



Bay Area Metro Center
375 Beale Street
San Francisco, CA 94105

Meeting Agenda - Final

Bay Area Housing Finance Authority Oversight Committee

Committee Members:

*Vacant, Chair Vacant, Vice Chair
Margaret Abe-Koga, David Canepa, Federal Glover,
David Rabbitt, Hilary Ronen*

Thursday, March 9, 2023

1:00 PM

Board Room - 1st Floor

**Bay Area Housing Finance Authority
Oversight Committee
Joint Meeting with the ABAG Housing Committee**

A Zoom panelist link for meeting participants will be sent separately to committee, commission, or board members.

The meeting webcast will be available at: <https://mtc.ca.gov/meetings-events/live-webcasts>

Meeting attendees may opt to attend in person for public comment and observation at 375 Beale Street, Board Room (1st Floor).

In-person attendees must adhere to posted public health protocols while in the building.

Members of the public are encouraged to participate remotely via Zoom at the following link or phone number:

Please click the link below to join the webinar:

<https://bayareametro.zoom.us/j/89564141841>

Or One tap mobile :

US: +13462487799,,89564141841# or +16694449171,,89564141841#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 669 444 9171 or +1 669 900 6833 or +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782 or +1 408 638 0968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 876 9923 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 305 224 1968 or 888 788 0099 (Toll Free) or 833 548 0276 (Toll Free) or 833 548 0282 (Toll Free) or 877 853 5247 (Toll Free)

Webinar ID: 895 6414 1841

Detailed instructions on participating via Zoom are available at:

<https://abag.ca.gov/zoom-information>

Committee members and members of the public participating by Zoom wishing to speak should use the "raise hand" feature or dial "*9" and dial "*6" to unmute and speak.

In order to get the full Zoom experience, please make sure your application is up to date.

Members of the public may participate by phone or Zoom or may submit comments by email at info@bayareametro.gov by 5:00 p.m. the day before the scheduled meeting date. Please include the committee or board meeting name in the subject line. Due to the current circumstances, there may be limited opportunity to address comments during the meeting. All comments received will be submitted into the record.

The BAHFA Oversight Committee may act on any item on the agenda.

The meeting is scheduled to begin at 1:00 p.m.

Agenda, roster, and webcast available at <https://mtc.ca.gov/>

For information, contact Clerk of the Board at (415) 820-7913.

1. Call to Order / Roll Call / Confirm Quorum

Quorum is a majority of members present.

2. Public Comment

Information

3. Committee Member Announcements

Information

4. Chairs' Report

- 4.a. [23-0341](#) ABAG Housing Committee and BAHFA Oversight Committee Chairs' Report for March 9, 2023

Action: Information

Presenter: Carlos Romero
Alfredo Pedroza

5. Executive Director's Report

- 5.a. [23-0342](#) Executive Director's Report for March 9, 2023

Action: Information

Presenter: Andrew Fremier

6. ABAG Housing Committee Consent Calendar

- 6.a. [23-0343](#) Approval of ABAG Housing Committee Minutes of February 9, 2023

Action: ABAG Housing Committee Approval

Presenter: Clerk of the Board

Attachments: [06a HC Minutes 20230209 Draft.pdf](#)

7. BAHFA Oversight Committee Consent Calendar

- 7.a. [23-0344](#) Approval of BAHFA Oversight Committee Minutes of February 9, 2023

Action: BAHFA Oversight Committee Approval

Presenter: Secretary

Attachments: [07a BAHFA OC Minutes 20230209 Draft.pdf](#)

8. 6th Cycle Housing Element

- 8.a. [23-0402](#) Report update on 6th Cycle Housing Element drafts submitted to the California Department of Housing and Community Development (HCD) by Bay Area jurisdictions, HCD's comments on those drafts, and available technical assistance provided by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC)

Action: Information

Presenter: Daniel Saver

Attachments: [08a 1 Summary Sheet Update on 6th Cycle Housing Element Progress v2.pdf](#)
[08a 2 Attachment A List of Housing Elements submitted to HCD including status](#)
[08a 3 Attachment B Index to available technical assistance.pdf](#)
[08a 4 Attachment C Builders Remedy Memo.pdf](#)
[08a 5 Attachment D Housing-Element-Compliance-and-Key-Funding-Programs-](#)
[08a 6 Attachment E Summary of Local Suballocations v2.pdf](#)
[08a 7 Attachment F Presentation Update on 6th Cycle Housing Element Progre](#)

9. REAP 2.0 Preservation and Priority State Programs

- 9.a. [23-0345](#) Approval of the Housing Preservation Pilot and Priority Sites Pilot and Acceptance of estimated Grant of \$43 Million in REAP 2.0 Proceeds from MTC to BAHFA; Delegation of Authority to the Executive Director or Designee To Implement Such Programs; CEQA Determination: Housing Preservation Pilot is Exempt Pursuant to CEQA Guideline 15061(b)(3), Delegated CEQA Authority for the Priority Sites Pilot Program; Authority to Execute Agreements with Turner Center at UC Berkeley (\$5 million) and Housing Accelerator Fund (\$5 million)

Action: BAHFA Oversight Committee / Recommend BAHFA Approval
ABAG Housing Committee / Information

Presenter: Somaya Abdelgany

Attachments: [09a 1 Summary Sheet REAP 2.0 Pilot Programs and HIT Proposal v4.pdf](#)
[09a 2 Attachment A Presentation REAP 2.0.pdf](#)
[09a 3 Attachment B BAHFA RES-0028 REAP 2.0 v6 \(2\).pdf](#)
[09a 4 Attachment C HIT Program Grant Application Summary v2.pdf](#)

10. Adjournment / Next Meeting

The next joint meeting of the ABAG Housing Committee and BAHFA Oversight Committee is on April 13, 2023.

Public Comment: The public is encouraged to comment on agenda items at Committee meetings by completing a request-to-speak card (available from staff) and passing it to the Committee secretary. Public comment may be limited by any of the procedures set forth in Section 3.09 of MTC's Procedures Manual (Resolution No. 1058, Revised) if, in the chair's judgment, it is necessary to maintain the orderly flow of business.

Meeting Conduct: If this meeting is willfully interrupted or disrupted by one or more persons rendering orderly conduct of the meeting unfeasible, the Chair may order the removal of individuals who are willfully disrupting the meeting. Such individuals may be arrested. If order cannot be restored by such removal, the members of the Committee may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue.

Record of Meeting: Committee meetings are recorded. Copies of recordings are available at a nominal charge, or recordings may be listened to at MTC offices by appointment. Audiocasts are maintained on MTC's Web site (mtc.ca.gov) for public review for at least one year.

Accessibility and Title VI: MTC provides services/accommodations upon request to persons with disabilities and individuals who are limited-English proficient who wish to address Commission matters. For accommodations or translations assistance, please call 415.778.6757 or 415.778.6769 for TDD/TTY. We require three working days' notice to accommodate your request.

可及性和法令第六章: MTC 根據要求向希望來委員會討論有關事宜的殘疾人士及英語有限者提供服務/方便。需要便利設施或翻譯協助者，請致電 415.778.6757 或 415.778.6769 TDD / TTY。我們要求您在三個工作日前告知，以滿足您的要求。

Acceso y el Título VI: La MTC puede proveer asistencia/facilitar la comunicación a las personas discapacitadas y los individuos con conocimiento limitado del inglés quienes quieran dirigirse a la Comisión. Para solicitar asistencia, por favor llame al número 415.778.6757 o al 415.778.6769 para TDD/TTY. Requerimos que solicite asistencia con tres días hábiles de anticipación para poderle proveer asistencia.

Attachments are sent to Committee members, key staff and others as appropriate. Copies will be available at the meeting.

All items on the agenda are subject to action and/or change by the Committee. Actions recommended by staff are subject to change by the Committee.



ABAG

Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 23-0341 **Version:** 1 **Name:**

Type: Report **Status:** Informational

File created: 2/3/2023 **In control:** ABAG Housing Committee

On agenda: 3/9/2023 **Final action:**

Title: ABAG Housing Committee and BAHFA Oversight Committee Chairs' Report for March 9, 2023

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
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ABAG Housing Committee and BAHFA Oversight Committee Chairs' Report for March 9, 2023

Carlos Romero

Alfredo Pedroza

Information



ABAG

Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 23-0342 **Version:** 1 **Name:**

Type: Report **Status:** Informational

File created: 2/3/2023 **In control:** ABAG Housing Committee

On agenda: 3/9/2023 **Final action:**

Title: Executive Director's Report for March 9, 2023

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
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Executive Director's Report for March 9, 2023

Andrew Fremier

Information



ABAG

Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 23-0343 **Version:** 1 **Name:**

Type: Minutes **Status:** Consent

File created: 2/3/2023 **In control:** ABAG Housing Committee

On agenda: 3/9/2023 **Final action:**

Title: Approval of ABAG Housing Committee Minutes of February 9, 2023

Sponsors:

Indexes:

Code sections:

Attachments: [06a HC Minutes 20230209 Draft.pdf](#)

Date	Ver.	Action By	Action	Result
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Approval of ABAG Housing Committee Minutes of February 9, 2023

Clerk of the Board

ABAG Housing Committee Approval



Bay Area Metro Center
375 Beale Street
Suite 700
San Francisco, California

Meeting Minutes - Draft

ABAG Housing Committee

Chair, Carlos Romero, Councilmember, East Palo Alto
Vice Chair, Neysa Fligor, Councilmember, City of Los Altos

Thursday, February 9, 2023

1:00 PM

REMOTE

**Association of Bay Area Governments
Housing Committee
Joint Meeting with the BAHFA Oversight Committee**

The ABAG Housing Committee may act on any item on the agenda.

The meeting is scheduled to begin at 1:00 p.m.

Agenda, roster, and webcast available at <https://abag.ca.gov>

For information, contact Clerk of the Board at (415) 820-7913.

Roster

Jesse Arreguin, Nikki Fortunato Bas, Pat Eklund, Carroll Fife, Neysa Fligor, David Rabbitt,
Belia Ramos, Carlos Romero

1. Call to Order / Roll Call / Confirm Quorum

Chair Romero called the meeting to order at about 1:03 p.m. Quorum was present.

Present: 6 - Arreguin, Bas, Eklund, Fife, Fligor, and Romero

Absent: 2 - Rabbitt, and Ramos

2. Public Comment

3. Committee Member Announcements

4. Chairs' Report

- 4.a. [23-0219](#) ABAG Housing Committee and BAHFA Oversight Committee Chairs' Report for February 9, 2023

Chair Romero gave the report.

5. Executive Director's Report

- 5.a. [23-0220](#) Executive Director's Report for February 9, 2023

6. ABAG Housing Committee Consent Calendar

Upon the motion by Eklund and second by Arreguin, the ABAG Housing Committee approved the Consent Calendar. The motion passed unanimously by the following vote:

Aye: 6 - Arreguin, Bas, Eklund, Fife, Fligor, and Romero

Absent: 2 - Rabbitt, and Ramos

- 6.a. [23-0221](#) Approval of ABAG Housing Committee Minutes of January 12, 2023

7. BAHFA Oversight Committee Consent Calendar

The BAHFA Oversight Committee took action on this item.

- 7.a. [23-0222](#) Approval of BAHFA Oversight Committee Minutes of January 12, 2023

8. Bay Area Affordable Housing Pipeline

- 8.a. [23-0223](#) Presentation of the Bay Area Affordable Housing Pipeline database, which inventories the region's affordable housing developments in various stages of predevelopment.

Ruben Anguiano and Justine Marcus gave the report.

9. Adjournment / Next Meeting

Chair Romero adjourned the meeting at about 2:37 p.m. The next regular meeting of the ABAG Housing Committee is on March 9, 2023.



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 23-0344 **Version:** 1 **Name:**

Type: Minutes **Status:** Consent

File created: 2/3/2023 **In control:** Bay Area Housing Finance Authority Oversight Committee

On agenda: 3/9/2023 **Final action:**

Title: Approval of BAHFA Oversight Committee Minutes of February 9, 2023

Sponsors:

Indexes:

Code sections:

Attachments: [07a BAHFA OC Minutes 20230209 Draft.pdf](#)

Date	Ver.	Action By	Action	Result
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Approval of BAHFA Oversight Committee Minutes of February 9, 2023

Secretary

BAHFA Oversight Committee Approval



Bay Area Metro Center
375 Beale Street
San Francisco, CA 94105

Meeting Minutes - Draft

Bay Area Housing Finance Authority Oversight Committee

Committee Members:

*Vacant, Chair Vacant, Vice Chair
Margaret Abe-Koga, David Canepa, Federal Glover,
David Rabbitt, Hilary Ronen*

Thursday, February 9, 2023

1:00 PM

REMOTE

**Bay Area Housing Finance Authority
Oversight Committee
Joint Meeting with the ABAG Housing Committee**

The BAHFA Oversight Committee may act on any item on the agenda.

The meeting is scheduled to begin at 1:00 p.m.

Agenda, roster, and webcast available at <https://mtc.ca.gov/>

For information, contact Clerk of the Board at (415) 820-7913.

1. Call to Order / Roll Call / Confirm Quorum

BAHFA Chair Pedroza called the meeting to order at about 1:03 p.m.
Chair Pedroza was deputized for the purpose of having quorum. Quorum
was present.

Present: 5 - Abe-Koga, Canepa, Glover, Pedroza, and Ronen

Absent: 1 - Rabbitt

2. Public Comment

3. Committee Member Announcements

4. Chairs' Report

4.a. [23-0219](#) ABAG Housing Committee and BAHFA Oversight Committee Chairs'
Report for February 9, 2023

ABAG Housing Committee Chair Romero gave the report.

5. Executive Director's Report

- 5.a. [23-0220](#) Executive Director's Report for February 9, 2023

6. ABAG Housing Committee Consent Calendar

The ABAG Housing Committee took action on this item.

- 6.a. [23-0221](#) Approval of ABAG Housing Committee Minutes of January 12, 2023

7. BAHFA Oversight Committee Consent Calendar

Upon the motion by Glover and second by Canepa, the BAHFA Oversight Committee approved the Consent Calendar. The motion passed unanimously by the following vote:

Aye: 5 - Abe-Koga, Canepa, Glover, Pedroza and Ronen

Absent: 1 - Rabbitt

- 7.a. [23-0222](#) Approval of BAHFA Oversight Committee Minutes of January 12, 2023

8. Bay Area Affordable Housing Pipeline

- 8.a. [23-0223](#) Presentation of the Bay Area Affordable Housing Pipeline database, which inventories the region's affordable housing developments in various stages of predevelopment.

Ruben Anguiano and Justine Marcus gave the report.

9. Adjournment / Next Meeting

BAHFA Chair Pedroza adjourned the meeting at about 2:37 p.m. The next regular meeting of the BAHFA Oversight Committee is on March 9, 2023.



ABAG

Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #: 23-0402 **Version:** 1 **Name:**

Type: Report **Status:** Informational

File created: 2/15/2023 **In control:** ABAG Housing Committee

On agenda: 3/9/2023 **Final action:**

Title: Report update on 6th Cycle Housing Element drafts submitted to the California Department of Housing and Community Development (HCD) by Bay Area jurisdictions, HCD's comments on those drafts, and available technical assistance provided by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC)

Sponsors:

Indexes:

Code sections:

- Attachments:**
- [08a 1 Summary Sheet Update on 6th Cycle Housing Element Progress v2.pdf](#)
 - [08a 2 Attachment A List of Housing Elements submitted to HCD including status v2.pdf](#)
 - [08a 3 Attachment B Index to available technical assistance.pdf](#)
 - [08a 4 Attachment C Builders Remedy Memo.pdf](#)
 - [08a 5 Attachment D Housing-Element-Compliance-and-Key-Funding-Programs-Summary.pdf](#)
 - [08a 6 Attachment E Summary of Local Suballocations v2.pdf](#)
 - [08a 7 Attachment F Presentation Update on 6th Cycle Housing Element Progress v2.pdf](#)

Date	Ver.	Action By	Action	Result
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Report update on 6th Cycle Housing Element drafts submitted to the California Department of Housing and Community Development (HCD) by Bay Area jurisdictions, HCD's comments on those drafts, and available technical assistance provided by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC)

Daniel Saver

Information

March 9, 2023

Agenda Item 8.a.

Update on 6th Cycle Housing Element Progress

Subject:

An update on 6th Cycle Housing Elements submitted to the California Department of Housing and Community Development (HCD) by Bay Area jurisdictions, HCD’s comments on those drafts, and available technical assistance provided by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC)

Discussion:

The deadline for adoption of 6th Cycle Housing Elements in the Bay Area was January 31, 2023. As of February 15th, approximately 89% of the Bay Area jurisdictions had submitted at least one draft of their Housing Elements to HCD for review. In contrast, only approximately 50% of SCAG’s jurisdictions had submitted at least one draft of their Housing Elements by their deadline of October 15, 2021. As an additional point of comparison, as of February 15th only 45% of SCAG’s jurisdictions have had their Housing Elements certified by HCD, well over a year past their deadline. Below is a summary of the status of Bay Area housing elements as of February 15th.

ADOPTED	39
Certified	4
Out of compliance	1
In review	34
SUBSEQUENT DRAFTS	10
In substantial compliance	1
Out of compliance	1
In review	8
INITIAL DRAFTS	48
Out of compliance	18
In review	30
NO DRAFTS	12

HCD has 90 days to review the initial draft of a Housing Element, and an additional 60 days to review a subsequent draft or adoption. Given the new complexities of Housing Element law, it is now common to see at least 2-3 rounds of review (and sometimes as many as 4-6), based on the experience of other regions that are ahead of the Bay Area. A list of the status of all Bay Area Housing Elements can be found in Attachment A. Copies of Housing Elements and HCD’s comment Letters can be found at this link, which is updated by MTC-ABAG staff on a weekly basis: <https://mtcdrive.box.com/s/rn34iqzf81et28qlz65763f51p1louq3>. Additionally, HCD maintains an online dashboard that is available here: <https://www.hcd.ca.gov/planning-and->

March 9, 2023

Agenda Item 8.a.

