/cda/hcd/bond.htm>

G:\HCD\Programs - Other\G.O. Bonds\Bond Homebuyer Programs\Homeowner Development Policies Public Comment v. 6.9.17.docx



Exhibit 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 used to implement its Affordable Housing Development Program. These policies are updated periodically, as changes occur in the affordable housing finance field. The key policies outlined below do not represent all requirements of HCD funding. For additional details, please see HCD's Affordable Housing Development Policies and Procedures, an annual Request for Proposals document and HCD's Loan Documents.

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 or Resale Restriction Agreement. In addition, borrowers will sign a Promissory Note and Loan Agreement documenting HCD's investment. Use of HCD's existing affordable housing development program policies as of the date of the contract will govern loan terms and HCD imposed requirements.

- i. Contract for funding, approved by the Board of Supervisors meeting
- ii. Loan Agreement
- iii. Regulatory Agreement
- iv. Promissory Note
- v. Deed of Trust
- vi. Subordination Agreement(s) (as applicable)

B. Term

See Measure A1 Policies for specific details

C. Interest Rate

See Measure A1 Policies for Specific Policies

D. Payments

See the Measure A1 Specific Policies

E. Security

Deed of Trust recorded against fee title or leasehold interest.

F. Regulatory Agreement/Resale Restriction 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/Resale Restriction Agreement must be on the fee title.

G. Income Restrictions

See the Measure A1 Specific Policies for Income Restrictions.



H. Rent Increases

Not applicable

I. 4% MFMR Bond Projects

Not applicable

J. Replacement Reserve

Not applicable

K. Operating Reserve

Not applicable

L. Developer Fees

10% of total development costs up to a maximum set by and subject to Housing Directors discretion.

M. 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.

N. Asset/Partnership Management Fees

Not applicable

O. Loan Fees

HCD may charge a loan closing fee.

P. Monitoring Fees

HCD may charge a monitoring fee for each HCD-restricted unit.

Q. Insurance Minimums

- i. Workers Compensation: to the extent required by law, including Employer's Liability coverage, at least \$1,000,000 each accident
- ii. Commercial General Liability: \$2,000,000 per occurrence
- iii. Commercial Automobile Liability: \$1,000,000 per occurrence
- iv. Builder's Risk/Property: 100% of property replacement value
- v. Commercial Crime: covering all officers and employees, for loss of HCD loan proceeds caused by dishonesty
- vi. Borrower must ensure that any general contractor or subcontractors maintain the insurance in #1-3 in the amount of \$1,000,000 each.
- vii. 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.
- viii. These are subject to change based on County Risk Management requirements



R. 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.

S. Reports

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

T. Change Orders

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

U. Subcontracts

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

V. Construction Contingency

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

W. Jobs/Hiring

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

X. 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

Y. 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 include 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. See HCD's policies and procedures for more details.



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, as 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.

