



## 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:** October 2, 2017

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

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### 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 July 17, 2017, your Committee heard and reviewed an initial draft of the Rental Housing implementation policies and took public comment. Since then, staff have added additional language and detail to the policies, as well as making some adjustments and additions in response to your Committee's and public input.

Exhibit A is a draft resolution to be presented for adoption by the Board of Supervisors at the same time as these policies. The resolution documents the housing needs of the target populations and makes findings regarding the public purposes served by providing housing priority for the designated populations.

Exhibit B is the proposed implementation policies for rental housing programs funded by Measure A1. The policies incorporate changes in response to comments received from both the public meeting process described in Exhibit C as well as public comments received through September 20, 2017.

Exhibit C describes the iterative and inclusive public process that HCD conducted 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>.

The framework under which the implementation policies have been 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.

This staff report outlines key implementation policy areas, especially focusing on those areas with changes or additions from the draft policies presented to your Committee last July.

## **1. Rental Housing Development Fund**

The goal of the Measure A1 Rental Housing Development Fund is to assist in the creation and preservation of affordable rental housing for vulnerable populations. The total allocation to this Fund is \$425 Million over the course of the Bond program.

The Board of Supervisors adopted a program summary for all the Measure A1 Bond programs on June 28, 2016 which provides the framework for the programs and the implementation level policies. Under the program summary, the Rental Housing Development Fund will serve a variety of target populations, including a range of income levels and people who are homeless, disabled, seniors, veterans, people with disabilities, transition-age youth, re-entry, and low-income workforce.

It is expected that the majority of the housing units financed 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 Bond program 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 (and the County for the unincorporated areas) 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, each financed developments must include a financial contribution from the city in which it is located. Developments financed must remain affordable for no less than 55 years.

Since the July 17, 2017 presentation, a number of small clarifications and copy edits were made, as well as the addition or substantive changes to a few policies or outstanding items. Notable changes are in the sections regarding Fair Housing and related issues, Live/Work preferences, and Workforce policies, and these are outlined in the sections below. Additionally the following substantive changes were made that should be highlighted:

- Projects shall comply with California law prohibiting landlords from requiring any tenant to state, certify, or represent immigration status, unless required by applicable Federal law.
- The maximum amount of Measure A1 investment per project/unit was increased by 5%, with additional funds allowable subject to approval of the Board of Supervisors.
- The policies now include an initial reservation of 10% of the funds in each pool to cover the County's bond issuance and program delivery/administration costs and state that the percentage may be adjusted and any amounts not needed or projected to be needed for this purpose shall be released back into the pool from which is was reserved.

### **Fair Housing**

On June 28, 2016, your Board adopted a resolution recognizing that housing in Alameda County has become increasingly scarce and expensive to the point that it is now out of reach for many low- and middle-income residents. Your Board identified a priority in rental housing developments for the homeless, seniors, veterans, people with disabilities, formerly incarcerated persons re-entering the rental market, transition age youth aging out of foster care, and lower income workforce, as well as for residents of Alameda County in order to prevent displacement.

The housing challenges and needs and the public purposes served by providing housing priority for the designated populations is supported by data and adopted plans and policies, as described in findings in the draft resolution attached as Exhibit A. The resolution will be presented for adoption by the Board of Supervisors at the same time as these policies as the resolution makes findings needed to support the policies.

Under law and the proposed policies, all Measure A1 developments will comply with fair housing law. Some units will be specifically designated for particular target populations, such as senior housing, permanent supportive housing for homeless households with high need for wrap around services, etc. As a whole, the Rental Housing Development Fund will support the creation of housing units which will serve all of the target populations, although not every development will contain units specifically designated for all of the named target populations. The program includes use of a variety of tools to target units for these various populations. These tools can include points in competitive selection processes, regulatory requirements, tenant screening and selection policies and practices, and Marketing Plans that include focused marketing while ensuring fair and equal access under the law.

HCD received comments from your Committee and community members regarding ensuring access to Measure A1 financed housing units for people with criminal convictions and for undocumented residents. There are federal funding source regulations concerning both of these groups. In the case of undocumented residents, State law contains specific relevant provisions. Regarding undocumented residents, California law prohibits landlords from requiring any tenant to state, certify, or represent immigration status to a landlord, unless required by applicable

Federal law. The proposed policies include the requirement that developments comply with this law. Federal housing funding sources contain specific restrictions concerning both of these populations. For example, those with specified criminal convictions and undocumented immigrants are not eligible for assistance under the Federal Section 8 rental assistance program administered by local housing authorities. Project-based Section 8 rental assistance is anticipated to be an important source of funds for some of the Measure A1 units targeted to households at or below 20% of AMI. Any project financed by these types of federal funding sources will have to follow the federal requirement to check criminal history backgrounds and legal residency status, and exclude certain applicants.