Update on 6th Cycle Housing Element Progress

[community-development/housing-open-data-tools/housing-element-review-and-compliance-report](https://www.abag.org/community-development/housing-open-data-tools/housing-element-review-and-compliance-report).

HCD's substantive comments to ABAG jurisdictions have frequently included that there was insufficient public outreach, that sites inventories lack sufficient analysis demonstrating that they are likely to develop at the stated densities in this eight-year planning cycle, and that programs to affirmatively further fair housing lack milestones, metrics, deadlines and appropriate geographic targeting.

It is important to note that January 31, 2023 is just one of several important deadlines. Other key Housing Element deadlines include the following:

- **May 31, 2023:** Deadline for HCD to certify an adopted Housing Element, in order to retain three years for rezoning (must complete rezoning within one year if deadline is missed)
- **December 31, 2023:** MTC deadline to receive HCD certification, a requirement for the receipt of OBAG 3 funding
- **January 31, 2024:** Deadline to rezone if the 5/31/23 certification deadline is missed
- **2026:** Deadline to rezone if the 5/31/23 certification deadline is satisfied

The Regional Housing Technical Assistance (RHTA) Program continues to develop and deploy a wide range of resources to support local jurisdictions with their Housing Elements. Notably, the RHTA Program has extensive resources that can assist jurisdictions to resolve the most frequent HCD comments – related to community engagement, the Housing Element Site Selection Tool, and fair housing. An updated comprehensive index of ABAG's technical assistance that highlights new products can be found in Attachment B, including the Builders Remedy Memo (Attachment C) and a summary of deadlines associated with key funding programs that are linked to Housing Element compliance (Attachment D).

Additionally, ABAG has approved nearly \$11 million in suballocations of REAP funding to Bay Area jurisdictions to assist with housing planning, approximately \$1.3 million of which remains unclaimed. A summary of those local suballocations can be found in Attachment E.

Issues:

None

March 9, 2023

Agenda Item 8.a.

Update on 6th Cycle Housing Element Progress

Recommended Action:

Information

Attachments:

- A. List of Housing Elements submitted to HCD including status
- B. Index of available technical assistance
- C. Builders Remedy Memo
- D. Summary of Housing Element Compliance and Key Funding Programs
- E. Summary of Local Suballocations
- F. Presentation Update on 6th Cycle Housing Element Progress

Reviewed:



Andrew Fremier



**ASSOCIATION
OF BAY AREA
GOVERNMENTS**



Association of Bay Area Governments
Bay Area Housing Finance Authority
375 Beale Street
San Francisco, CA 94105
www.mtc.ca.gov

Memorandum

DATE: March 9, 2023
 TO: ABAG Housing Committee and BAHFA Oversight Committee
 FR: Executive Director
 RE: List of Housing Elements Submitted to HCD by ABAG jurisdictions

The deadline for adoption of 6th Cycle Housing Elements in the Bay Area was January 31, 2023. As of February 15th, approximately 89% of the Bay Area jurisdictions had submitted at least one draft of their Housing Elements to HCD for review. Below is a summary of the status of Bay Area housing elements as of February 15th.

ADOPTED	39
Certified	4
Out of compliance	1
In review	34
SUBSEQUENT DRAFTS	10
In substantial compliance	1
Out of compliance	1
In review	8
INITIAL DRAFTS	48
Out of compliance	18
In review	30
NO DRAFTS	12

The attachment to this memo lists all of these jurisdictions and the status of their Housing Element drafts. HCD has 90 days to review initial drafts, and 60 days to review subsequent drafts or adoptions. Copies of Housing Elements and HCD’s comment Letters can be found at this link, which is updated by staff on a weekly basis:
<https://mtcdrive.box.com/s/rn34iqzf81et28glz65763f51p1louq3>.

Andrew Fremier

Executive Director

Status of ABAG 6th Cycle Housing Elements
(As of 2/10/23)

JURISDICTION	LATEST VERSION SUBMITTED	HCD REVIEW STATUS	COMPLIANCE STATUS
ALAMEDA	ADOPTED	REVIEW COMPLETED	IN
ALAMEDA COUNTY	N/A	N/A	OUT
ALBANY	INITIAL DRAFT	REVIEW COMPLETED	OUT
AMERICAN CANYON	INITIAL DRAFT	REVIEW COMPLETED	OUT
ANTIOCH	ADOPTED	IN REVIEW	IN REVIEW
ATHERTON	ADOPTED	IN REVIEW	IN REVIEW
BELMONT	ADOPTED	IN REVIEW	IN REVIEW
BELVEDERE	INITIAL DRAFT	IN REVIEW	OUT
BENICIA	ADOPTED	IN REVIEW	IN REVIEW
BERKELEY	ADOPTED	IN REVIEW	IN REVIEW
BRENTWOOD	INITIAL DRAFT	REVIEW COMPLETED	OUT
BRISBANE	ADOPTED	IN REVIEW	IN REVIEW
BURLINGAME	N/A	N/A	OUT
CALISTOGA	SUBSEQUENT DRAFT	IN REVIEW	OUT
CAMPBELL	SUBSEQUENT DRAFT	IN REVIEW	OUT
CLAYTON	ADOPTED	IN REVIEW	IN REVIEW
CLOVERDALE	INITIAL DRAFT	IN REVIEW	OUT
COLMA	ADOPTED	IN REVIEW	IN REVIEW
CONCORD	INITIAL DRAFT	REVIEW COMPLETED	OUT
CONTRA COSTA COUNTY	INITIAL DRAFT	IN REVIEW	OUT
CORTE MADERA	INITIAL DRAFT	REVIEW COMPLETED	OUT
COTATI	INITIAL DRAFT	IN REVIEW	OUT
CUPERTINO	INITIAL DRAFT	IN REVIEW	OUT
DALY CITY	N/A	N/A	OUT
DANVILLE	ADOPTED	IN REVIEW	IN REVIEW
DIXON	INITIAL DRAFT	REVIEW COMPLETED	OUT
DUBLIN	ADOPTED	REVIEW COMPLETED	OUT
EAST PALO ALTO	INITIAL DRAFT	REVIEW COMPLETED	OUT

Status of ABAG 6th Cycle Housing Elements
(As of 2/10/23)

EL CERRITO	INITIAL DRAFT	REVIEW COMPLETED	OUT
EMERYVILLE	ADOPTED	REVIEW COMPLETED	IN
FAIRFAX	N/A	N/A	OUT
FAIRFIELD	ADOPTED	IN REVIEW	IN REVIEW
FOSTER CITY	INITIAL DRAFT	REVIEW COMPLETED	OUT
FREMONT	ADOPTED	IN REVIEW	IN REVIEW
GILROY	INITIAL DRAFT	REVIEW COMPLETED	OUT
HALF MOON BAY	N/A	N/A	OUT
HAYWARD	ADOPTED	IN REVIEW	IN REVIEW
HEALDSBURG	INITIAL DRAFT	REVIEW COMPLETED	OUT
HERCULES	SUBSEQUENT DRAFT	IN REVIEW	OUT
HILLSBOROUGH	INITIAL DRAFT	REVIEW COMPLETED	OUT
LAFAYETTE	ADOPTED	IN REVIEW	IN REVIEW
LARKSPUR	INITIAL DRAFT	IN REVIEW	OUT
LIVERMORE	SUBSEQUENT DRAFT	IN REVIEW	OUT
LOS ALTOS	ADOPTED	IN REVIEW	IN REVIEW
LOS ALTOS HILLS	ADOPTED	IN REVIEW	IN REVIEW
LOS GATOS	ADOPTED	IN REVIEW	IN REVIEW
MARIN COUNTY	ADOPTED	IN REVIEW	IN REVIEW
MARTINEZ	N/A	N/A	OUT
MENLO PARK	ADOPTED	IN REVIEW	IN REVIEW
MILL VALLEY	INITIAL DRAFT	REVIEW COMPLETED	OUT
MILLBRAE	INITIAL DRAFT	REVIEW COMPLETED	OUT
MILPITAS	INITIAL DRAFT	REVIEW COMPLETED	OUT
MONTE SERENO	ADOPTED	IN REVIEW	IN REVIEW
MORAGA	ADOPTED	IN REVIEW	IN REVIEW
MORGAN HILL	ADOPTED	IN REVIEW	IN REVIEW
MOUNTAIN VIEW	SUBSEQUENT DRAFT	REVIEW COMPLETED	OUT
NAPA	N/A	N/A	OUT
NAPA COUNTY	INITIAL DRAFT	REVIEW COMPLETED	OUT

Status of ABAG 6th Cycle Housing Elements
(As of 2/10/23)

NEWARK	N/A	N/A	OUT
NOVATO	INITIAL DRAFT	IN REVIEW	OUT
OAKLAND	ADOPTED	IN REVIEW	IN REVIEW
OAKLEY	SUBSEQUENT DRAFT	IN REVIEW	OUT
ORINDA	ADOPTED	IN REVIEW	IN REVIEW
PACIFICA	N/A	N/A	OUT
PALO ALTO	INITIAL DRAFT	IN REVIEW	OUT
PETALUMA	INITIAL DRAFT	REVIEW COMPLETED	OUT
PIEDMONT	INITIAL DRAFT	IN REVIEW	OUT
PINOLE	INITIAL DRAFT	IN REVIEW	OUT
PITTSBURG	N/A	N/A	OUT
PLEASANT HILL	INITIAL DRAFT	IN REVIEW	OUT
PLEASANTON	INITIAL DRAFT	REVIEW COMPLETED	OUT
PORTOLA VALLEY	INITIAL DRAFT	REVIEW COMPLETED	OUT
REDWOOD CITY	SUBSEQUENT DRAFT	REVIEW COMPLETED	IN
RICHMOND	ADOPTED	IN REVIEW	IN REVIEW
RIO VISTA	INITIAL DRAFT	IN REVIEW	OUT
ROHNERT PARK	ADOPTED	IN REVIEW	IN REVIEW
ROSS	INITIAL DRAFT	IN REVIEW	OUT
SAINT HELENA	SUBSEQUENT DRAFT	IN REVIEW	OUT
SAN ANSELMO	INITIAL DRAFT	IN REVIEW	OUT
SAN BRUNO	ADOPTED	IN REVIEW	IN REVIEW
SAN CARLOS	ADOPTED	IN REVIEW	IN REVIEW
SAN FRANCISCO	ADOPTED	REVIEW COMPLETED	IN
SAN JOSE	INITIAL DRAFT	REVIEW COMPLETED	OUT
SAN LEANDRO	ADOPTED	REVIEW COMPLETED	IN
SAN MATEO	ADOPTED	IN REVIEW	IN REVIEW
SAN MATEO COUNTY	INITIAL DRAFT	IN REVIEW	OUT
SAN PABLO	INITIAL DRAFT	REVIEW COMPLETED	OUT
SAN RAFAEL	INITIAL DRAFT	IN REVIEW	OUT
SAN RAMON	ADOPTED	IN REVIEW	IN REVIEW
SANTA CLARA	ADOPTED	IN REVIEW	IN REVIEW

Status of ABAG 6th Cycle Housing Elements
(As of 2/10/23)

SANTA CLARA COUNTY	N/A	N/A	OUT
SANTA ROSA	INITIAL DRAFT	REVIEW COMPLETED	OUT
SARATOGA	SUBSEQUENT DRAFT	IN REVIEW	OUT
SAUSALITO	INITIAL DRAFT	REVIEW COMPLETED	OUT
SEBASTOPOL	ADOPTED	IN REVIEW	IN REVIEW
SOLANO COUNTY	INITIAL DRAFT	IN REVIEW	OUT
SONOMA	ADOPTED	IN REVIEW	IN REVIEW
SONOMA COUNTY	INITIAL DRAFT	IN REVIEW	OUT
SOUTH SAN FRANCISCO	ADOPTED	IN REVIEW	IN REVIEW
SUISUN CITY	INITIAL DRAFT	REVIEW COMPLETED	OUT
SUNNYVALE	INITIAL DRAFT	REVIEW COMPLETED	OUT
TIBURON	INITIAL DRAFT	REVIEW COMPLETED	OUT
UNION CITY	SUBSEQUENT DRAFT	IN REVIEW	OUT
VACAVILLE	INITIAL DRAFT	REVIEW COMPLETED	OUT
VALLEJO	N/A	N/A	OUT
WALNUT CREEK	ADOPTED	IN REVIEW	IN REVIEW
WINDSOR	INITIAL DRAFT	REVIEW COMPLETED	OUT
WOODSIDE	INITIAL DRAFT	REVIEW COMPLETED	OUT
YOUNTVILLE	INITIAL DRAFT	REVIEW COMPLETED	OUT



Index of Regional Housing Technical Assistance Products

Housing Elements Adoption Templates and Timing Requirements

These templates can be used by jurisdictions to present their final Housing Elements to their governing bodies for adoption.

These include:

- [2022 Housing Element Statutory Provisions Checklist](#)
- [Staff Report Template for Adopting the Housing Element](#)
- [Planning Commission Resolution Template](#)
- [City Council or Board of Supervisors Resolution Template](#)
- [Response to HCD Findings Template](#)

[Timing Requirements for Adoption of the Housing Element and Required Rezoning](#) summarizes timing requirements for the adoption of housing elements and required rezoning. It also notes some of the potential risks that may result from missing these deadlines, including limitations on denials of housing projects and loss of eligibility for certain funding programs.

Housing Elements & HCD Comments

This [page](#) includes all the RHTA resources on draft Housing Elements and HCD comments.

- Staff are tracking the submission of Bay Area draft Housing Elements and the comments jurisdictions receive from HCD. Copies of the drafts and HCD comment letters are available [via this link](#).
- ABAG staff and consultants have reviewed Housing Element comment letters for Bay Area jurisdictions as HCD has released them. A total of six jurisdictions have received comment letters as of September 15, 2022. [This document](#) summarizes key findings from the comments.
- [Learning from Southern California and Sacramento](#): Analysis of HCD comment letters and lessons for Bay Area jurisdictions as they prepare their 6th cycle Housing Elements.
- [Responding to HCD Comments for Certification](#): These case studies summarize how four cities in Southern California and the Sacramento region responded to challenging HCD comments related to sites inventory, AFFH and other Housing Element topics. The documents present important strategies that cities in the ABAG region can use to prepare their Housing Elements for certification.
- The RHTA Program has created [CommentBot](#) (C-Bot), a tool to help Bay Area jurisdictions address HCD's comments in their next draft housing element. C-Bot provides suggestions and links to RHTA and HCD resources to help jurisdictions address common concerns that HCD has raised in past comment letters. C-Bot can be found here: <https://c-bot.info/>

Affirmatively Furthering Fair Housing

The [Affirmatively Furthering Fair Housing Policies and Programs Toolkit was released](#) to assist local jurisdictions with completing the crucial step of establishing AFFH goals, policies and actions in the Housing Element. The toolkit highlights 15 key strategies Bay Area jurisdictions can implement to further fair housing. The AFFH Policies and Programs Toolkit was reviewed by HCD staff and incorporates their feedback. HCD has emphasized in recent comments on Bay Area jurisdictions' draft Housing Elements that AFFH should be central to the Housing Element's overarching goals and inform all objectives and policies.

- An Affirmatively Furthering Fair Housing Policy Resources [Annotated Bibliography](#) also summarizes existing housing policy resources which help identify goals, policies and actions to address a range of fair housing issues.

Staff hosted two webinars and launched the first set of AFFH resource products during the summer of 2021. The first webinar, *AFFH: The Nuts and Bolts with HCD*, was held June 22 and covered the basics of AB 686 and outlined new requirements for the Housing Element. The second webinar, *AFFH: Data Deep Dive*, was held July 13 and served as a more focused look into the analysis required for the Assessment of Fair Housing (AFH), and specifically the segregation and integration patterns analysis, which featured ABAG's work with UC Merced via the [STIR Labs partnership](#). Both webinar recordings and presentation materials can be found on ABAG's Regional Housing Technical Assistance Training [website](#).

As a follow up to the July webinar, the AFFH template [staff report](#) and [slide deck](#) were released for jurisdiction staff to use in introducing the new requirements to their local decisionmakers. Additionally, staff disseminated a [AFFH Data Guidance Checklist](#) which provides sources to data points outlined in the AFH. The final version of this checklist is in development and pending release this fall.

Additional AFFH TA includes:

- AFFH layer added to HESS tool
- [Segregation and Land Use Reports](#): Each jurisdiction's report and accompanying dataset provide segregation measures for both the local jurisdiction and the region using several indices, as required by the AFFH guidance issued by the California Department of Housing and Community Development (HCD). Local jurisdiction staff can use the segregation report and dataset to complete a component of the Assessment of Fair Housing, which requires analysis of segregation patterns related to race, other protected characteristics, and lower-income households.
- [AFFH Tips Memo](#): This document provides a summary review of HCD comments on Housing Elements submitted from other jurisdictions throughout the state to identify common pitfalls and make recommendations about how Bay Area jurisdictions can craft policies to meet AFFH goals -streamlining the path towards certification.
- Leading with Equity Working Group. Launched in March 2022 with 15 planning and housing department staff who have self-selected to advance racial and housing equity policies and programs within their Housing Element work. the work group focuses on promoting leadership development, capacity building toward understanding and navigating institutional change, peer-support and one-on-one coaching.

Webinars

Since the RHTA program began, 26 webinars have provided information on a variety of topics. All webinar materials are available on this [webpage](#)

- Annual Progress Reports with HCD
- Talking with the Media about Housing
- 2022 New Housing Laws
- Bay Area Priority Sites Pilot Program
- How to Address HCD Comments for Certification
- Turner Center and ABAG Present: Best Practices to Implement SB 9 and Missing Middle Housing in the Bay Area
- Leveraging Your Land: Best Practices for Reusing Public Land for Housing
- Transforming Aging Malls and Office Parks: Reuse Challenges and Opportunities
- Housing Planning: For the Future
- Planning Innovations Webinar: Regional Data Tools for the Housing Element
- Housing Element 101 - Overview and New Laws + Tips
- Creating Capacity: An Overview of the Sites Inventory
- Using Data Effectively in Housing Element Updates – ABAG’s Housing Needs Data Packets and Accessing the US Census
- How to Talk About Housing – Data-Driven Lessons on Housing Communications that Work and Those that Backfire
- Incorporating Environmental Justice and Safety into your Housing Element
- Housing Sites Inventory - Deep Dive
- Engage How To! Introduction to Remote Meeting Tools
- Affirmatively Furthering Fair Housing: The Nuts and Bolts with HCD
- Affirmatively Furthering Fair Housing: Data Deep Dive
- Integrating Climate Adaptation/Resilience into Your Housing Element
- Context of SB 9 and Potential Impacts
- HESS Tool 1.0 Tutorial Webinar
- Surplus Public Land: webinar and presentation
- New Housing Law: webinar and presentation
- Keep Calm and Certify On: Tips from Early Adopters
- New Annual Progress Report Requirements with HCD
- Webinar for Elected Officials: Learn About Available Assistance for Housing Element Updates

Upcoming

- Overview of AB 2011 and SB 6

Communications, Messaging & Community Engagement

Recent products include:

- [How to Engage Farmworkers in the Housing Element Process](#): this guide is intended to provide practical advice to cities, towns and counties for conducting outreach and engagement — even if there are not farms or farmworkers living within your community. The accompanying templates can be downloaded and edited to fit your jurisdiction's needs.

- ["Let's Talk About Housing:" Communications Guide for Local Government](#)
This document is a data-driven communications guide for use by staff and elected officials to foster productive conversations with residents about housing. The guide is based on existing and new research and includes consistent, clear language for discussions about affirmatively furthering fair housing (AFFH) legislation.
- [Best Practices for Equitable Engagement Primer](#)
This document shares effective ways to engage communities and stakeholder organizations that traditionally are underrepresented in local government processes. It is designed to provide local jurisdictions with a range of tools, strategies and best practices for engaging all community members.
- Consultant support (communications coaching, meeting facilitation services, meeting materials).
- [508 compliance guidelines](#)
- [Missing Middle photo gallery with density information](#)
- [CBO and media contact lists](#)

Previously released information:

- Housing Element Webinar: [How to Talk About Housing](#) – Data-Driven Lessons on Housing Communications that Work and Those that Backfire (4/27/2021)
- Housing Element Webinar: [Engage How To! Introduction to Remote Meeting Tools](#) (5/25/2021)
- Balancing Act online public engagement housing simulation tool available for 25 jurisdictions and reduced rate negotiated for additional jurisdictions
- [Access to template survey](#) for jurisdictions to send to community members to gather information about housing issues and concerns
- Access to tool kit, including messaging guide to provide assistance in discussing housing and AFFH with community members. Several items of the tool kit have already been produced and are available on the website, including [Consequences of Non-Compliance with Housing Element Update](#).
- [Housing TA portal](#), allowing ease of access to range of relevant materials
- [Guide to Housing Element + AFFH Public Participation](#)
- Assistance with translation and interpretation ([link](#)).
- [Best practices for engaging multilingual constituents](#)

Upcoming

- AFFH outreach after comment letters
- REAP 2.0 outreach

Housing Data Tools

[Housing Needs Data Packets](#) for all 109 Bay Area jurisdictions contain tables, figures, and accompanying text for over 60 data points that can be placed directly into the Housing Needs section of each jurisdiction's housing element. The data packets were [pre-reviewed by HCD for consistency with state requirements](#) to create predictability during the Housing Element review process.

[Housing Element Site Selection "HESS" Tool](#), launched in Fall 2020, is a web-based mapping platform that assists Bay Area jurisdictions with site identification for Housing Element site inventories and flags sites that will likely require rezoning to be used under new state laws. In Fall 2021, ABAG launched a [1.0 update](#) to the HESS Tool based on feedback received from local planning staff, consultants, subject-matter experts and HCD. Updates included more granular screening categories, additional filters, an editing module to update underlying local land use data, and more.

HESS Tool 2.0 Modules were released in April 2022. The first module is an **AFFH Map** which allows local planners to visualize the distribution of their site inventories alongside key AFFH data layers. The second module supports jurisdictions with the **Realistic Capacity Calculations** for sites included in their inventories. ABAG has collected and analyzed data from local jurisdictions' Annual Progress Reports, Zoning Ordinances, and General Plans to adjust the theoretical maximum capacity of sites to reflect historical building trends more accurately. Users can generate realistic capacity reports prepopulated with this data, which can be submitted to HCD as supportive documentation. AFFH attributes have also been added to the site inventory form and local staff can produce their own pivot tables.

HESS Office Hours are available on an ongoing basis – staff can request office hour and make other data requests by emailing Heather Peters at hpeters@bayareametro.gov.

Webinar Recordings

- 10/29/2020: [Planning Innovations Webinar: Regional Data Tools for the Housing Element: Webinar video recording](#) and [Webinar presentation](#)
- 3/9/2021: ABAG Housing Element Series: [Creating Capacity: An Overview of the Sites Inventory: Webinar video recording](#) and [Webinar presentation](#)
- 3/23/2021: ABAG Housing Element Series: [Using Data Effectively in Housing Element Updates: Webinar video recording](#) and [Webinar presentation](#). Introduces the ABAG housing needs data packets and provides information on accessing the U.S. Census.
- [HESS Tool 1.0 Tutorial Webinar](#)

Peer Cohorts and Work Groups

- Missing Middle Workgroup
 - a. Products
 1. Slide templates and talking points for use by staff
 2. Market report and interactive feasibility analysis tool
 3. Zoning guidebook
 4. Affordability strategies guidebook
 5. RHNA guidance memo
 6. [Middle Market Housing Development Tool](#)
 - b. Links
 - [Session 1: What is the Missing Middle?](#)
 - [Session 2: The Middle Housing Market](#)
 - [Session 3: Making Middle Housing Happen](#)
 - [Session 4: Making Middle Housing Affordable](#)
 - [Session 5: Projecting Middle Housing Production](#)
- Wildfire: all four sessions including webinar recordings, presentations, and resource guides are on [this website](#).
- “Big 3” Cohort (Oakland, San Francisco and San Jose)
- Leading with Equity Work Group
- [Malls & Office Parks Transformation Work Group](#)

Upcoming

- Leading with Equity Work Group resources and products

- Agricultural Communities Cohort

Other Regional Products

- [The Builders' Remedy and Housing Element Paper](#)
 - This paper describes the provisions of the Housing Accountability Act that constitute the "Builder's Remedy" and how they may apply to a proposed housing development project.
- [Overview of AB 2011 and SB 6](#)
 - AB 2011, the Affordable Housing and High Road Jobs Act of 2022 and SB 6, the Middle Class Housing Act of 2022, are intended to permit residential development on sites currently zoned and designated for commercial or retail uses. Both bills were signed into law by Governor Gavin Newsom on September 29, 2022, and will go into effect on July 1, 2023. This document presents a summary of key details of each bill.
- [Farmworker Housing Toolkit](#)
 - This Farmworker Housing Toolkit provides a one-stop source of information to assist local agencies in including the special housing needs of Farmworkers within their Housing Elements with the legislative framework, data, policies and programs that local jurisdictions can reference in the development of their farmworker housing needs analysis for their Cycle 6 Housing Element.
- [SB 9 materials:](#)
 - Webinar, slide deck, memo templates, Summaries, FAQ and Other References
 - Model ordinance
 - Objective Design and Development Standards (ODDS)
 - SB 9 application checklist for two-unit developments and urban lot splits
 - Sample deed restrictions for two-unit development and lot splits
 - Sample Affidavit regarding owner-occupancy
- ADU Affordability Safe Harbor – counting towards RHNA
- [Consequences of Non-Compliance with Housing Element Update](#)
- Pilot of Symbium Plancheck software to streamline permitting ([see announcement](#))
- Parking TA:
 - [Parking toolbox and handbook](#)
 - [Parking presentation and webinars](#)
 - Future parking assistance [sign up form](#)

Upcoming

- Round 2 legal products under way (draft in a month)
 - Regulator agreements checklist
 - New laws cheat sheet
 - Affordable housing replacement requirements/tenant relocation

Templates

- [Jurisdiction Housing Element RFP Template](#) a request for Proposals (RFP) template for local jurisdictions to hire consultants to assist with Housing Element updates
- [Housing Element Staff Report Template](#)
- [Housing Element Timeline Template](#)
- [What is a Housing Element? Briefer Template](#)

- [What is a Housing Element? Briefer Template \(Word version\)](#)
- [What is a Housing Element? Briefer Template \(Spanish translation version\)](#)
- [What is a Housing Element? Briefer Template \(Chinese translation version\)](#)
- [Housing Element FAQs Template](#)
- [AFFH Template Staff Report](#)
- [AFFH Template Staff Slide Deck](#)
- [AFFH Data Guidance Checklist](#)

Resilience TA

- [Briefer on Integrated Planning - EJ and Safety Element Updates](#)
- [Sample Agenda for Integrating Planning](#)
- [Safety Element New Requirements](#)
- [Status of Resilience and EJ Planning in the Bay Area](#)
- ABAG webinar co-hosted by California Office of Planning & Research: [Incorporating Environmental Justice and Safety into your Housing Element: Webinar video recording](#) and [Webinar presentation](#)

Regional Planning Consulting Bench

ABAG has established a Regional Planning Bench with 92 consultants in 11 service categories. The Bench is available to all jurisdictions in the Bay Area to use in accordance with their local procurement rules.

ABAG launched a labor-saving online tool from City Innovate that allows jurisdictions to easily search bench consultant profiles and compare consultants' qualifications and rates. The tool also facilitates informal solicitations of quotes for work when applicable procurement rules allow.

Related Links

- [Frequently Asked Questions](#) regarding the Grants and Regional Planning Consulting Bench
- [Request for Qualifications](#) used to seat the Regional Planning Consulting Bench

Local Grants

Funding amounts can be found in this [Grant Amounts spreadsheet](#). Draft funding agreements were sent to all Bay Area jurisdictions in July offering each the option of receiving reimbursements for eligible expenses, or the option of electing to have ABAG hold the funds and administer consulting contracts on behalf of the recipient jurisdiction. [REAP Non-competitive Allocation: Eligible Activities](#)

County Planning Collaboratives

County-based groups staffed by a paid coordinator who provides technical assistance and facilitate cross-jurisdiction engagement for the Housing Element updates and other housing-related topics.

Collaborative Contacts:

1. Alameda: Alexia Rotberg, UPP, arotberg@up-partners.com
2. Contra Costa: Shawna Bekke-Read, MIG, sbekkeread@migcom.com
3. Marin: Jillian Zeiger, Marin County, jzeiger@marincounty.org
4. Napa/Sonoma: Jane Riley, 4Leaf, jriley@4leafinc.com
5. Santa Clara: David Driskell Peninger, BAIRD + DRISKELL, driskell@bdplanning.com
6. San Mateo: Josh Abrams, BAIRD + DRISKELL, abrams@bdplanning.com
7. Solano: Robert Guerrero, STA, rguerrero@sta.ca.gov

Recording of Planning Collaboratives Kick-Off April 13, 2021. This webinar introduces the County Planning Collaboratives.

- [Planning Collaboratives Kick-Off: Webinar video recording](#)
- [Planning Collaboratives Kick-Off: Presentation](#)
- Additional resource from the webinar: [A Collaborative Approach to Addressing our Housing Challenges](#)



DISCLAIMER: This document is intended solely as a technical overview of the provisions of certain provisions of the Housing Accountability Act. It is not intended to serve as legal advice regarding any jurisdiction's specific policies or any proposed housing development project. Local staff should consult with their city attorney or county counsel when determining the applicability of these provisions to any proposed housing development project in their jurisdiction. **UPDATE:** This document was updated on February 15, 2023, to add Footnote 2 regarding information received related to HCD's approval of housing elements.

The “Builder’s Remedy” and Housing Elements

There have recently been press reports regarding the so-called “Builder’s Remedy” that can be used to avoid local zoning requirements when a locality’s housing element does not substantially comply with state law. These reports have stated that, if a locality has a noncompliant housing element the city or county must approve the housing development project, regardless of the local zoning.

The “Builder’s Remedy” arises from the Housing Accountability Act (Government Code Section 65589.5¹; the HAA). This paper describes the provisions of the HAA that constitute the “Builder’s Remedy” and how they may apply to a proposed housing development project.

How Does the “Builder’s Remedy” Work?

The HAA requires that cities and counties make one of five findings to deny, or to apply conditions that make infeasible, a housing development project “for very low, low- or moderate-income households” or an emergency shelter. (Section 65589.5(d).) A housing development project with 20 percent of the total units available to lower income households or with all of the units available for moderate or middle income households may qualify as housing “for very low, low- or moderate income households” (see detailed description below). Any of the five findings would allow denial of an eligible project:

1. The city or county has met or exceeded its Regional Housing Needs Allocation (RHNA) for the proposed income categories in the development.
2. The housing development or emergency shelter would have a specific adverse impact on public health and safety, and there is no way to mitigate or avoid the impact without making the development unaffordable. The impact must be based on objective, written public health or safety standards in place when the application was deemed complete.
3. The denial or condition is required to meet state or federal law, and there is no feasible method to comply without making the development unaffordable.
4. The project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agriculture or resource preservation or there are not adequate water or sewage facilities to the serve the project.

¹ All future references are to the Government Code unless otherwise specified.

Regional Housing Technical Assistance Program

- The project is inconsistent with both the zoning ordinance and the land use designation as specified in any general plan element. **However, a city or county cannot make this finding if it has not adopted a housing element in substantial compliance with state law.**

If a locality has not adopted a housing element in substantial compliance with state law, developers may propose eligible housing development projects that do not comply with either the zoning or the general plan. The term “Builder’s Remedy” is used to describe the situation where a local agency may be required to approve an eligible housing development project because it cannot make one of the other four findings.

Are Projects Using the “Builder’s Remedy” Exempt from CEQA Review?

The HAA contains no exemptions from the California Environmental Quality Act. The HAA states specifically that nothing relieves the local agency from making the required CEQA findings and otherwise complying with CEQA. (Section 65589.5(e).) However, there is a growing debate as to the interplay between the Builder’s Remedy and CEQA. A project may be exempt from CEQA under other provisions of CEQA, other state laws, or the CEQA Guidelines. Agencies may wish to consult their legal counsel regarding the appropriate CEQA review.

When Does a Housing Element No Longer Comply with State Law? Is There a Grace Period If the Housing Element Is Not Adopted by the Due Date?

Housing elements are required to comply with current state housing element law on the established due date (**January 31, 2023** in the ABAG region). State law has changed significantly since fifth cycle housing elements were adopted, and it would be unlikely that a fifth cycle housing element would substantially comply with current state law. If a sixth cycle element has not been adopted by the due date, the housing element would likely be out of compliance with state law until a complying sixth cycle housing element is adopted. **There is no grace period**, even for the period when a housing element is being reviewed by the Department of Housing and Community Development (HCD).

HCD approval is not required for a housing element to be found substantially compliant with state law.² State law provides that a city or county may adopt its own findings explaining why its housing element is substantially compliant with state law despite HCD’s findings. (Section 65585(f).) However, HCD is authorized to refer agencies to the Attorney General if it finds a housing element out of compliance with state law. (Section 65585(j).)

Are a Local Agency’s Development Standards Null and Void If the Housing Element is Not in Compliance with State Law?

No, the local agency’s development standards are not null and void if the housing element is not in substantial compliance with state law. The “Builder’s Remedy,” however, may require a local agency to approve an eligible housing

² News outlets are reporting that HCD’s spokesperson, Alicia Murillo, is communicating that HCD’s approval is required for a housing element to be found substantially compliant with state law. See Savidge, Nico. “The state rejected Berkeley’s housing plans. What happens next?” (Feb. 1, 2023)(available at <https://www.berkeleyside.org/2023/02/01/berkeley-housing-element-builders-remedy-hcd>); Booth, Edward “Napa County’s Jurisdictions fall behind on California’s housing element deadline.” (Feb. 14, 2023)(available at https://napavalleyregister.com/news/local/napa-county-jurisdictions-fall-behind-on-californias-housing-element-deadline/article_de8457e2-acc6-11ed-8032-0ff8f723745b.html#tracking-source=home-top-story)

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development project despite its noncompliance with local development standards. Conversely, other projects may be challenged because a finding of general plan consistency cannot be made if the general plan is out of compliance with state law.

What Projects Are Eligible to Use the “Builder’s Remedy”?

The “Builder’s Remedy” applies only to a housing development project “for very low, low- or moderate-income households” and to emergency shelters. The HAA defines a “housing development project” as either:

- Residential units only;
- Mixed-use developments with at least two-thirds of the square footage designated for residential use; or
- Transitional housing or supportive housing.³ (Section 65589.5(h)(2).)

“Housing for very low, low-, or moderate-income households” includes either:

- 20% of the total units sold or rented to lower income households;
- 100% of the units sold or rented to moderate income households; or
- 100% of the units sold or rented to middle income households.⁴

Monthly housing costs for lower income households cannot exceed 30 percent of 60 percent of median income, adjusted for household size, and the units must remain affordable for 30 years. Monthly housing costs for moderate income households cannot exceed 30 percent of 100 percent of median income. There are no standards in the HAA for housing costs for middle income households. (Sections 65589.5(h)(3), (h)(4).)

An emergency shelter is housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (Section 65582(d); Health & Safety Code Section 50801(e).)

³ As defined in Section 65582.

⁴ Those earning no more than 150 percent of median income.



Housing Element Compliance and Key Funding Programs: Summary

December 13, 2022, updated January 30, 2023

Some state and regional funding sources are tied to having a certified Housing Element. This overview memo and attached table summarize housing element requirements and key deadlines for several funding programs. Jurisdictions should review the funding sources they plan on utilizing and ensure they will comply.