The proposed Measure A1 policies contain the following towards achieving access to units for all of the Rental Housing Development Fund target populations:

“To the greatest extent feasible, property owners and managers will use tenant screening tools that screen these vulnerable target populations into the projects rather than rejecting them for tenancy due to conditions associated with their target population status (such as homelessness, disability, re-entry, etc.). An example of a ‘screen in’ tenant screening tool is the Everyone Home tenant screening tool. Other examples or tools may be developed or authorized by the County.”

The Everyone Home tenant screening tool, which was piloted to encourage access to subsidized housing for homeless households, includes an accommodation for those that have backgrounds that housing owners/managers would normally use to reject them for tenancy, such as allowing applicants to provide additional information as part of their applicants that documents changes they’ve made to demonstrate they are in a position to meet requirements for tenancy (for example, completing a drug or alcohol recovery program to address issues that may have caused them to have been evicted in the past, or that they are currently participating in employment and other re-entry services or are now employed).

### *Live/Work Preferences*

The program framework adopted by the Board provides that people who live or work in Alameda County are the priority for the Measure A1 supported housing (a countywide “Live/Work Preference”). Within that framework, a number of cities and community organizations have expressed a desire for city level live/work preferences, which could support the goals of helping to prevent displacement at a sub-County level as well as supporting worker residence near workplaces. Should a city wish to implement a sub-County live/work policy (i.e. a city requirement for live/work or a neighborhood requirement for live/work) then the County should require that certain conditions be met, as described in the proposed policies, including that the city complete a study and make one or more findings which demonstrate city-level residential displacement is occurring and/or is at high risk of occurring and a need for a sub-regional live/work preference is needed to respond to or prevent displacement; and entering into an agreement obligating the city to defend and indemnify the County against any claims or litigation that may arise from such a restriction.

**Workforce Policies**

*Prevailing Wage Rates*

In July of 2016, after the Board had placed Measure A1 on the ballot and adopted the program framework, the Board adopted a policy that rental housing development projects supported with Measure A1 funds will be required to pay Prevailing Wages. The proposed policies clarify that for projects subject to federal Davis-Bacon wage levels, the federal requirements supersede State and local requirements. Davis-Bacon wage levels are generally comparable to State Prevailing Wage levels. For projects subject to State Prevailing Wage laws, they must comply with all State requirements. For other Measure A1 funded projects that don't fall under the federal or state prevailing wage requirements, the proposed County requirement is that the projects pay wage rates at or equivalent to the wage rates established by the State as prevailing wages.

*Local Hire Policies*

Proposed policies in this area are still under development. HCD received a number of comments from interested parties that advocated for workforce policies in addition to the Prevailing Wage policy. The vast majority of them were concerned with finding pathways for local low income residents to become employed on these projects.

Staff has researched existing programs intended to increase participation in the local workforce by different county agencies. It should be noted that a "Local Hire" policy is intended for the employees – those hired – while a "Local Business" policy is intended for the hiring of local businesses, regardless if they are made up of local employees. The programs that exist within County agencies are varied, and the goals do not all align. Below is a summary of the programs and the numerical goals associated with each.

Program/Goal	HCD / Federal Section 3	County SLEB	County ECOP	County COPP	County PSCBA
<b>Local Hire</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>40%</b>
<i>Apprenticeship Goal</i>	0%	0%	20%	20%	20%
<i>Disadvantaged / Low Income Worker</i>	10-30%	0%	0%	0%	<1%
<b>Local Business</b>	<b>0%</b>	<b>0%</b>	<b>60%</b>	<b>0%</b>	<b>0%</b>
<i>Small Local Business</i>	10%	20%	20%	20%	0%
Minority Owned Business	0%	0%	15%	15%	0%
Women Owned Business	0%	0%	5%	5%	0%

To date, HCD has received outcome information for some of the County programs and is continuing to seek outcome information on others. In addition, HCD is continuing to work on this policy with County Counsel in consultation with Bond Counsel and plans to bring additional information and possible proposed policies at a future date.

## **2. Innovation and Opportunity Fund**

As adopted by the Board in the June 2016 Program Description, 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. As described in the Program Description: “One use of funds under this program component will be 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. ... Funding under this component may also be used to develop other innovative, bond-qualified programs that serve the same needs as the Rental Housing Development Program, allowing flexibility to develop creative responses to community needs and changing conditions in the housing market.”