DISCLAIMER: ABAG/MTC believes this information to be correct at the time of publication, but jurisdictions should independently confirm these assumptions as deadlines and guidelines continue to evolve. This document is intended to provide general information and does not constitute legal advice. Additional facts, facts specific to a particular situation, or future developments may affect the subjects discussed in this FAQ. Seek the advice of your attorney before acting or relying upon the following information.

Summary: Funding Programs that Require Compliant Housing Elements

Unless otherwise noted, each program requires a certified housing element, defined as an “adopted housing element that has been found by the Department to be in substantial compliance.”

More details, including links to sources, are included in the appendix below.

Funding Program	Agency	When the Housing Element Needs to be Certified	Relevant Deadline in 2023 ¹
Affordable Housing & Sustainable Communities (AHSC) Note language about “presumptive compliance” in the regulations: if jurisdictions are undergoing review at the time of the award, awards will be conditioned upon final certification at the time of disbursement.	Strategic Growth Council (SGC)	Time of award recommendation	April 4, 2023

¹ If the deadline for having housing element certification is tied to the time of the application, the due date for the application is listed. If the funding is tied to the time of award, the expected date that the money will be awarded is listed. Please double-check deadline dates as the NOFA calendar is not fixed.



Regional Housing Technical Assistance Program

Funding Program	Agency	When the Housing Element Needs to be Certified	Relevant Deadline in 2023 ¹
<p>California Department of Transportation (Caltrans) Sustainable Transportation Planning Grant</p> <p>Note: The application guide for the Caltrans Sustainable Transportation Planning Grant requires a certified housing element at the time of application. However, STP Grant Applicants are able to explain in the application that they are in the process of updating their housing element. Caltrans will then condition their grant, if awarded, to require the jurisdiction to have an adopted Housing Element before they can execute a grant agreement with Caltrans.</p>	Caltrans	Time of application	March 9, 2023
<p>Community Development Block Grant Program</p> <p>Note that statutory requirement reads: "Submit a draft or adopted housing element to the Department in accordance with state law"</p>	California Department of Housing & Community Development (HCD)	Time of award	August 2023
<p>Infill Infrastructure Grant (IIG)</p> <p>Note language in the guidelines that reads: "If award decision made within 120 days of housing element due date, Dept may refer to prior cycle compliance."</p> <p>Note language about "presumptive compliance" in the guidelines: if jurisdictions are undergoing review at the time of the award, awards will be conditioned upon final certification at the time of disbursement.</p>	HCD	Time of award	June 2023 (Qualifying Infill Projects and Adaptive Reuse) March 2023 (Catalytic Qualifying Infill Areas) July-Sept 2023 (Small Jurisdiction)
<p>Local Housing Trust Fund (LHTF)</p>	HCD	Time of award	May 2023
<p>One Bay Area Grant (OBAG)</p>	Metropolitan Transportation Commission (MTC)	December 31, 2023	December 31, 2023



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Funding Program	Agency	When the Housing Element Needs to be Certified	Relevant Deadline in 2023 ¹
Permanent Local Housing Allocation (PLHA) Note language in the guidelines that reads: “If award decision made within 120 days of housing element due date, Dept may refer to prior cycle compliance”	HCD	Time of award, by February 2023	Dates depend on specific PLHA program
Transit Oriented Development (TOD)	HCD	Time of application	No funding currently available

Summary: Funding Programs that Reward Projects in Jurisdictions with Compliant Housing Elements

Several programs use HCD’s Prohousing Designation as a possible evaluation criterion. Prohousing Designation requires “an adopted housing element that has been duly found to be in substantial compliance with the requirements of Housing Element Law” at the time of the Prohousing application OR prior to designation.

Funding Program	Agency	Evaluation Criteria
Active Transportation Program	California Transportation Commission (CTC)	Prohousing Designation is among possible evaluation criteria at time of funding application (helps with score)
HOME Investment	HCD	Scoring factor at time of funding application – the next planned deadline is July 2023
Local Partnership Program	CTC	Prohousing Designation is among possible evaluation criteria at time of funding application
Solutions for Congested Corridors Program	CTC	Prohousing Designation application is one way to demonstrate efficient land use and housing at time of funding application
Transit and Intercity Rail Capital Program	California State Transportation Agency (CalSTA)	Prohousing Designation application is one way to demonstrate efficient land use and housing at time of funding application

Funding Programs that Do Not Require Compliant Housing Elements

- **Multifamily Housing Program (MHP)** – no mention of housing element compliance in HCD’s current MHP Guidelines

Document references dates from HCD’s [NOFA Schedule](#) updated as of November 2022. Note that HCD updates its calendar regularly, so dates in this document may not remain current.

Appendix A: Details of Funding Programs that Require Housing Element Compliance

PROGRAM	AGENCY	REQUIREMENT /CRITERIA	DEFINITION OF COMPLIANCE	DEADLINE FOR COMPLIANCE	RELEVANT 2023 DEADLINE (PLANNED) ²	LANGUAGE FROM GUIDELINES OR REGULATIONS	REFERENCE URL AS OF 1/30/2023	FUNDING PROGRAM WEBPAGE
Affordable Housing & Sustainable Communities (AHSC)	Strategic Growth Council (SGC)	Threshold requirement	Adopted housing element that has been found by the Department to be in substantial compliance	At time of award recommendation Note language about “presumptive compliance:” if jurisdictions are undergoing review at the time of the award, awards will be conditioned upon final certification at the time of disbursement.	April 4, 2023	The Housing Element for the jurisdiction in which the Project is located must be in substantial compliance by the date of award recommendation. Housing Element in substantial compliance means the local public entity’s adopted housing element is in substantial compliance as demonstrated by a letter from the Department which sets forth findings that the housing element adopted within the time frames required by Section 65588 of the Government Code includes that substance essential to every requirement of Article 10.6, commencing with Section 65580, of Chapter 3 of Division 1 of Title VII of the Government Code. A jurisdiction’s current housing element compliance status can be obtained by referencing the Department’s website. Projects located on Trust Land, as defined under Indian country, are exempt from this requirement. (A) For the purposes of this section alone, jurisdictions that are undergoing Department review of their housing element at the time of award and jurisdictions which are receiving Department technical assistance to bring their housing element into compliance at the time of award, shall both be deemed to be in a presumptive state of substantial compliance by the Department. All awards premised on presumptive substantial compliance shall include conditions in their respective standard agreements requiring that prior to funds disbursement the subject jurisdiction must	Program guidelines	Program webpage

² HCD programs reference [HCD's NOFA Calendar](#)

PROGRAM	AGENCY	REQUIREMENT /CRITERIA	DEFINITION OF COMPLIANCE	DEADLINE FOR COMPLIANCE	RELEVANT 2023 DEADLINE (PLANNED) ²	LANGUAGE FROM GUIDELINES OR REGULATIONS	REFERENCE URL AS OF 1/30/2023	FUNDING PROGRAM WEBPAGE
						have received a final housing element certification letter from the Department.		
Caltrans Sustainable Transportation Planning (STP) Grant	California Department of Transportation (Caltrans)	Threshold requirement	Adopted housing element that has been found by the Department to be in substantial compliance	At time of application The application guide requires a certified housing element at the time of application. However, STP Grant Applicants are able to explain in the application that they are in the process of updating their housing element. Caltrans will then condition their grant, if awarded, to have an adopted Housing Element before they can execute a grant agreement with Caltrans.	March 9, 2023	To be eligible for a grant award, city and county primary/sub-grant applicants are required to submit: 1. A housing element adopted by the local government to the Department of Housing and Community Development (HCD), and HCD must find the adopted housing element in substantial compliance with state housing element law pursuant to Government Code Section 65585.	Program Application Guide	Program website
Community Development Block Grant (CDBG) Program	California Department of Housing & Community Development (HCD)	Threshold requirement: definition of eligible applicant	Submit a draft or adopted housing element to the Department in accordance with state law	At time of award	August 2023	As per HSC §50829, the Applicant must submit a draft or adopted housing element to the Department in accordance with the requirements listed in Government Code (GC) §65580, et seq. and GC §65585 (see Appendix B) prior to an award being granted. Applicants that fail to comply with the procedural requirements (i.e., GC §65585) of the Housing Element Law are ineligible for funding through the state CDBG program. Eligibility cannot be restored until the Applicant has met such procedural requirements.	Program NOFA memo	Program website

PROGRAM	AGENCY	REQUIREMENT /CRITERIA	DEFINITION OF COMPLIANCE	DEADLINE FOR COMPLIANCE	RELEVANT 2023 DEADLINE (PLANNED) ²	LANGUAGE FROM GUIDELINES OR REGULATIONS	REFERENCE URL AS OF 1/30/2023	FUNDING PROGRAM WEBPAGE
Infill Infrastructure Grant (IIG)	HCD	Threshold requirement: definition of Qualifying Infill Area	Adopted housing element that has been found by the Department to be in substantial compliance	At time of award If award decision made within 120 days of housing element due date, HCD may refer to prior cycle compliance Note language about “presumptive compliance:” if jurisdictions are undergoing review at the time of the award, awards will be conditioned upon final certification at the time of disbursement.	June 2023 (Qualifying Infill Projects and Adaptive Reuse) March 2023 (Catalytic Qualifying Infill Areas) July-Sept 2023 (Small Jurisdiction)	(2) Be located in a city, county, or city and county in which the general plan of the city, county, or city and county has an adopted housing element that has been found by the Department to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the GC, pursuant to GC Section 65585 at time of Award. If the Award decisions are made within 120 days of the housing element due date, the Department may refer to the jurisdiction’s compliance from the prior cycle. For the purpose of this section alone, jurisdictions that are undergoing Department review of their housing element at the time of Award, and jurisdictions that are receiving Department technical assistance to bring their housing element into compliance at the time of Award, shall both be deemed to be in a presumptive state of substantial compliance by the Department. All Awards premised on presumptive substantial compliance shall include conditions in their respective Standard Agreements requiring that prior to funds disbursement, the subject jurisdiction must have received a final housing element certification letter from the Department.	Program website Download June 16, 2022 IIG-2019 Guidelines under “Archive” Program NOFA memo	Program website Program guidelines
Local Housing Trust Fund (LHTF)	HCD	Threshold requirement	Adopted housing element that has been found by the Department to be in substantial compliance	At time of award	May 2023	City or County Applicants must have a Housing Element that was adopted by the Applicant’s governing body and subsequently determined by the Department to be in compliance with state Housing Element law by the time awards are announced. If an applicant is determined to be out of compliance at the time awards are announced, it will be ineligible to receive funding and the next highest scoring eligible application may be funded in its place.	Program NOFA memo	Program website

PROGRAM	AGENCY	REQUIREMENT /CRITERIA	DEFINITION OF COMPLIANCE	DEADLINE FOR COMPLIANCE	RELEVANT 2023 DEADLINE (PLANNED) ²	LANGUAGE FROM GUIDELINES OR REGULATIONS	REFERENCE URL AS OF 1/30/2023	FUNDING PROGRAM WEBPAGE
Multifamily Housing Program (MHP)	HCD	n/a	n/a	n/a	n/a	n/a No language in guidelines	Program guidelines	Program website
One Bay Area Grant (OBAG)	Metropolitan Transportation Commission (MTC)	Threshold requirement	Adopted housing element that has been found by the Department to be in substantial compliance	By December 31, 2023	31-Dec-23	Have a general plan housing element adopted and certified by the California Department of Housing and Community Development (HCD) for the 2023-31 Regional Housing Needs Allocation (RHNA) cycle by December 31, 2023, and maintain certification throughout the OBAG 3 program period.	Program details	Program website
Permanent Local Housing Allocation (PLHA)	HCD	Threshold requirement	Adopted housing element that has been found by the Department to be in substantial compliance	At time of award, by February 28, 2023 If application submitted within 120 days of housing element due date, Dept may refer to prior cycle compliance	Jan-March 2023 depending on specific program Aug-Dec 2023 (rolling awards for the formula program)	Housing Element Compliance: The Applicant and delegating Local government, if applicable, must be a locality with an adopted housing element that has been found by the Department to be in substantial compliance with the requirements of Article 10.6 (commencing with section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, pursuant to Government Code section 65585 at the time of award. Awards will be made through February 2023. If a jurisdiction submits an application prior to the November 30th application closing deadline but fails to demonstrate that their housing element is in compliance by February 28, 2023, will not be eligible and any 2019 funds will revert to the Housing Rehabilitation Loan Fund per statute. If the application is submitted within 120 days of the housing element due date, the Department may refer to the jurisdiction's compliance from the prior cycle. NOTE: Please be advised that no funding from any subsequent year will be disbursed if the Local government is not in compliance with the housing element requirement and the Housing Element Annual Progress Report (APR) requirement stated in Guidelines Section 302(a) and (b), or in the event that the Local government has not submitted its	Program NOFA memo	Program website

PROGRAM	AGENCY	REQUIREMENT /CRITERIA	DEFINITION OF COMPLIANCE	DEADLINE FOR COMPLIANCE	RELEVANT 2023 DEADLINE (PLANNED) ²	LANGUAGE FROM GUIDELINES OR REGULATIONS	REFERENCE URL AS OF 1/30/2023	FUNDING PROGRAM WEBPAGE
						annual PLHA report, as required by Guidelines Section 503. Please refer to Appendix D for more information on verifying housing element and APR status.		
Transit Oriented Development (TOD)	HCD	Threshold requirement	Adopted housing element that has been found by the Department to be in substantial compliance	At time of application	n/a All funds have been awarded	The Housing Development must be located in a Locality with an adopted housing element that has been found by the Department to be in substantial compliance with the requirements of California’s Housing Element Law (Gov. Code, § 65580 et seq.) at time of application.	Program guidelines	Program website

Appendix B: Details of Funding Programs that Incentivize Housing Element Compliance

PROGRAM	AGENCY	REQUIREMENT /CRITERIA	DEFINITION OF COMPLIANCE	DEADLINE FOR COMPLIANCE	RELEVANT 2023 DEADLINE (PLANNED) ³	LANGUAGE FROM GUIDELINES OR REGULATIONS	REFERENCE URL AS OF 12/1/2022	FUNDING PROGRAM WEBPAGE
Active Transportation Program	California Transportation Commission (CTC)	Prohousing designation among possible evaluation criteria (helps with score)	See Prohousing Designation, below	See Prohousing Designation, below	2022 application deadline was June 15, 2022 Adoption June 2023 2023 deadlines TBD?	Under Scoring Criteria (Transformative Projects): Applicants are encouraged to apply for the California Department of Housing and Community Development’s (HCD) Prohousing Designation Program and to describe how local policies align with prohousing criteria. If housing is not an issue for the community, the applicant should explain why it is not a concern.	Program guidelines	Program website
HOME Investment	HCD	Scoring factor (50 points out of minimum 930 needed; 1550 points possible)	Adopted housing element that has been found by the Department to be in substantial compliance	At time of application	Jul-23	Applicants that meet the definition of a local public entity (cities and counties) are required to be in substantive compliance with state Housing Element Law, as defined in state HOME regulations Section 8201(t), as of the NOFA application due date. “Housing element in substantive compliance” means the city or county’s adopted housing element is in substantive compliance as demonstrated by a letter from the Department which sets forth findings that the housing element adopted within the time frames required by Section 65588 of the Government Code includes that substance essential to every requirement of Article 10.6, commencing with Section 65580, of Chapter 3 of Division I of Title VII of the Government Code.	Program NOFA memo Program regulations	Program website
Local Partnership Program	CTC	Prohousing designation among possible evaluation criteria	See Prohousing Designation, below	See Prohousing Designation, below	2022 application deadline is November 29, 2022	Among the evaluation criteria: Demonstrating the local jurisdiction applied to the Department of Housing and Community Development’s Prohousing Designation Program and meets Prohousing criteria that support efficient land use.	Program guidelines	Program website

³ HCD programs reference [Notice of Funding Availability Calendar](#)

PROGRAM	AGENCY	REQUIREMENT /CRITERIA	DEFINITION OF COMPLIANCE	DEADLINE FOR COMPLIANCE	RELEVANT 2023 DEADLINE (PLANNED) ³	LANGUAGE FROM GUIDELINES OR REGULATIONS	REFERENCE URL AS OF 12/1/2022	FUNDING PROGRAM WEBPAGE
					Program adoption June 28-29, 2023 2023 deadlines TBD?			
Solutions for Congested Corridors Program	CTC	Prohousing application is one way to demonstrate efficient land use and housing	See Prohousing Designation, below	See Prohousing Designation, below	2022 application deadline is December 2, 2022 Program adoption June 28-29, 2023 2023 deadlines TBD?	Under Additional Evaluation Criteria (Efficient Land Use and Housing): The applicant may also identify 1) local government jurisdictions that will be served by the proposed project and have obtained a Prohousing Designation, or 2) enacted or developing local land-use policies in the project area which support efficient land-use patterns or incorporate Prohousing criteria.	Program guidelines	Program website
Transit and Intercity Rail Capital Program	California State Transportation Agency (CalSTA)	Prohousing designation among possible evaluation criteria	See Prohousing Designation, below	See Prohousing Designation, below	2023 application deadline is February 10, 2023 Anticipated award date is April 24, 2023	Under Primary Evaluation Criteria: Projects must document the degree to which ridership growth expected over the life of the project is supported by housing policies that will support such growth, including evidence of compliance with state-required housing plans (such as an Adopted Housing Element), and may include a designation of the community as Prohousing, as determined by the Department of Housing and Community Development's Prohousing Designation Program.	Program guidelines	Program website
*Prohousing Designation	HCD	Threshold requirement	An adopted housing element that has been duly found to be in substantial compliance with the requirements of Housing Element Law	At time of application OR prior to designation	Rolling applications and approvals	(1) The applicant has adopted a Compliant Housing Element at the time of application or prior to designation. (6) Compliant Housing Element. An adopted housing element that has been duly found to be in substantial compliance with the requirements of Housing Element Law.	Regulation text	Program website



**ASSOCIATION
OF BAY AREA
GOVERNMENTS**



Association of Bay Area Governments
Bay Area Housing Finance Authority
375 Beale Street
San Francisco, CA 94105
www.mtc.ca.gov

Memorandum

DATE: March 9, 2023
TO: ABAG Housing and BAHFA Oversight Committees
FR: Executive Director
RE: Status of Local Suballocations of REAP Funding

On November 19, 2020, the ABAG Executive Board approved minimum local suballocations of Regional Early Action Planning (REAP) Grant funds to all 109 local jurisdictions and Subregional Planning Collaboratives in the Bay Area. On May 20, 2021, the ABAG Executive Board approved additional local suballocations bringing the total amount of local suballocations to \$10.88M of the \$24M REAP grant. Each of the 109 members of ABAG has been suballocated a minimum of \$20,000 to support local housing planning with supplemental suballocations based on the number of RHNA units received. The amounts of each suballocation [can be found at this link](#).

As of February 13, 2023, 77 jurisdictions and all 7 Subregional Planning Collaboratives had claimed a total of \$9,434,097 in REAP suballocations, amounting to approximately 87% of the available funding. Another 4 jurisdictions have scope of works in progress (summing to \$166,637, approximately 2% of total funding). However, another 23 jurisdictions still need to submit scopes of work to claim their suballocation awards (summing to \$1,134,100 or approximately 10% of total funding) and 5 jurisdictions have yet to respond at all to their award notifications (summing to \$145,166 or approximately 1% of total funding). Table 1 in this Memorandum details the unclaimed suballocations and Table 2 details the suballocations that still need scopes of work. Staff has conducted extensive outreach to all local jurisdictions in a variety of ways during the last 18 months to encourage local governments to claim their awards. Staff continues to reach out to all of the remaining jurisdictions to offer one-on-one assistance to complete their Agreements. Time is of the essence as REAP funding must be fully expended by December 31, 2023 under ABAG’s current grant agreement with the state. If local grant awards remain unclaimed by April 2023, staff will bring a recommendation to reprogram funds to ensure that ABAG fully expends these funds by the statutory expenditure deadline.

Andrew Fremier

Executive Director

Table 1
Unclaimed REAP Suballocations
(\$145,166 as of 2/13/22)

Jurisdiction	County	Amount
Belmont	San Mateo	\$ 32,688
Brentwood	Contra Costa	\$ 30,819
Fairfield	Solano	\$ 41,659
Portola Valley	San Mateo	\$ 20,000
Woodside	San Mateo	\$ 20,000
TOTAL:		\$ 145,166

Table 2
REAP Suballocations Missing Scope of Work
(\$1,134,100) as of 2/13/22)

Jurisdiction	County	Amount		Jurisdiction	County	Amount
Albany	Alameda	\$27,919		Mountain View	Santa Clara	\$99,152
Atherton	San Mateo	\$20,000		Napa County	Napa	\$102,201
Daly City	San Mateo	\$54,390		Newark	Alameda	\$33,321
Danville	Contra Costa	\$35,930		Novato	Marin	\$34,856
Fairfax	Marin	\$20,000		Palo Alto	Santa Clara	\$63,262
Fremont	Alameda	\$111,677		San Rafael	Marin	\$117,889
Hayward	Alameda	\$52,869		Santa Clara City	Santa Clara	\$102,684
Healdsburg	Sonoma	\$20,000		Sausalito	Marin	\$20,000
Hillsborough	San Mateo	\$20,000		St. Helena	Napa	\$20,000
Lafayette	Contra Costa	\$35,027		Suisun City	Solano	\$20,000
Livermore	Alameda	\$52,478		Vallejo	Solano	\$40,884
Martinez	Contra Costa	\$29,561				

TOTAL: \$1,134,100

Update on 6th Cycle Housing Element Progress

ABAG Housing &
BAHFA Oversight
Committees

March 9, 2023



The 6th Cycle Housing Elements are significantly more challenging than ever before.

Changes in State Law

- New state methodology resulted in larger Bay Area RHNA numbers (235% of last cycle)
- Tighter rules for identifying land where development is feasible and likely to occur in the 8-yr planning cycle
- New Affirmatively Furthering Fair Housing (AFFH) requirements

Increased State Enforcement

- New HCD “Housing Accountability Unit”
- New Attorney General “Housing Strike Force”

ABAG HOUSING ELEMENTS

ABAG 6th Cycle Housing Element Statistics

Deadline: 1/31/23
(as of 2/15/23)

ADOPTED	39
Certified	4
Out of compliance	1
In review	34
SUBSEQUENT DRAFTS	10
In substantial compliance	1
Out of compliance	1
In review	8
INITIAL DRAFTS	48
Out of compliance	18
In review	30
NO DRAFTS	12

6th Cycle Housing Element Statistics in Other Regions

(as of 2/10/23)

COG	# of Jurisdictions	HCD CERTIFIED
SLOCOG Due 12/31/20	8	100%
SANDAG Due 4/15/21	19	58%
SACOG Due 5/15/21	28	86%
SCAG Due 10/15/21	197	45%

AFFH GUIDANCE ISSUED 4/27/21

Jan 31 was one milestone in a multi-year process. Other deadlines have different consequences.

Jan. 31, 2023: Deadline to adopt compliant Housing Element

- Consequence: Builder's Remedy

★ May 31, 2023: HCD must certify the Housing Element

- Consequence: Rezoning must be completed in 1 year instead of 3

Dec. 31, 2023: MTC requires HCD certification for OBAG3

- Consequence: Ineligible for some regional funding

Jan. 31, 2024: Rezoning deadline if did not satisfy the 5/31/23 certification deadline

- Consequence: HCD will not certify Housing Element until rezoning is complete

2026: Rezoning deadline if 5/31/23 certification deadline was met

State Funding Eligibility

- Various programs require HE certification: IIG, AHSC, Caltrans Sus. Trans. Planning Grant
- Deadlines depend on program; Mar-Sept 2023
- Guidelines depend on program; some allow conditional award based on “presumptive compliance”

The “Builder’s Remedy”

When does Builder’s Remedy apply?

- What’s Clear:
 - It applies when a jurisdiction has not adopted a final Housing Element “in substantial compliance” with state law
- What’s Not Clear:
 - Whether it applies if HCD finds the adopted Element out of compliance
 - Whether it applies if HCD has not made any finding of compliance (e.g., HCD has not returned comments to the local jurisdiction yet)
 - Uncertainty potentially resolved via litigation

Practical limitations on the Builder’s Remedy

- Financial feasibility (20% lower-income or 100% moderate/middle-income units)
- Hesitance to erode political goodwill from “repeat players”
- Lack of clarity in application

Regional Housing Technical Assistance

- **Funding for every jurisdiction**
- **County-based Planning Collaboratives**
 - Tailored technical assistance from consultant paid by ABAG
 - Types of assistance are determined by member cities & towns
- **Engagement/outreach resources**
 - Free translation assistance & meeting facilitation
- **Wide range of technical products**
 - Housing Element Site Selection (HESS) Tool
 - Pre-approved data packets
 - AFFH policies & programs
- **Template staff reports and presentations**
- **Coming Soon**: model ordinances; additional support for Housing Element implementation

Full Technical Assistance Index updated monthly: <https://abag.ca.gov/tools-resources/digital-library/indexavailabletechnicalassistancedocx>

From Planning to Production: Bay Area RHNA Progress 1999-2021

RHNA		Permits	Percent of RHNA Permitted				
Cycle	Total Need	Permits Issued	All	Very Low Income	Low Income	Moderate Income	Above Moderate Income
1999-2006	230,743	213,024	92%	44%	79%	38%	153%
2007-2014	214,500	123,098	57%	29%	26%	28%	99%
2015-2022	187,990	193,539	103%	31%	43%	51%	189%
2023-2031	441,176	---	---	---	---	---	---

Sources: 1999-2006 and 2007-2014 data compiled by ABAG staff. 2015-2023 data from [HCD's Housing Element Implementation and APR Dashboard](#).

BAHFA, ABAG, and MTC can play a critical role in implementing 6th Cycle Housing Elements.

Land use and housing policies that rely on market-driven development can help meet lower-income RHNA.

- Given trends of above-moderate income production, value recapture strategies (inclusionary, density bonus, etc.) can make a difference if implemented region-wide
- Differing market conditions will require local calibration of policies
- BAHFA, ABAG, and MTC will provide technical assistance.

However, meeting 6th Cycle lower-income RHNA targets will require significant new public subsidy.

- BAHFA Board and ABAG Executive Board have directed staff to explore potential \$10-20 billion regional housing bond in 2024
- 80% of funding would return to counties of origin, based on assessed values
- BAHFA retains 20% for high-impact, regional funding programs (with ABAG consent on Expenditure Plan)



Thank You

Daniel Saver

dsaver@BayAreaMetro.gov



Metropolitan Transportation Commission

375 Beale Street, Suite 800
San Francisco, CA 94105

Legislation Details (With Text)

File #:	23-0345	Version:	1	Name:	
Type:	Report	Status:		Committee Approval	
File created:	2/3/2023	In control:		Bay Area Housing Finance Authority Oversight Committee	
On agenda:	3/9/2023	Final action:			

Title: Approval of the Housing Preservation Pilot and Priority Sites Pilot and Acceptance of estimated Grant of \$43 Million in REAP 2.0 Proceeds from MTC to BAHFA; Delegation of Authority to the Executive Director or Designee To Implement Such Programs; CEQA Determination: Housing Preservation Pilot is Exempt Pursuant to CEQA Guideline 15061(b)(3), Delegated CEQA Authority for the Priority Sites Pilot Program; Authority to Execute Agreements with Terner Center at UC Berkeley (\$5 million) and Housing Accelerator Fund (\$5 million)

Sponsors:

Indexes:

Code sections:

- Attachments:**
- [09a 1 Summary Sheet_REAP 2.0 Pilot Programs and HIT Proposal v4.pdf](#)
 - [09a 2 Attachment A Presentation_REAP 2.0.pdf](#)
 - [09a 3 Attachment B_BAHFA RES-0028_REAP 2.0 v6 \(2\).pdf](#)
 - [09a 4 Attachment C HIT Program Grant Application Summary v2.pdf](#)

Date	Ver.	Action By	Action	Result
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Approval of the Housing Preservation Pilot and Priority Sites Pilot and Acceptance of estimated Grant of \$43 Million in REAP 2.0 Proceeds from MTC to BAHFA; Delegation of Authority to the Executive Director or Designee To Implement Such Programs; CEQA Determination: Housing Preservation Pilot is Exempt Pursuant to CEQA Guideline 15061(b)(3), Delegated CEQA Authority for the Priority Sites Pilot Program; Authority to Execute Agreements with Terner Center at UC Berkeley (\$5 million) and Housing Accelerator Fund (\$5 million)

Somaya Abdelgany

BAHFA Oversight Committee / Recommend BAHFA Approval

ABAG Housing Committee / Information

March 9, 2023

Agenda Item 9.a.

REAP 2.0 Housing Preservation and Priority Sites Pilot Programs and Higher Impact Transformative Grant Proposal

Subject:

Approval of the Housing Preservation Pilot and Priority Sites Pilot and Acceptance of estimated Grant of \$43 Million in REAP 2.0 Proceeds from MTC to BAHFA; Delegation of Authority to the Executive Director or Designee To Implement Such Programs; CEQA Determination: Housing Preservation Pilot is Exempt Pursuant to CEQA Guideline 15061(b)(3), Delegated CEQA Authority for the Priority Sites Pilot Program; Authority to Execute Agreements with Turner Center at UC Berkeley (\$5 million) and Housing Accelerator Fund (\$5 million)

Background:

In July 2022, the California Department of Housing and Community Development (HCD) released the Notice of Funding Availability for its second round of Regional Early Action Planning (REAP 2.0) grants. HCD allocated \$103 million to the Metropolitan Transportation Commission (MTC) for planning and implementation projects at the intersection of climate, housing, and equity. Of this allocation, staff proposes the use of \$43 million to launch new Pilot Programs administered by the Bay Area Housing Finance Authority (BAHFA) that would explore the strategic expansion of the agency’s housing funding portfolio, including a \$15 million Housing Preservation Pilot and \$28M Priority Sites Pilot. MTC approved staff’s proposal for the REAP 2.0 formula allocation in November 2022 and submitted an application to HCD in December 2022.

In addition to its formula allocation, HCD created a REAP 2.0 Higher Impact Transformative Allocation (HIT) as a parallel, competitive effort. MTC and BAHFA, in partnership with Turner Housing Innovation Labs (Turner) and the Housing Accelerator Fund (HAF), hope to secure \$10 million in HIT program funds to support a new construction technology incubator and establish a revolving fund to facilitate location-efficient, off-site affordable housing production. MTC staff submitted an application to the HIT program in December 2022 and MTC approved its authorizing resolution in January 2023.

With its mandate to raise, administer, and allocate regional funding for tenant protections, affordable housing preservation, and new affordable housing production, BAHFA is staffed and well-positioned to execute the proposed REAP 2.0 Pilot Programs and HIT Program.

Housing Preservation Pilot:

The Housing Preservation Pilot would be the first in-house capital program focused on preservation of unrestricted affordable housing. The program would provide over-the-counter financing to non-profit developers and community land trusts for acquisition and rehabilitation of occupied properties to establish long-term affordability, with the goal of stabilizing at least 60 households. Funding would prioritize projects in systemically marginalized communities and near existing or planned transit infrastructure. Funded projects would result in anti-displacement

March 9, 2023

Agenda Item 9.a.

REAP 2.0 Housing Preservation and Priority Sites Pilot Programs and Higher Impact Transformative Grant Proposal

benefits to existing tenants, and community-controlled projects could open pathways towards residents building equity. REAP 2.0 provides a unique opportunity to provide near-term capital funds that can achieve immediate impact and demonstrate a “proof of concept” for BAHFA that supports a potential future ballot measure. See Attachment B for draft terms and underwriting guidelines for the Housing Preservation Pilot.

Priority Sites Pilot:

The Priority Sites Pilot would accelerate regionally significant affordable or mixed-income housing projects that leverage public land or the redevelopment of aging malls/office parks. In addition to establishing a pipeline of locally-prioritized sites in transit-rich areas, the program would deliver predevelopment funding directly to projects that advance affordability, climate, and equity goals and that demonstrate local support, a clear path to entitlements, and a realistic financing plan. Staff would also explore alignment with other state and regional funding sources to expedite project delivery and effectively leverage other sources of capital. This program would demonstrate the value-add of a regional approach, including the completion of large-scale projects that can deliver significant portions of jurisdictions’ lower-income RHNA targets. The [Priority Sites Concept Paper](#), available for download on the MTC/ABAG website, provides additional context for staff’s preliminary design recommendations for this program. See Attachment B for draft terms and underwriting guidelines for the Priority Sites Pilot.

Higher Impact Transformative Program:

If awarded, the HIT program proposes to 1) fund a “Bay Area Builders Lab”, a new construction technology incubator created and operated by Ternier; and 2) establish the “Industrialized Construction Catalyst Fund” (ICCF), a revolving fund managed by the HAF designed to facilitate location-efficient, off-site affordable housing production. Both uses directly address one of the principal causes of California’s chronic shortage of affordable housing: the high cost of construction. The Bay Area Builders Lab will accelerate infill development by incubating new technologies, products, and processes that can reduce the time and cost required for urban infill housing construction. The ICCF will fill gaps that are currently stalling the productive growth of off-site housing production, such as the need for upfront deposits that allow factories to buy materials and affordable developers to secure a guaranteed spot in the production queue. See Attachment C for a more detailed summary of the HIT grant application.

March 9, 2023

Agenda Item 9.a.

REAP 2.0 Housing Preservation and Priority Sites Pilot Programs and Higher Impact Transformative Grant Proposal

Next Steps:

Housing Preservation and Priority Sites Pilot Programs:

- Staff will seek approval of BAHFA Resolution 28 to adopt proposed terms and underwriting guidelines and the acceptance of grant funds from MTC on March 22, 2023.
- Staff will finalize the terms and underwriting guidelines by March 31, 2023, HCD's deadline to approve evaluation criteria for suballocation of REAP 2.0 funds.
- Notice of Funding Availability will be released in spring or summer 2023, pending HCD application approval, grant agreement execution, and disbursement of funds.
- All funds must be encumbered by June 30, 2024 and spent by June 30, 2026.

HIT Program:

- HCD is scheduled to make its HIT Program awards on or around March 31, 2023.
- If awarded, staff will request the authorization of a \$10M grant from MTC to BAHFA for implementation of the HIT Program.
- BAHFA, Terner, and the HAF will proceed in program implementation pursuant to HCD requirements, with Terner and the HAF each scheduled to receive a \$5 million allocation upon completing certain milestones.
- All funds must be encumbered by June 30, 2024 and spent by June 30, 2026.

Issues:

- HCD's deadline to approve evaluation criteria for suballocation of formula REAP 2.0 funds is March 31, 2023. Terms and underwriting guidelines are subject to change until HCD has completed their review.
- The HIT Allocation is a competitive grant, so funding for the proposed HIT Program will not be confirmed until HCD announces awards.

March 9, 2023

Agenda Item 9.a.

REAP 2.0 Housing Preservation and Priority Sites Pilot Programs and Higher Impact Transformative Grant Proposal

Recommended Action:

The BAHFA Oversight Committee is requested to recommend Bay Area Housing Finance Authority (BAHFA) approval of the Housing Preservation Pilot and Priority Sites Pilot and Acceptance of estimated Grant of \$43 Million in REAP 2.0 Proceeds from MTC to BAHFA; Delegation of Authority to the Executive Director or Designee To Implement Such Programs; CEQA Determination: Housing Preservation Pilot is Exempt Pursuant to CEQA Guideline 15061(b)(3), Delegated CEQA Authority for the Priority Sites Pilot Program; Authority to Execute Agreements with Turner Center at UC Berkeley (\$5 million) and Housing Accelerator Fund (\$5 million)

Attachment:

- A. Presentation
- B. BAHFA Resolution 28
- C. Higher Impact Transformative Grant Application Summary

Reviewed:



Andrew Fremier

REAP 2.0 Housing Programs

BAHFA Oversight and ABAG Housing Committees

March 9, 2023



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Bay Area Housing
Finance Authority

How did we get here?