The proposed policies currently relate to the implementation of the rapid-response, high-opportunity site acquisition and predevelopment loan program, proposed to be called the “Acquisition and Opportunity Fund”. HCD is evaluating similar existing programs and may propose selecting a Program Administrator to administer this fund in order to maximize leverage of Measure A1 funds and increase efficiencies in the development process.

HCD plans to continue developing innovative program proposals for this Fund and to bring them to the Committee along with implementation policies for consideration. Possible foci of these additional programs could include programs related to Board and Care homes or other special needs community living facilities, and support for development of Accessory Dwelling Units on single-family parcels.

### **Recommendation and Next Steps**

These policies are presented to your Committee for discussion and consideration of approval to move them to consideration for adoption by the Board of Supervisors, while staff continues work on the areas noted. Contingent of Board adoption of the policies, moving these policies forward will allow HCD to accept project applications from cities under the Base City Allocations and allow projects that are ready to apply for funds under the January 16, 2018 deadline for the State’s Affordable Housing and Sustainable Communities (AHSC). This is an important source of leveraging and the State has recently increased the amount of funding which will be available statewide from \$155 Million to \$255 Million. Staff will continue to work on the noted areas and will return to your Committee with updates and/or recommended policies.

Board of Supervisors Health Committee

October 2, 2017

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

# Exhibit A

## DRAFT

### RESOLUTION NO. 2017-\_\_\_\_\_

#### **A RESOLUTION APPROVING GENERAL OBLIGATION HOUSING BOND (MEASURE A1) IMPLEMENTATION POLICIES FOR THE RENTAL HOUSING DEVELOPMENT FUND, INNOVATION AND OPPORTUNITY FUND, AND HOMEOWNERSHIP DEVELOPMENT FUND**

**WHEREAS**, on June 28, 2016, the County of Alameda Board of Supervisors ("Board") adopted a resolution and order (Resolution and Order No. R.-2016-196) recognizing that housing in Alameda County has become increasingly scarce and expensive to the point that it is now out of reach for many low- and middle-income residents, including, but not limited to, the elderly, the homeless, persons with disabilities, and other vulnerable populations; and

**WHEREAS**, the same June 28, 2016 resolution called for a general obligation bond election ("Measure A1"); and

**WHEREAS**, also on June 28, 2016, the Board approved a summary outlining basic parameters of programs to be funded with such bonds (the "Affordable Housing Program"); and

**WHEREAS**, on November 8, 2016, the voters in the County of Alameda approved Measure A1, which provides for the issuance of up to \$580 million in bonds for affordable housing programs within the County; and

**WHEREAS**, specifically, Measure A1 provides that its proceeds will be used for the acquisition or improvement of real property, a portion of which shall be used to provide up to 8,500 units of affordable local rental housing to prevent displacement of vulnerable populations, including low and middle-income individuals and families, working households, veterans, seniors, and persons with disabilities; a portion of which shall be used to provide supportive housing for homeless people; and a portion of which shall be used to help low and middle-income households purchase homes and stay in their communities; and

**WHEREAS**, consistent with the intent of the ballot measure, the Affordable Housing Program identified a priority in rental housing developments for the homeless, seniors, veterans, people with disabilities, formerly incarcerated persons re-entering the rental market, transition age youth aging out of foster care, lower income workforce, and residents of Alameda County and a priority in homeownership developments for residents displaced from Alameda County and the Alameda County Workforce (collectively, the "Priority Populations"); and

**WHEREAS**, County staff has developed Implementation Policies for the Affordable Housing Program including: (1) Measure A1 Implementation Policies – Rental Housing Development and Innovation Fund (the "Rental Implementation Policies") and (2) Measure A1 Implementation Policies – Homeownership Housing Development Funds (the "Homeownership Implementation Policies", collectively with the Rental Implementation Policies, the "Policies"); and



**WHEREAS**, a copy of the Policies are on file with the Clerk of the Board; and

**WHEREAS**, the Board desires to adopt the Policies and make certain findings with respect to the Priority Populations; and

**WHEREAS**, as evidenced by the 2014 Board of Supervisor adopted Consolidated Plan for the HOME Consortium, in 2014 there were over 111,820 low income households in the County, with approximately 49,000 of those households with a rent burden in excess of 30% of the household's income and nearly 3,000 experiencing over-crowding; and

**WHEREAS**, low and moderate income households throughout the County have been experiencing and are at risk of displacement due to continuing increases in rents and housing prices and predatory or problematic homeownership lending practices; and

**WHEREAS**, having workers reside near their workplaces helps to reduce traffic, increase air quality and improve quality of life through reduced commute times; and