Plan Bay Area 2050

Adopted in Fall 2021

Regional Housing Needs Allocation 6th Cycle

Adopted in Winter 2021

Regional Housing TA Program

\$24M REAP 1.0 Grant in 2020

Bay Area Housing Finance Authority

Established in 2019
Staffed in 2022

Implementation Opportunity: REAP 2.0 Affordable Housing Pilots

- Housing Preservation Pilot
- Priority Sites Pilot
- Higher Impact Transformative Program

Previous REAP 2.0 Committee Discussion:

- **September 2022** - BAHFA Oversight and ABAG Housing Committee
- **November 2023** - MTC Programming and Allocations Committee and Commission
- **February 2023** - BAHFA Advisory Committee
- **March 2023** - MTC Administration Committee



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What is the Regional Early Action Planning Grant (REAP) 2.0?

- \$600M statewide grant program to MPOs
- \$103M formula allocation to MTC
- Goal: accelerate progress towards housing, equity, and climate goals
- Uses: planning efforts and capital projects that implement Sustainable Communities Strategies
- Administered by HCD in collaboration with OPR, SGC, CARB

REAP 2.0 Objectives

All program uses must:

1. Accelerate infill development that facilitates housing supply, choice, and affordability
2. Affirmatively further fair housing
3. Reduce vehicle miles traveled (VMT)



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REAP 2.0 Timeline



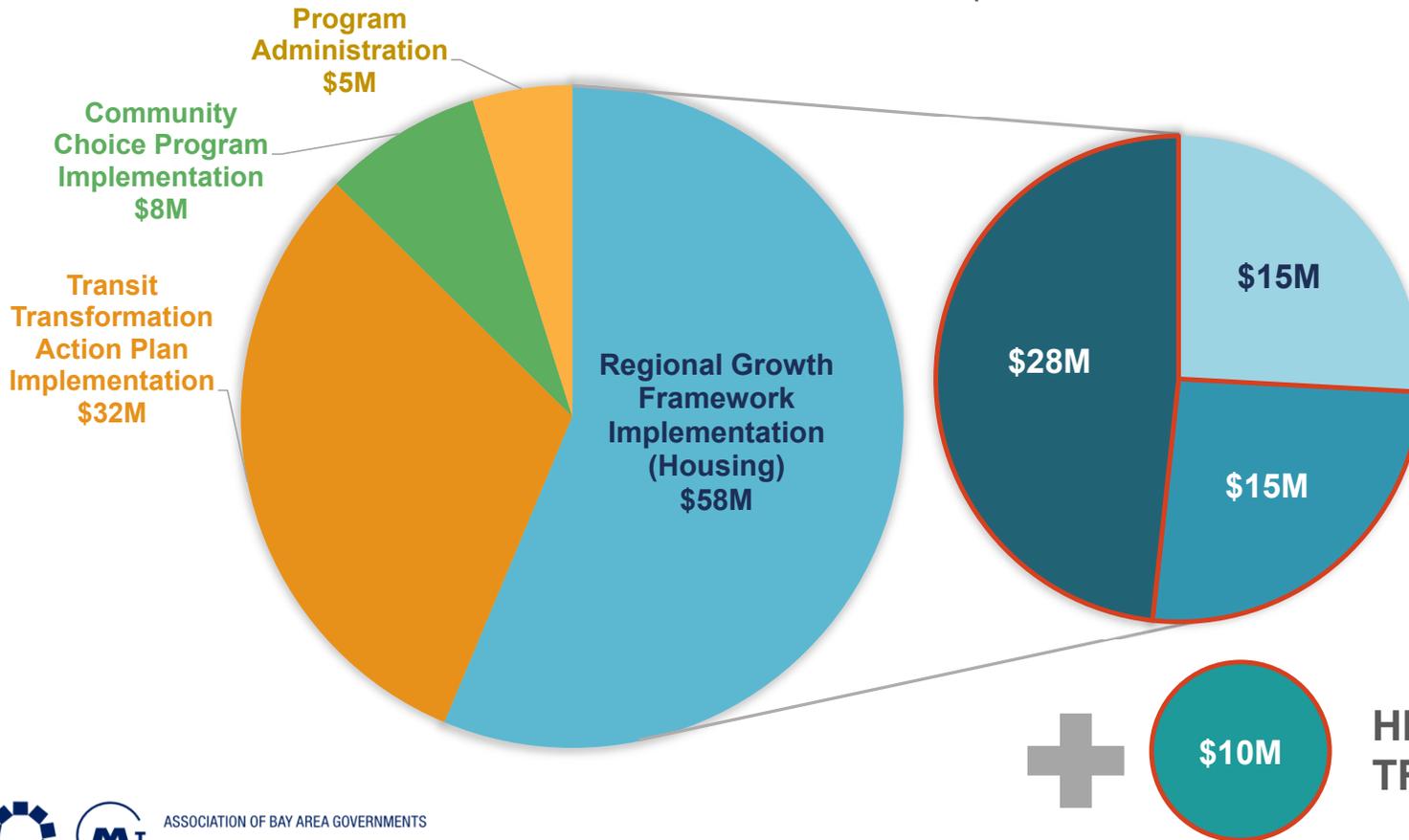
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REAP 2.0 Proposed Uses

FORMULA ALLOCATION \$103M

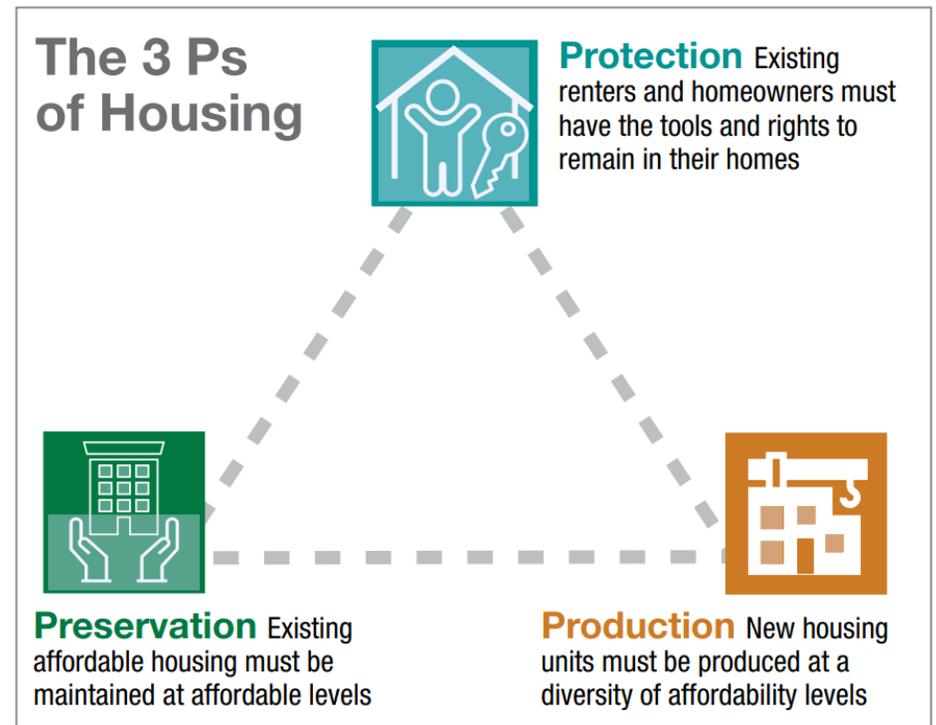


Administered by BAHFA

- Regional Housing TA & Local Policy Grants
- Housing Preservation Pilot
- Priority Sites Pilot

BAHFA's Role in REAP 2.0

- The Bay Area Housing Finance Authority (BAHFA) was created by Assembly Bill 1487 in 2019
- Purpose is to raise, administer, and allocate regional funding for tenant protection, affordable housing preservation, and new affordable housing production
- Launched in 2022, BAHFA brings a new set of relevant skills and development expertise to execute REAP 2.0 affordable housing pilots



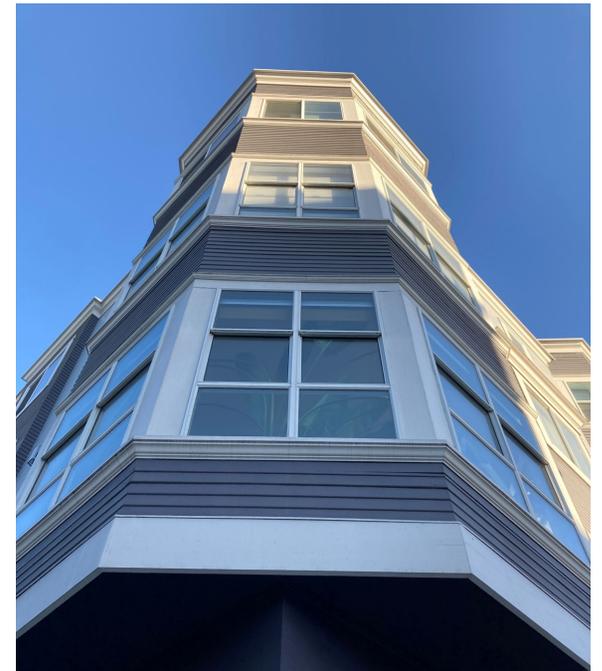
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Housing Preservation Pilot - \$15M

Overview

- Provide over-the-counter capital financing to non-profit developers and community land trusts for acquisition-rehab
- Prevent displacement of at least 60 families by creating permanently affordable homes
- Begin to fulfill PBA 2050 commitment to take lead on preservation
- Demonstrate “proof of concept” for regional value-add exemplified by BAHFA to support future ballot measure
- Build upon existing Bay Area Preservation Pilot (BAPP)
- Strike a balance between achieving scale and helping historically disadvantaged households build equity



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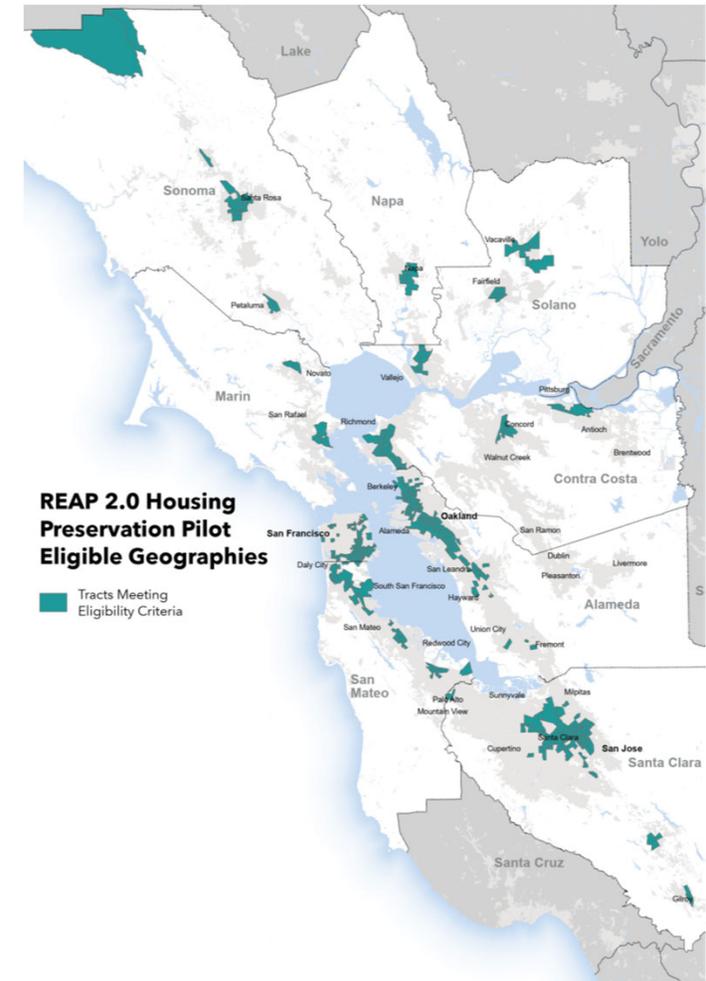


Housing Preservation Pilot - \$15M

Eligible Projects

- Acquisition or Acquisition/Rehab
- Unrestricted, occupied, residential buildings
- Site control
- Located in Eligible Geographies*
 - Accelerate Infill Development: Plan Bay Area 2050 Growth Geographies, Transit Priority Areas
 - AFFH: Equity Priority Communities, Displacement Risk Areas, Low/Moderate Resource Areas
 - Reduce VMT: VMT per capita less than 15 miles

**May demonstrate REAP 2.0 Objectives are met at the project level*



Housing Preservation Pilot - \$15M

Eligible Borrowers

- Non-profit affordable housing developers
- Community Land Trusts
- Partnerships that include these organizations
- Minimum Experience:
 - Successfully acquired, rehabilitated, owned, and operated at least one comparable project
 - May rely on the experience of a staff or consultant that has completed at least three comparable projects

Community-Controlled Set Aside \$3M

- Community Land Trusts
- Community-Based Organizations in partnership with CLT
- Cooperative Housing Entities



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Bay Area Housing
Finance Authority

Housing Preservation Pilot - \$15M

Loan Terms & Fees

- Maximum Loan Amount: \$250K/unit
 - Expectation that borrower will obtain third party construction-to-perm lender
- Loan Term: 55 years
- Interest Rate: 3% annually
- Repayment: Principal and interest deferred until loan maturity, with option to extend for as long as project upholds Regulatory Restrictions
- BAHFA Legal Fee: \$10-15K
- BAHFA Asset Management Fee: TBD
- Maximum Developer Fee: \$150K + \$10K per unit for any planned rehabilitation



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Housing Preservation Pilot - \$15M

Regulatory Restrictions

- Regulatory Term: 55 years
- Maximum Income Levels:
 - Average area median income (AMI) for all households of no more than 80%
 - Upon turnover, units may be rented up to 120% AMI to achieve 80% AMI property average
- Annual Rent Increases:
 - If subject to rent stabilization ordinances, continue to comply
 - If not, lesser of annual increase in AMI or 4%
 - Rents should be reduced for rent-burdened tenants earning less than 80% AMI as project income allows
- Relocations:
 - No displacement or permanent relocation
 - Temporary relocation for rehabilitation up to 180 days

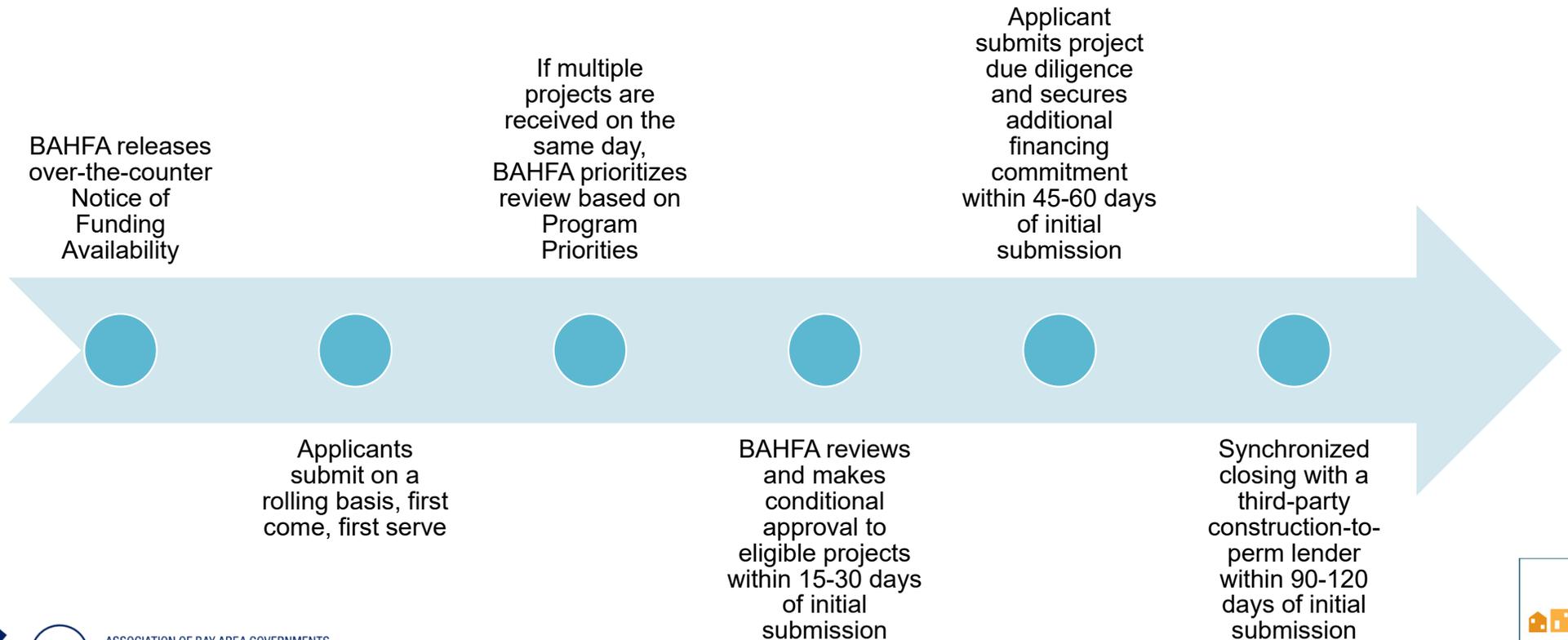


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Housing Preservation Pilot - \$15M

Application & Closing Process



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Housing Preservation Pilot - \$15M

Program Priorities

Scoring Criteria	Points
Higher Impact	30
Accelerating Housing Supply, Choice, & Affordability (10)	
Affirmatively Furthering Fair Housing (10)	
Reducing Vehicle Miles Traveled Per Capita (10)	
Alignment with Plan Bay Area 2050 Housing Goals	10
Readiness/Timeliness	20
Capacity Building and Transferability	10
Partnerships/Collaboration toward Implementation	5
Community Engagement	10
Leveraging other funding/Financial feasibility	15
Total	100