**WHEREAS**, providing affordable housing for residents and workers in the County will help to achieve the important governmental purposes of promoting community and resident stabilization and a healthy environment, by providing an opportunity to residents living in inadequate housing conditions to move into quality affordable housing units without leaving the community, preserving residents' ties to community institutions, encouraging households working in the County to live near their workplaces, thereby avoiding the negative air quality and traffic impacts of commuters traveling long distances, encouraging businesses to locate in the County to take advantage of the affordable housing opportunities available to their workers, and mitigating the effects of displacement and the loss of housing; and

**WHEREAS**, in 2015, California had 115,738 homeless people, which accounted for 21% of the nation's homeless population and California also had the highest rate of unsheltered people, at 64% or 73,699 people; the largest numbers of unaccompanied homeless children and youth, at 10,416 people or 28% of the national total; the largest number of veterans experiencing homelessness, at 11,311 or 24% of the national homeless veteran population; and the second largest number of people in families with chronic patterns of homelessness, at 22,582 or 11% of the state's homeless family population; and

**WHEREAS**, thousands of people experience homelessness in the County each year and the current housing crisis has not only caused displacement of long term County residents to other communities but many of the County's most vulnerable, low income residents have been driven into homelessness, often unsheltered; and

**WHEREAS**, providing affordable housing to homeless individuals and families will achieve an important government purpose by helping to move individuals and families from the streets or temporary locations to decent safe and sanitary housing, assisting individuals who are the most in need, and reducing community costs associated with homelessness such as emergency health care, criminal justice, and emergency shelters; and

**WHEREAS**, the population is aging and many older adults, often with limited incomes and who are more likely to be low income, are and will continue to be in need of affordable housing within the County and, as evidenced by the 2014 Board adopted Consolidated Plan for the Home Consortium, many of these seniors experience a rent burden in excess of 30% of their income; and

**WHEREAS**, providing affordable housing to seniors will achieve an important governmental purpose by assisting individuals in need, engendering respect for human dignity and allowing for multi-generational communities within the County; and

**WHEREAS**, veterans of every era and their families should have access to resources earned and deserved for selfless and honorable military service; and

**WHEREAS**, a significant portion of the homeless population is veterans and a significant portion of veterans have mental and physical health issues; and

**WHEREAS**, providing affordable housing to veterans will achieve an important governmental purpose by assisting in the fight against homelessness, providing stability to allow veterans the opportunity to address and manage health issues, and assisting in reintegrating veterans and their families into the County community; and

**WHEREAS**, people with disabilities often face challenges in accessing and obtaining affordable housing opportunities and providing affordable housing to persons with disabilities provides equal opportunity in housing, promotes independence and community integration; and

**WHEREAS**, within the County, 22% of people with disabilities live at or below 100% of the federal poverty level compared to 11.5% of those without disabilities, and 42% of people with disabilities live below 200% of the federal poverty compared to about one-fourth of people without a disability; and

**WHEREAS**, providing affordable housing to people with disabilities will achieve an important governmental purpose by helping to fight against homelessness and poverty and promoting community independence and integration for people with disabilities; and

**WHEREAS**, from October 2011 to October 2013, 1,294 individuals released from state prison to the County were in need of a wide range of services, including housing; and

**WHEREAS**, formerly incarcerated persons entering the housing market are three to four times more challenged than the general population in their ability to obtain permanent housing upon release and, without necessary services, the issues facing those released from prison or county jail leads over half of such released prisoners to return to custody within three years of their release; and

**WHEREAS**, providing housing to formerly incarcerated persons will help to achieve the important governmental purposes of reducing recidivism and burdens on the criminal justice system; and

**WHEREAS**, lack of affordable and available housing is the primary barrier to transition aged youth who are homeless or at risk of homelessness in completing an education, securing and maintaining employment, accessing health care, and making a successful transition to adulthood; and

**WHEREAS**, there are approximately 2,500 youth currently in County child welfare supervised foster care and the California Department of Social Services estimates that 65% of the 219 youth who exit foster care every year need housing assistance; and

**WHEREAS**, the number of homeless youth and young adults in Alameda County is close to one thousand individuals in the course of a year; and

**WHEREAS**, affordable housing will help to achieve the important governmental purpose of meeting transition aged-youths' immediate survival needs and addressing their long-term need to find a suitable home promotes human decency, education and community health for such youth; and

**NOW THEREFORE BE IT RESOLVED** that the Board of Supervisors hereby adopts the Policies and directs staff to use Measure A1 funds consistent with the ballot measure and within the framework of the Affordable Housing Program and the Policies.

**BE IT FURTHER RESOLVED** that in adopting this resolution, the Board of Supervisors adopts, and incorporates as if restated herein, the above recitals as findings and further finds that important governmental purposes will be achieved in providing priorities in housing for the above described populations.

**BE IT FURTHER RESOLVED** that the Board directs staff to implement the Affordable Housing Program and Policies.

**BE IT FURTHER RESOLVED** that the Board directs staff to identify and implement strategies under the Affordable Housing Program to serve the Priority Populations in a reasonable and flexible manner in consultation with stakeholders in the community and subject to the review and approval by County Counsel for consistency with applicable laws.

**THE FOREGOING** was **PASSED** and **ADOPTED** by a majority vote of the Alameda County Board of Supervisors this \_\_\_\_\_ day of October, 2017, to wit:

**AYES:**

**NOES:**

**EXCUSED:**

\_\_\_\_\_  
PRESIDENT, BOARD OF SUPERVISORS

APPROVED AS TO FORM:  
DONNA R. ZIEGLER, COUNTY COUNSEL

By: \_\_\_\_\_  
Andrea L. Weddle  
Chief Assistant County Counsel

File: \_\_\_\_\_

Agenda No: \_\_\_\_\_

Document No: **R-2017-** \_\_\_\_\_



I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Supervisors, Alameda County, State of California

ATTEST:  
Clerk, Board of Supervisors

By: \_\_\_\_\_  
Deputy

# Exhibit B

## 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, 2016. Alameda County's Housing and Community Development Department (HCD) is implementing the programs under the Bond.

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 to guide the use of the funds allocated to the Rental Housing Programs.

#### *Adopted Program Summary Framework*

When the Alameda County Board of Supervisors placed Measure A1 on the ballot, they adopted a program summary which framed each of the programs to be funded by the Bond.

- 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 programs. These implementation policies, once adopted by the Board, will provide more detail for how the programs will operate while still providing flexibility to implement the programs. In addition, HCD will continue to use its existing Administrative Loan Terms (see Exhibit A) and detailed Housing Development Policies and Procedures, as applicable to Bond programs (see <http://www.acgov.org/cda/hcd/rhd/requirements.htm>) for specific project requirements.

Measure A1 policies for the **Rental Housing Development Fund** and the **Innovation and Opportunity Fund** that are different or more restrictive than the administrative policies and procedures listed above 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 Measure A1 Bond or other legal requirements as determined necessary 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 modifications to policies to ensure achievement of Measure A1 goals or for legal compliance.

Note that for the purposes of these policies, unless explicitly stated otherwise, use of the term “city” shall include the Unincorporated County. For example, the Unincorporated County has an allocation as a city under the Base City Allocations of Rental Housing Development Program funding.

## **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 are expected to 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:**

- D. 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.
- E. 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.
- F. 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% of AMI.

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 remain 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 below 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:**

- E. Fair Housing: The Board of Supervisors has adopted findings which support the need and public purposes of supporting the creation of affordable housing for the target populations and resident and workforce housing. To the extent possible and permissible under law, staff will implement restrictions and priorities for populations listed above using, where possible, regulatory agreements, marketing and rent up policies, and points in competitive funding selection processes for projects that include the target populations and resident and workforce goals.
  - 1. 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 priorities for future projects to ensure a spread of units serving these target populations.
  - 2. Projects funded from the Base City Allocations must include units targeting one or more of the above target populations.
  - 3. Applications for funding will require specificity regarding which target population(s) and income level(s) will be served.
  - 4. Sub-regional live/work goals: To prevent displacement and to encourage residential proximity to workplace, should a city wish to implement a sub-regional live/work preference policy for a portion of the units in the project, the city must meet certain criteria and be approved by the County. Criteria will include but not be limited to:
    - a) Completion of a study and making one or more findings which demonstrate city-level residential displacement is occurring and/or is

at high risk of occurring and a need for a sub-regional live/work preference is needed to respond to or prevent displacement; and,

- b) Enter into an agreement obligating the city to defend and indemnify the County against any claims or litigation that may arise from such a restriction.