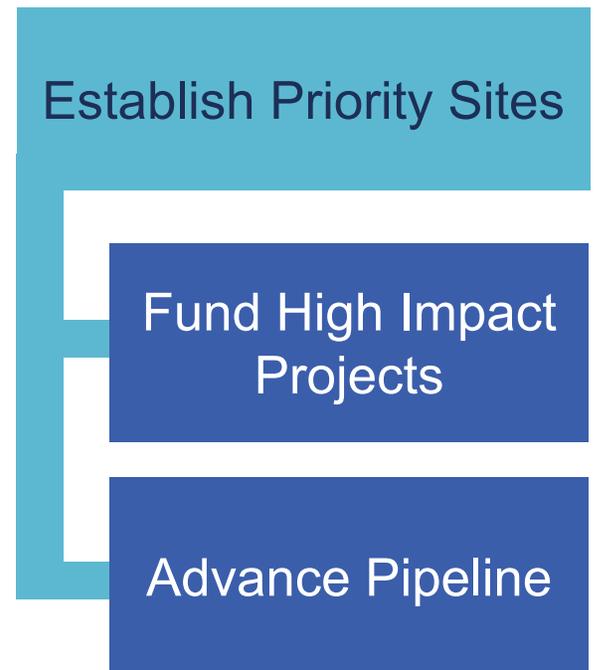
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Priority Sites Pilot - \$28M

Overview

- Launch projects resulting in 750 - 3,000 affordable homes, bringing up to \$2 billion into the region, leveraging BAHFA expertise
- Establish network of regionally-significant, locally-nominated priority development sites
- Transform surplus public land and aging malls and offices into vibrant neighborhoods
- Make scarce local funding go farther and create pipeline for potential future BAHFA funding



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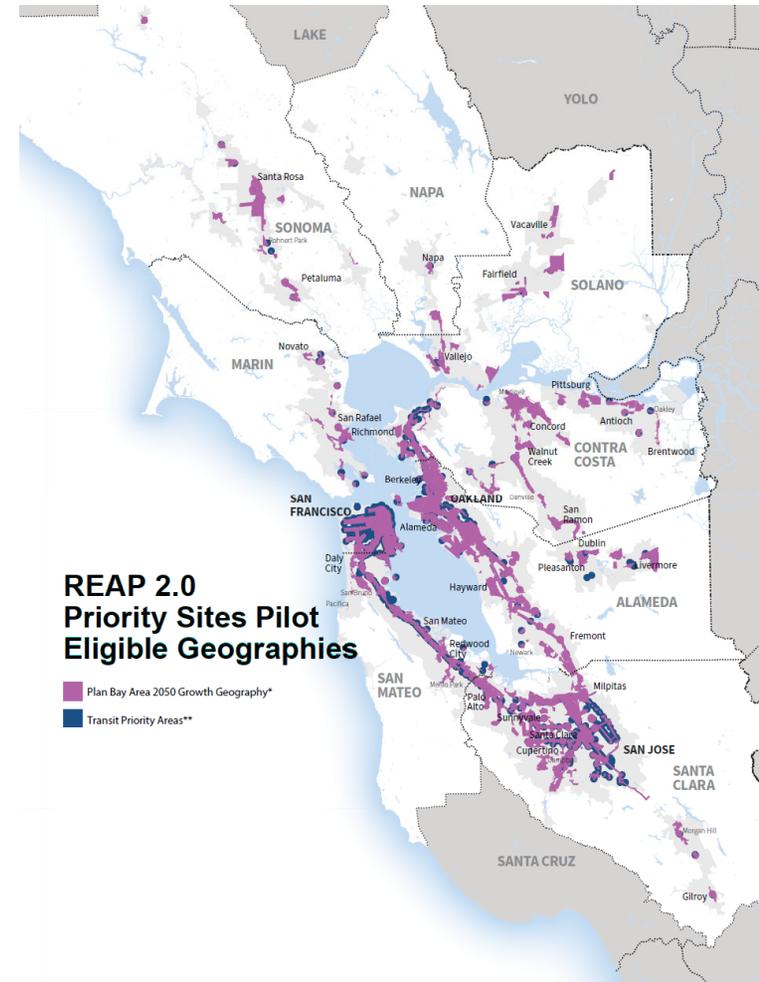


Priority Sites Pilot - \$28M

Eligible Projects

- Predevelopment, land acquisition, and construction of affordable housing
- Site Control
- Entitlements
- At least 100 new homes
- Minimum 25% of proposed units affordable
- Located in locally-nominated Priority Site*
 - Plan Bay Area 2050 Growth Geographies or Transit Priority Areas
 - Local Commitment: development capacity for 500+ homes, maximizes affordable units for low- and moderate- income households, or local government support

**Minimum eligibility requirements may be waived under certain conditions*



Priority Sites Pilot - \$28M

Eligible Borrowers

- Project Sponsors
 - Must include non-profit partner
 - Must demonstrate experience with proposed sources of funding
- Public Agencies
 - Own land on which the project will be built

Eligible Applicants for Priority Site Nomination:

- Local jurisdiction with land use authority over the site
- Project sponsor for an entitled development project on the site



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Priority Sites Pilot - \$28M

Loan Terms

- Maximum Loan Amount: \$3M
 - May borrow up to \$5M as needed if able to commence construction within 24 months
- Loan Term: 3-5 years
- Interest Rate: 3% annually
- Repayment: Due at construction loan closing
 - Affordable projects may convert to permanent financing, but those able to repay at construction will be prioritized



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Priority Sites Pilot - \$28M

Regulatory Restrictions

- Regulatory Term: Permanent financing must have 55-year term
- Maximum Income Levels: At least 25% of units restricted to 80% AMI or below
 - Should strive to serve extremely low-, very low-, and low-income households
 - Must demonstrate financial feasibility
- Relocations:
 - No displacement or permanent relocation
 - Temporary relocation for construction up to 12 months

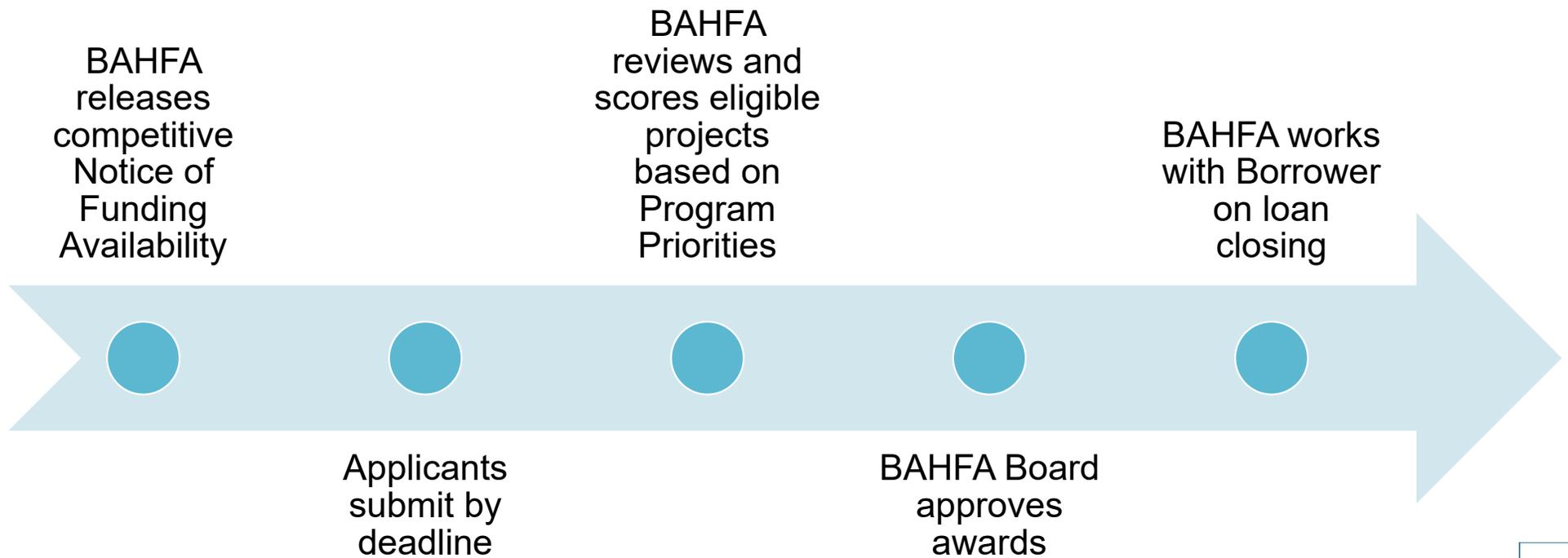


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Priority Sites Pilot - \$28M

Application & Closing Process



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Priority Sites Pilot - \$28M

Program Priorities

Scoring Criteria	Points
Higher Impact	30
Accelerating Housing Supply, Choice, & Affordability (10)	
Affirmatively Furthering Fair Housing (10)	
Reducing Vehicle Miles Traveled Per Capita (10)	
Alignment with Plan Bay Area 2050	20
Readiness/Timeliness	10
Capacity Building and Transferability	10
Partnerships/Collaboration toward Implementation	10
Community Engagement	10
Leveraging other funding	10
Total	100



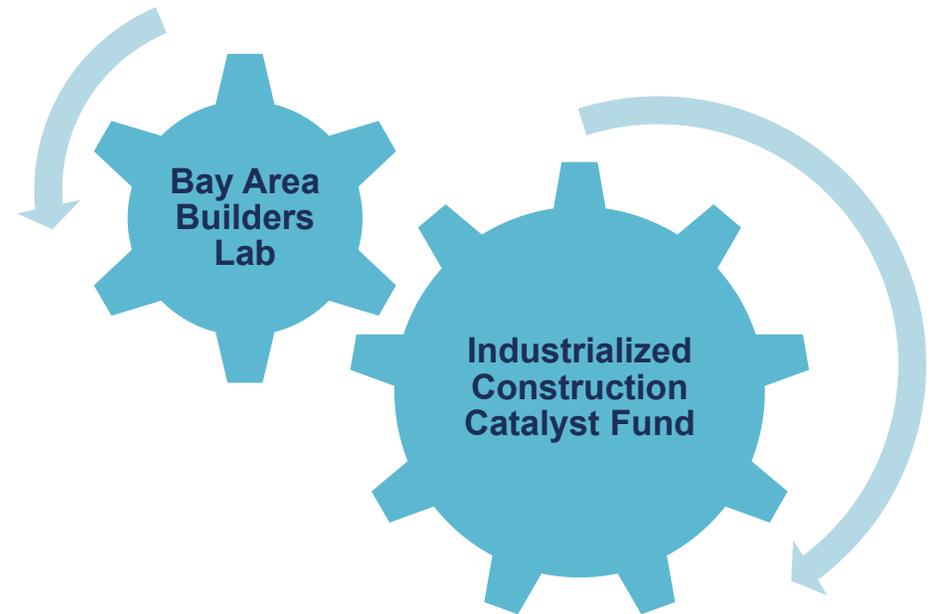
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Higher Impact Transformative - \$10M

Overview

- HCD's Goal: competitive funding to support “novel, unique or innovative approaches that are scalable and that further REAP 2.0's Goals and Objectives”
- Partners: Turner Housing Innovation Labs and Housing Accelerator Fund
- Proposed Uses:
 1. Bay Area Builders Lab \$5M
 2. Industrialized Construction Catalyst Fund \$5M



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Higher Impact Transformative - \$10M

Bay Area Builders Lab

- New construction technology incubator created and operated by Turner
- Goals:
 - Lower barriers to entry
 - De-risk innovation
 - Increase financial feasibility
- Program Components:
 - Development of physical innovation space
 - Access to product testing capabilities
 - Access to coaching and workforce development
 - Connection to development partners and investors



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Higher Impact Transformative - \$10M *Industrialized Construction Catalyst Fund*

- Revolving fund managed by the HAF designed to facilitate location-efficient, off-site affordable housing production
- Launch Products:
 - Predevelopment/Deposit Bridge Loans
 - Letter of Credit/Guaranty Pool
 - Builder's Risk Insurance
- Program Components:
 - Focus on mid-rise mid-size affordable housing infill projects
 - Alignment with available public subsidies
 - Prioritization of projects benefitting historically disadvantaged communities
 - Service as a bridge lender as the modular industry matures

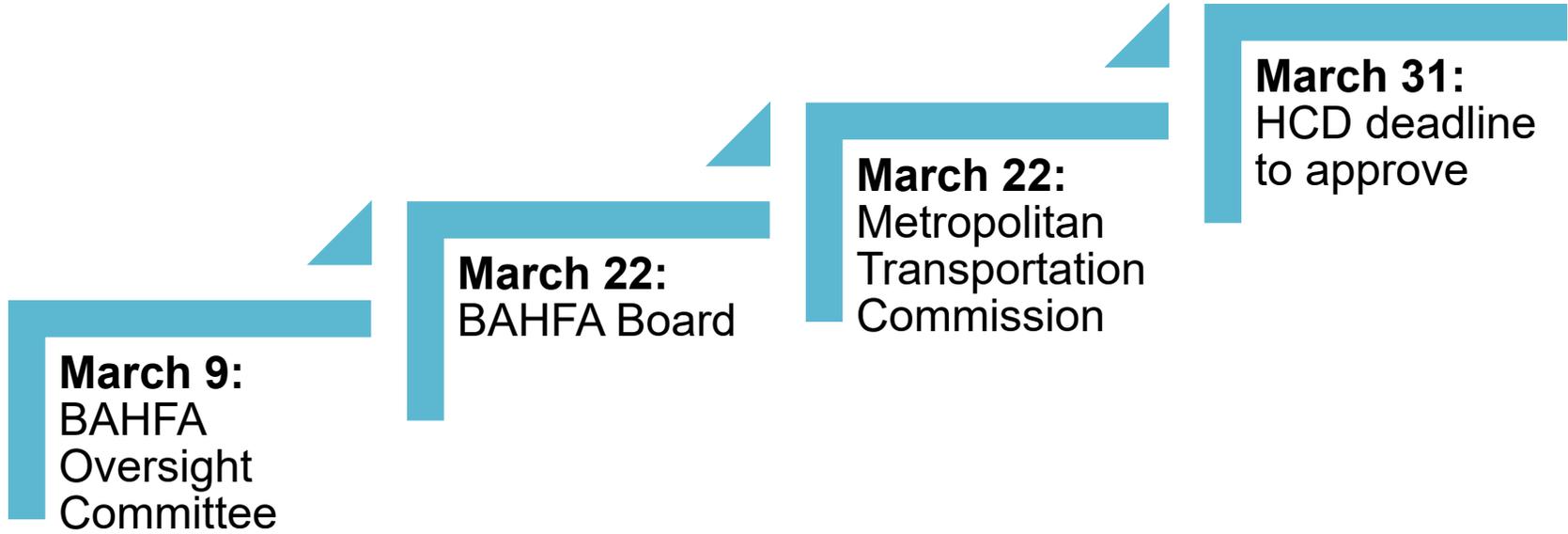


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Housing Preservation and Priority Sites

Next Steps: Approval Process



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BAHFA Resolution 28

BAHFA authorizes the receipt of funding and programmatic responsibility for \$43 million in REAP 2.0 proceeds from MTC to administer Housing Preservation and Priority Sites Pilots according to the approved Terms and Underwriting Guidelines



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Bay Area Housing
Finance Authority

Thank you.

ASSOCIATION OF BAY AREA GOVERNMENTS
METROPOLITAN TRANSPORTATION COMMISSION



Date: March 22, 2023
W.I.: 1620
Referred by: BAHFA Oversight

ABSTRACT

Resolution No. 0028

This resolution authorizes the creation of two affordable housing programs, the Housing Preservation Pilot and the Priority Sites Predevelopment Pilot, as well as the associated grant of Regional Early Action Planning Grant 2.0 (REAP 2.0) proceeds and programmatic authority from the Metropolitan Transportation Commission (MTC) to the Bay Area Housing Finance Authority (BAHFA) for their implementation. By Resolution No. 4548, dated November 16, 2022, MTC authorized a request to California Department of Housing and Community Development (HCD) for its formula allocation of funds in an amount not to exceed \$102,842,103.03, which includes the estimated \$43,000,000 now authorized for program implementation by BAHFA.

BAHFA shall use the REAP 2.0 funding to implement 1) a Housing Preservation Pilot, at an estimated \$15,000,000; and 2) a Priority Sites Predevelopment Pilot, at an estimated \$28,000,000, including administrative staffing costs for both programs. BAHFA will administer the two affordable housing programs in accordance with the Terms and Underwriting Guidelines herein, as approved by HCD. This resolution delegates authority to the Executive Director or designee to implement such programs. For the Housing Preservation Pilot Program, this Resolution makes a determination under the California Environmental Quality Act (CEQA) that the Program is exempt from further environmental review, and for the Priority Sites Predevelopment Pilot, delegates certain CEQA responsibilities to the Executive Director or designee.

Further discussion of the REAP 2.0 allocation, the Housing Preservation Pilot, and the Priority Sites Predevelopment Pilot is contained in a memorandum to the BAHFA Oversight Committee dated March 9, 2023.

In addition, this Resolution provides authority for the Executive Director or designee to negotiate and execute agreements with Turner Center at UC Berkeley (\$5 million) and Housing Accelerator Fund (\$5 million), with the agreements providing for no payment will be made unless BAHFA receives a grant from MTC and/or HCD for such purposes.