- F. Affirmative Fair Marketing Plans: HCD will require a Fair Marketing Plan for each project to ensure that the target populations, local (and County-wide where appropriate) resident and workforce populations will be aware of the housing opportunities to the greatest extent possible and that the leasing of the project units will be conducted in such a manner as to provide fair and equal access under the law.
  - 1. Affirmative Fair Marketing/Rent-up Plans will be reviewed and evaluated by HCD.
  - 2. All marketing efforts to include, at minimum, listing the unit openings with Eden I&R's 211 system, notifying parties on an HCD-established "Housing Opportunities" email 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. The Marketing Plan must include notification to and active engagement with neighborhood-based organizations in the neighborhood in which the housing is or will be located.
  - 4. All marketing and outreach materials must be provided in the core languages as specified in each city's Language Access Plan.
- G. Points in competitive project selection processes may be awarded to incentivize specific target populations, additional units for the target populations, and/or specific income levels.
- H. To the greatest extent feasible, property owners and managers will use tenant screening tools that screen these vulnerable target populations into the projects rather than rejecting them for tenancy due to conditions associated with their target population status (such as homelessness, disability, re-entry, etc.). An example of a 'screen in' tenant screening tool is the Everyone Home tenant screening tool. Other examples or tools may be developed or authorized by the County.
- I. All Measure A1 Bond funded projects shall comply with California law prohibiting landlords from requiring any tenant to state, certify, or represent immigration status to a landlord, unless required by applicable Federal law.
- J. Should a unified core tenancy application or single wait list or point of entry be created for Bond-financed and/or other subsidized housing units in the county, all Bond funded units will utilize and participate in that application, list or entry point.
- K. Referrals to all Permanent Supportive Housing will be made through the homeless Coordinated Entry System.
- L. All projects must provide to residents and post in a public location in each building funded with Bond proceeds a Tenant Rights and Responsibilities document (to be



developed by HCD based on the HUD Tenants Rights and Responsibilities document).

- M. All projects must meet the Alameda County Housing and Community Development Department Administrative Loan Terms and underwriting requirements, as modified by these adopted Measure A1 Implementation Policies. See Exhibit 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:**

- E. Projects must meet all Measure A1 Rental Housing Development Fund policies and requirements.
- F. While it is anticipated that most projects will be multi-family projects of 5 or more units, scattered site single-family homes, accessory dwelling units (ADUs), small houses and shared housing may also be eligible, provided they are financially feasible, they meet all the Measure A1 Rental Housing Development Fund requirements, and they do not place an undue burden on the County to monitor for compliance.
- G. To prevent displacement while allowing Measure A1 funds to be used for acquisition of existing rental housing, for an Acquisition project to be eligible at least 85% of the existing tenant households must be income eligible under Measure A1 requirements. The existing “over income” households (households whose incomes exceed Measure A1 limits) will be allowed to remain and the units will be eligible for Measure A1 financing, as needed for project feasibility. Upon unit turnover, the “over income” 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, excluding all or some of the units occupied by existing “over income” tenants. 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 funds might only be used to subsidize the 25 units, plus an additional 7 units (15% more units which would be grandfathered in and provided to a Measure A1 qualified tenant upon unit turnover) for a total of 32 units. The remaining 18 units would not be eligible for Measure A1 funds.
- H. Should a project need to temporarily relocate residents (for example to allow units to be rehabilitated), 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. Relocation benefits must be provided, utilizing State of California standards.

- I. 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 costs associated with 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:**

- E. Acquisition of land is an eligible use of bond proceeds, 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 for commencement of construction may be granted by the Housing Director, as long as the project is making significant progress towards construction start.
- F. For Acquisition/Rehabilitation or Rehabilitation only projects, after completion of rehabilitation the project must meet applicable codes of the jurisdiction in which it is located, as evidenced by signoff approval by the local code official.
- G. Long-term land banking will not be eligible for funding under the Rental Housing Development Fund program. Additional time may be granted to projects under section E above should a project not move ahead, and not be considered a “Land Banking” project.
- H. Temporary Relocation costs are an allowable project cost, as part of the normal costs of development, and may upon approval of the County (and County’s 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:**

- E. Subject to the availability of funds in an applicable Base City Allocation and any Regional Pool, the maximum amount of Measure A1 funds per project shall be based on the State of California HCD maximum loan subsidy limit in place at the time of application 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 30% of the TPC or the State 9% subsidy limit per unit size (See Exhibit B) as determined by the Housing Director based on financial feasibility and as approved by the Board of Supervisors;
  - 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 Exhibit B) as determined by the Housing Director based on financial feasibility and as approved by the Board of Supervisors;
  - 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 in bond fund subsidy may be allowed should the project demonstrate a financial need to be feasible and with leveraged funds from other financing sources have been sought (i.e. from 30% of TPC to 40% of TPC or from 35% of TPC to 45% of TPC per unit restricted);
  - 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 Board of Supervisors.
- F. The maximum Measure A1 subsidy levels are a combined total of any Base City Allocation and any Regional Pool funds in a project.
- G. The maximum Measure A1 subsidy levels will be reviewed at least annually to determine if modifications are needed 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:**



- B. **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. The value of land which has been donated or the value of a reduction in cost of land from market value;
  - 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 (including, but not limited to, Section 8, Veterans Administration Supportive Housing, and Local programs).
- C. The following are not eligible sources of match:
  - 1. City staff or consultant time
  - 2. Use of Base City Allocation
- D. 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.
- E. **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.
- F. **Base City vs. Regional Pools:** The minimum amount of required match is the same for projects funded by the Base City Allocations and projects funded by a Regional Pool.
- G. The formal Match Commitment must occur in advance of construction loan closing, but the city will be allowed to 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 to the maximum extent possible.

**Additional Proposed Policy:**

Additional points may be awarded in competitive project selection processes to incentivize leveraging of Measure A1 funds.

VIII. **Wage Levels and Employment Opportunities**

**Policy Adopted June 28, 2016:**

- A. Projects must meet all applicable County wage and hiring requirements.

**Policy Adopted July 19, 2016:**

- B. Rental housing development projects supported with Measure A1 funds will be required to pay Prevailing Wages.

**Additional Proposed Policy:**

- C. If a project funded under Measure A1 is, independent of such funding, subject to federal or state prevailing wage laws then those federal or state mandates will control. If a project funded under Measure A1 is not otherwise subject to federal or state prevailing wage laws, then it will be required to pay wage rates equivalent to California prevailing wage rates.
- D. All projects funded by Measure A1 shall make a good faith effort to meet Federal Section 3 Goals, as described below in sections VIII(E)(2) and VIII(F)(2).
- E. Progress on all goals in Section VIII and documentation of good faith efforts towards these goals shall be reported quarterly to HCD, and be coordinated with weekly certified payroll reporting. Final goal attainment will also be reported at the end of the project period.
- F. A list of good faith efforts and acceptable forms of documentation of these good faith efforts will be provided to bidders in bid documents provided by the developer.
- G. Local Hire Goals: County staff is reviewing possible local hire goals and will bring these back to the Board at a later date for review and approval.
- H. Local Contracting Goals: County staff is reviewing possible local contracting goals and will bring these back to the Board at a later date for review and approval.
  - a) MB/WBE Goals: County staff is reviewing possible Minority and Women Owned Business goals and will bring these back to the Board at a later date for review and approval.
- I. Should HCD establish or designate Job Training and Career Pathway programs, projects funded subsequent to establishment or designation of the program with Measure A1 Bond shall meet the requirements, as applicable.

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

Goal: HCD desires to create a robust and easy to access method for low-income households seeking subsidized housing to locate and be informed of unit availability, as well as a universal core tenancy application system to streamline the application process for low-income households to apply for tenancy to these projects.

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
<b>ALAMEDA COUNTY TOTAL</b>	<b>100.0%</b>	<b>\$200,000,000</b>

**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
<b>ALAMEDA COUNTY TOTAL</b>	<b>\$225,000,000</b>

## Measure A1 Specific Policies for Base City Allocations

(Note that for the purposes of these policies, unless explicitly stated otherwise, use of the term “city” shall include the Unincorporated County. For example, the Unincorporated County has an allocation as a city under the Base City Allocations of Rental Housing Development Program funding)

### 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:**

- B. Cities must submit an application for each selected project to HCD. HCD will review the application for compliance with Measure A1 bond program requirements and HCD’s Rental Housing Development Policies and underwriting requirements.
- C. HCD will accept applications in an over-the-counter process, with specific deadlines established for proposed projects to be included in bond issuances as needed.
- D. 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.
- E. Initially, 10% of the Base City Allocations shall be reserved to cover the County’s bond issuance and program delivery/administration costs. This percentage may be adjusted and any amounts not needed or projected to be needed for this purpose shall be released back into Base City Allocations.

### 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 their Base City Allocations to finance the development of interim, crisis, or transitional housing for homeless households, provided the city has identified funding for operations and services.

#### **Additional Proposed Policy:**

- B. 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.

- C. 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, up to 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.
- D. A city may use a portion of its Base City Allocation to finance a regional-serving project located in another jurisdiction.

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 4 years (until December 31, 2021) to commit funds to specific projects, with the possibility of a reasonable extension of this period 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 within the deadline will be moved into the Regional Pool in which the city is located on January 1, 2022, unless an extension has been granted by the Housing Director, in which case the funds will be moved into the Regional Pool on the first day following the extension period.
- D. Cities will have up to three years from commitment of 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].

#### **Additional Proposed Policy:**

- B. HCD will use a competitive Request for Proposals (RFP) process to select projects.
- C. It is a goal to use the Regional Pool funds to finance projects in various locations disbursed around each region, not only in one jurisdiction. In the competitive process, regional geographic spread will be considered.
- D. Initially, 10% of each Regional Pool shall be reserved to cover the County's bond issuance and program delivery/administration costs. This percentage may be adjusted and any amounts not needed or projected to be needed for this purpose shall be released back into the Regional Pools.

### II. Commitment Deadline

#### **Proposed Policy:**

- A. HCD will use its best efforts to commit all funds in each Regional Pool within 6 years (by December 31, 2023).
- 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, 2023, the funds in such a Regional Pool may be moved to one or more other Regional Pools which have eligible, feasible projects requesting funds that exceed the Pools' available balance.
- D. If uncommitted funds remain in any Regional Pool after January 1, 2024 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:**

- C. All funds under this program shall be fully amortizing or fully repaid. This is not an equity program.
- D. HCD shall create the Acquisition and Opportunity Fund to provide loans for the acquisition of property for the development of long-term affordable rental housing:
  - 1. Eligible properties for acquisition can include commercial or industrial properties so long as the intent is to convert them to residential use and there is a reasonable expectation of the ability to do so;
  - 2. Acquisition of land or buildings and related project soft costs are eligible uses of funds;
  - 3. Land trusts, which may result in rental or ownership affordable housing, are eligible projects under this category;
  - 4. Funds will be provided in the form of short-term loans, with an initial maximum loan term of three years;
  - 5. Repayments to this fund will be used to provide financing for additional projects over time; and
  - 6. HCD may administer this program internally or propose the use of a contracted Program Administrator to implement the program, with approval by the Board of Supervisors.
- E. In addition to the Acquisition and Opportunity Fund described above, HCD will develop an Innovation Fund to support innovations in addressing the need for affordable rental housing for the household income levels and target populations of the Measure A1 Rental Housing Development Fund and will bring a program description and implementing policies to the Board of Supervisors for review and consideration.

## II. Criteria:

### **Policy Adopted June 28, 2016**

The housing developed under the Innovation and Opportunity Fund must meet the requirements of the Rental Housing Development Fund.

III. **Geographic Distribution:**

**Policy Adopted June 28, 2016**

The Acquisition 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 establish a pool of pre-qualified developers which will then be able to apply over-the-counter for loans from the Innovation and Opportunity Fund.

**Proposed Policy:**

B. **Requirements for developers:** To be considered for the Acquisition and Opportunity Fund, developers must meet HCD's Tier One Developer requirements.

C. Should the County select a Program Administrator to administer the Acquisition and Opportunity Fund, HCD will work with the Program Administrator to conduct the selection process for pre-qualified developers.

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 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 term may be modified if necessary to leverage other financing. It is expected that the maximum term will not exceed five years.

B. The loans must 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 Acquisition and 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 must 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**

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.

**L. 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.

**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. This amount can be adjusted for smaller projects, at the Housing Director's discretion.

**N. 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.

**O. Loan Fees**

HCD may charge a loan closing fee.

**P. Monitoring Fees**

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

**Q. 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.

#### **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**

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.

#### **T. Change Orders**

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

#### **U. Subcontracts**

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

#### **V. 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.

#### **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 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.

**Z. HCD's Costs**

Borrower (or Project) to pay for required 3<sup>rd</sup> 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
<b>Income Limit</b>					
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
<b>Income Limit</b>					
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.

## **Exhibit C**

### **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 10<sup>th</sup>. 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 10<sup>th</sup>. 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 10<sup>th</sup>. 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 10<sup>th</sup> 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**

Some policies on which comments were received requested greater certainty and specificity related to County loan terms for future rental housing developments financed with Measure A1 Bond funding. For example, commenters requested higher asset/partnership management fees, specific changes to escalator factors, requests to raise the trigger level for the loss payee clause, and lien position modification. These comments have been noted. The Board-adopted Program Summary provides the overarching framework for these programs and the Implementation Policies, once approved, will provide more detailed and specific framework, under which administrative implementation details related to the specific deal structure and terms for each financed development will be determined.

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.

Additionally, comments were received that recommended that developers be required to apply for all available project-based vouchers. Staff has not incorporated this recommendation. Many project-based rental or operating subsidies come with requirements related to target populations which may not be appropriate or feasible for all developments. Other drafted policies address issues related to the Measure A1 target populations.

Further, comments were received recommending that the County not conduct monitoring or charge monitoring fees on rental housing development projects as cities were already doing so and therefore cities should shoulder the monitoring burden. Staff has not incorporated this recommendation as the County holds fiduciary responsibility for the funds under its control and part of that duty includes direct responsibility to ensure the developments are complying with County and general obligation bond requirements.

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 on 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.