Date: March 22, 2023
W.I.: 1620
Referred by: BAHFA Oversight

RE: Approval of the Housing Preservation Pilot and Priority Sites Pilot and Acceptance of Grant of REAP 2.0 Proceeds from MTC to BAHFA; Delegation of Authority to the Executive Director or Designee To Implement Such Programs; CEQA Determination: Housing Preservation Pilot is Exempt Pursuant to CEQA Guideline 15061(b)(3), Delegated CEQA Authority for the Priority Sites Pilot Program; Authority to Execute Agreements with Turner Center at UC Berkeley (\$5 million) and Housing Accelerator Fund (\$5 million)

BAY AREA HOUSING FINANCE AUTHORITY
RESOLUTION NO. 0028

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Section 66500 *et seq.*; and

WHEREAS, MTC is the designated Metropolitan Planning Organization (MPO) for the nine-county San Francisco Bay Area region; and

WHEREAS, the California Department of Housing and Community Development (HCD) is authorized to provide up to \$510,000,000 to Metropolitan Planning Organizations and Councils of Government (“Applicant”) listed in Health and Safety Code Section 50515.08, subdivisions (a)(1)-(6) under the Regional Early Action Planning grants program (REAP 2.0), as detailed in Health and Safety Code Section 50515.08-10; and

WHEREAS, HCD issued a Notice of Funding Availability on July 26, 2022, for REAP 2.0 formula grants available to MPOs and Councils of Government and a Notice of Funding Availability on November 7, 2022, for REAP 2.0 Higher Impact Transformative (HIT) competitive grants; and

WHEREAS, MTC approved a request for an allocation of REAP 2.0 formula funds in an amount not to exceed \$102,842,103.03 by Resolution 4548 on November 16, 2022 and a request for REAP 2.0 HIT competitive funds in an amount not to exceed \$10 million by Resolution 4555 on January 25, 2023; and

WHEREAS, MTC further agreed by Resolution 4548 to use all such REAP 2.0 funds only for eligible activities as set forth in California Health and Safety Code section 50515.08(c)(1) and in accordance with REAP 2.0 requirements and guidelines, which include, among other activities, affordable housing preservation and affordable housing predevelopment funding; and

WHEREAS, Title 6.8 of the Government Code, commencing with Government Code Section 64510 (AB 1487, Chiu, October 8, 2019) creates the Bay Area Housing Finance Authority (BAHFA) with jurisdiction extending throughout the San Francisco Bay Area and provides that BAHFA shall be governed by the same board that governs the Metropolitan Transportation Commission (MTC); and

WHEREAS, per Government Code Section 64510(c), BAHFA's purpose is to raise, administer, and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production; and

WHEREAS, on March 22, 2023, MTC adopted Resolution No. 4565, which grants REAP 2.0 funds to BAHFA, for the Housing Preservation Pilot and for the Priority Sites Predevelopment Pilot, contingent upon MTC receiving the REAP 2.0 funds as requested by MTC Resolution No. 4548 and subject to applicable terms and conditions of the grant agreement to be executed between MTC and HCD for the REAP 2.0 funds; and;

NOW, THEREFORE, BE IT RESOLVED, that in accordance with MTC Resolution No. 4565, BAHFA accepts from MTC the grant of REAP 2.0 funds for the Housing Preservation Pilot and for the Priority Sites Predevelopment Pilot, contingent upon MTC receiving the REAP 2.0 funds as requested by MTC Resolution No. 4548 and subject to applicable terms and conditions of the grant agreement to be executed between MTC and HCD for the REAP 2.0 funds ("MTC Grant"); and be it further

RESOLVED, a portion of the MTC Grant will be used to create and implement the Housing Preservation Pilot, subject to the terms and conditions contained in Attachment B, for the purpose of preventing displacement of low-income households by providing low-interest loans to

preserve unrestricted, occupied housing as permanent affordable housing through acquisition and rehabilitation; and be it further

RESOLVED, a portion of the MTC Grant will be used to create and implement the Priority Sites Predevelopment Pilot, subject to the terms and conditions as set forth in Attachment C, for the purpose of assisting affordable housing production by providing low-interest loans to developers and public agencies for predevelopment activities necessary to advance housing projects that provide deed-restricted affordable homes on sites identified by the Metropolitan Transportation Commission and Association of Bay Area Government as Priority Sites; and be it further

RESOLVED, that BAHFA will implement the Housing Preservation Pilot and Priority Sites Predevelopment Pilot in compliance with California Health and Safety Code section 50515.08(c)(1), all REAP 2.0 requirements and guidelines, all applicable state and federal statutes, rules, regulations, the Standard Agreement that will be executed by and between MTC and HCD for REAP 2.0 funding and MTC Resolution No. 4565; and be it further

RESOLVED, that the Executive Director or designee is authorized to enter into, execute, and deliver any and all other documents required or incidental to the grant of the REAP 2.0 allocation from MTC to BAHFA, including but not limited to, amendments HCD deems necessary to effectuate the grant of REAP allocation from MTC to BAHFA; and be it further

RESOLVED, that the Executive Director or designee is authorized to develop application forms and promulgate application requirements consistent with this Resolution and to enforce such requirements for the Housing Preservation Pilot and Priority Sites Predevelopment Pilot; and be it further

RESOLVED, that the Executive Director or designee is authorized to negotiate and execute loan agreements, regulatory agreements, and other agreements necessary and

incidental to the implementation of the Housing Preservation Pilot with subrecipients, and any amendments thereto, provided such documents are consistent with the terms and conditions of each program as adopted herein, and any such amendments are for the purpose of facilitating the extension of the duration of the affordability requirements; and

RESOLVED, that BAHFA finds the Housing Preservation Pilot is exempt from environmental review pursuant to CEQA Guideline 15061(b)(3) because there is no change to the existing environment given that the program's purpose is to preserve existing conditions for naturally occurring affordable housing, and to mitigate against the ongoing housing crisis, by reducing the possibility that low-income households would be displaced through unregulated rent increases if the property was sold to a for-profit developer; and be it further

RESOLVED, that for the Priority Sites Predevelopment Pilot, the Executive Director or designee is authorized to make the determination as to whether a project to be funded under this program is exempt from review under the California Environmental Quality Act (Cal. Pub. Resources Code, § 21000, et seq.) ("CEQA") and to take other actions as prescribed by CEQA Guideline 15025; and

RESOLVED, that the Executive Director or designee is authorized to negotiate and execute loan agreements, regulatory agreements, and other agreements necessary and incidental to the implementation of the Priority Sites Predevelopment Pilot, with subrecipients, and any amendments thereto, provided such documents are consistent with the terms and conditions of each program as adopted herein, and any such amendments are for the purpose of facilitating the extension of the duration of the affordability requirements; and be it further

RESOLVED, that the Executive Director or designee is authorized to negotiate and execute an agreement with Turner Center at University of California, Berkeley for an amount not to exceed \$5 million for the "Bay Area Builder's Lab" and an agreement with the Housing Accelerator Fund for an amount not to exceed \$5 million for the "Industrialized Construction Catalyst Fund", provided both agreements shall require that no payment under the agreement shall be made unless BAHFA has received a REAP 2.0 HIT grant from HCD and/or MTC for such purposes and authorized said expenditure. ____

RESOLVED, that this resolution shall be effective upon adoption.

BAY AREA HOUSING AUTHORITY

Alfredo Pedroza, Chair

The above resolution was entered into by the
Bay Area Housing Finance Authority
at a regular meeting held
in San Francisco, California, on March 22, 2023.

ATTACHMENT A

Summary of the Housing Preservation Pilot and Priority Sites Predevelopment Pilot, March 9, 2022 Joint Meeting, ABAG Housing and BAHFA Oversight Committees

ATTACHMENT B



BAY AREA HOUSING FINANCE AUTHORITY
REAP 2.0 Housing Preservation Pilot Program
DRAFT Terms and Underwriting Guidelines

<p>Program Description</p>	<p>To be funded with an anticipated \$15M in Regional Early Action Planning (REAP 2.0) Grant funding from the California Department of Housing and Community Development (HCD), the Program provides low-interest loans to mission-driven developers and community land trusts to acquire and rehabilitate unrestricted homes and convert them to permanently affordable housing.</p> <p>The Program’s goals are to prevent displacement of low-income households, to create a safe, stable, permanently affordable housing stock, and to support the financial health of residents, borrowers, and properties.</p> <p>In accordance with HCD’s REAP 2.0 Objectives, the Program will:</p> <ul style="list-style-type: none">• Accelerate infill development that facilitates housing supply, choice, and affordability• Affirmatively further fair housing• Reduce vehicle miles traveled
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	<p>Program-wide, BAHFA aims to preserve at least 60 homes and to fund at least three projects of various scales and tenure types throughout its jurisdiction.</p>
<p>Eligible Borrowers</p>	<p>Non-profit affordable housing developers, community land trusts, or joint venture partnerships that include such organizations. Borrowers must possess the following minimum experience:</p> <ul style="list-style-type: none"> • Borrowers must have successfully acquired, rehabilitated, owned, and operated at least one comparable project relative to the proposed project within the past five (5) years in the State of California, demonstrating their capacity to perform development and asset management. • Alternatively, Borrower may rely on the experience of a staff member or consultant that has completed at least three comparable projects.
<p>Eligible Projects</p>	<p>Acquisition only or Acquisition/Rehabilitation of existing occupied residential properties that are currently unrestricted and demonstrate some form of site control (see Application Requirements on page 7 below):</p> <ul style="list-style-type: none"> • While accounting for Program-wide goals and giving preference to unrestricted properties, BAHFA may consider properties that have current affordable regulatory agreements that are set to expire within 5 years and for which there is no feasible alternative funding plan. BAHFA may also consider unoccupied properties that serve community anti-displacement goals. • Mixed-use properties are eligible so long as two-thirds of the building square footage is used for residential uses. • BAHFA will consider funding ADU construction as part of an acquisition/rehab project if the ADU meets Regulatory Restrictions (see Regulatory Restrictions on pages 3-4) and

	<p>installation/construction demonstrates permitting and construction can begin promptly upon closing by submitting the following:</p> <ul style="list-style-type: none">○ Design proposals that use pre-approved plans or factory-built units○ Data or documentation from the applicable jurisdiction demonstrating support and track record for permitting ADUs○ Identification of an experienced contractor for construction○ Demonstration of financial resources to cover potential cost overruns, including contingencies. <p>To achieve each of HCD’s REAP 2.0 Objectives, projects must be located in a geography that meets all of the following geographic objectives:</p> <ul style="list-style-type: none">• <i>Infill Objective: Accelerate infill development that facilitates housing supply, choice, and affordability</i><ul style="list-style-type: none">○ Plan Bay Area 2050 Growth Geographies, including Priority Development Areas OR○ Transit Priority Areas• <i>Affirmatively Further Fair Housing Objective: Affirmatively further fair housing</i><ul style="list-style-type: none">○ Plan Bay Area 2050 Equity Priority Communities OR○ Areas identified by the Urban Displacement Project as being at risk of or experiencing displacement or gentrification OR○ Areas defined by the TCAC Opportunity Index as “High Segregation and Poverty”, “Low Resource”, or “Moderate Resource”• <i>VMT Objective: Reduce vehicle miles traveled (VMT)</i><ul style="list-style-type: none">○ Census Tracts with Vehicles Miles Traveled per Capita at or below the Bay Area average of 15 Miles• Projects that do not fall within the qualifying geographies may demonstrate alternative methods of achieving the applicable REAP 2.0 Objective(s) at the project level.
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<p>BAHFA Loan Terms</p>	<p><u>Maximum Loan Amount</u>: \$250,000 per unit</p> <p><u>Loan Term</u>: 55 years</p> <p><u>Interest Rate</u>: 3.0% per year</p> <p><u>Repayment</u>: BAHFA will forego annual repayment of principal and interest from surplus cash (residual receipts). Repayment will be deferred until the conclusion of the Loan Term or upon any transfer of title that results in loss of affordability, whichever occurs first. At the conclusion of the Loan Term, projects will have the option to extend the Regulatory Term and loan repayments will be deferred for as long as the project upholds Regulatory Restrictions.</p>
<p>Regulatory Restrictions</p>	<p><u>Regulatory Term</u>: 55 years. The Executive Director or designee may consider an alternative term option if Borrower demonstrates that the term remains compatible with permanent affordability and prohibition of displacement.</p> <p><u>Maximum Income Levels</u>: No resident shall be displaced regardless of income. For occupied units and vacant units due to turnover, Borrower shall achieve an average area median income (AMI) for all households in the Project of no more than 80%. Upon turnover, units may be occupied by households earning up to 120% AMI as needed to cross-subsidize lower income units and achieve an 80% AMI average. Depending on local market conditions, Borrowers may obtain an AMI less than 80% if they can demonstrate long term financial feasibility.</p>

	<p><u>Rent Increases:</u> Upon acquisition, rents for all existing residents shall remain unchanged until the anniversary of the tenant's initial leasing.</p> <ul style="list-style-type: none">• For units subject to local rent stabilization ordinances, Borrowers shall continue to comply with the rent stabilization ordinance when imposing rent increases after acquisition.• For units not subject to or exempt from rent stabilization requirements, annual rent increases shall be limited to the lesser of the annual increase in area median income (AMI) or 4%.• For existing residents earning less than or equal to 80% AMI and who pay more than 30% of gross household income for rent, Borrowers shall decrease those households' rents to a maximum of 30% of gross annual income, assuming Project income is sufficient to allow a rent decrease for such households while covering necessary and standard Project operating expenses. <p><u>Displacement:</u> All existing residents may remain in their home regardless of income, and permanent relocation of tenants is prohibited. No existing resident in the project will be displaced because of the preservation action or by Borrower's imposition of any new, discretionary "house rules" intended to circumvent this rule.</p> <p><u>Temporary Relocation:</u> Permanent relocation is prohibited. If Borrower must temporarily relocate tenants for the purpose of safely conducting a Project rehabilitation, the following requirements apply:</p> <ul style="list-style-type: none">• Temporary relocation shall not exceed 180 days unless approved by Executive Director or designee. Permanent relocation is prohibited.
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	<ul style="list-style-type: none"> • Borrowers shall provide temporary housing that is decent, safe, sanitary, of comparable size to and within the vicinity of the relocated tenant’s dwelling unit as determined by the Executive Director or designee. • Tenants shall continue to pay the rent for their original unit, but shall bear no costs related to relocation, including: <ul style="list-style-type: none"> ○ Moving and packing expenses ○ Any costs associated with the relocation dwelling that exceed their typical housing expenses (rent, utilities, parking, or other charges) <p><u>Lien Priority:</u> BAHFA requires first lien priority for its occupancy deed restriction. In their sole discretion, the Executive Director or designee may agree to subordinate the restriction if Borrower demonstrates and the Executive Director or designee finds that subordination is necessary to secure financing and if such subordination furthers the goal of creating permanent affordable housing.</p>
<p>Resident Engagement and Income Certification</p>	<p><u>Engagement:</u> Preference will be given to projects in which 100% of households are notified of the Borrower’s intention to acquire and restrict the building and a majority of tenants demonstrate support for the acquisition prior to application. However, BAHFA will consider proposals in which Borrowers are prohibited by the seller from conducting outreach to tenants prior to acquisition. A preliminary tenant engagement plan will be required at loan application, to be finalized prior to acquisition. After acquisition, all Borrowers are required to conduct robust tenant engagement to ensure residents are aware of the intent and impact of the preservation project and to offer residents the opportunity to inform any rehabilitation scope.</p> <p><u>Income Certification:</u> Occupants of a regulated unit must certify their household income on a form</p>

	<p>approved by the Executive Director or designee on an annual basis prior to lease renewal.</p>
<p>Financing Assumptions</p>	<p><u>Leveraging</u>: Borrowers must obtain additional private and/or public financing as needed to ensure the project’s financial feasibility. Given the program’s per-unit subsidy cap, it is anticipated that Borrowers must seek construction as well as permanent third-party financing, which may also require Borrower to provide equity. Ideal leveraging shall consist of a construction-to-permanent third-party loan with a 20-year term. As part of Program outreach, BAHFA staff has consulted with numerous community development financial institutions and first mortgage lenders, some of whom may provide favorable financing terms. BAHFA will provide contact information as requested.</p> <p><u>Rental Income</u>: Borrower must provide rent roll information to inform project underwriting, and, whenever possible, tenant income information. If tenant incomes indicate existing rent burdens, BAHFA will seek to work with Borrowers to lower rents to 30% of gross household income where possible.</p> <p><u>Property Tax Exemption</u>: While income certifications will not be required at acquisition, to properly size the project’s operating budget, Borrower must have some data about existing residents that indicates with high likelihood on a household-by-household basis eligibility for a welfare tax exemption pursuant to California Revenue and Taxation Code Section 214(g). If no income information is available, Borrower will be required to assume a property tax obligation in the operating budget.</p>

	<p><u>Construction Contingency:</u> 15% of rehabilitation costs</p> <p><u>Construction Management Fee:</u> Borrower is expected to negotiate the most competitive fee possible with a third party construction manager or rely on an in-house construction manager, if available. Construction management fees may not exceed \$30,000 per project.</p> <p><u>BAHFA Legal Fee:</u> \$15,000, subject to change based on transaction requirements.</p> <p><u>BAHFA Asset Management Fee:</u> Asset management fees may apply based on project needs.</p> <p><u>Operating Assumptions:</u></p> <ul style="list-style-type: none">• Vacancy Allowance: 5% of annual residential rent income• Increases in Gross Income: 2.5% annually• Increases in Operating Expenses: 3.5% annually• Debt Service Coverage Ratio: 1.2• Waterfall: Surplus cash flow after payment of operating expenses and debt service will be distributed annually as follows:<ul style="list-style-type: none">○ Borrower Retention: 2/3 of surplus cash flow○ Replacement Reserve: 1/3 of surplus cash flow up to (1.5 x Capitalized Replacement Reserve value)○ Emergency Rental Assistance Reserve: After Replacement Reserve is fully funded, 1/3 of surplus cash flow up to (\$xx average regulated unit rent x 20% of total regulated units x 3 months)○ After Replacement Reserve and Emergency Rental Assistance Reserve are fully funded
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	<p>as described above, Borrower may retain remaining 1/3 of surplus cash flow.</p> <p><u>Underwriting</u>: In addition to compliance with this Term Sheet, BAHFA will apply industry standard underwriting guidelines in its evaluation of Project proposals. Subsequent to application, Borrower must demonstrate financial feasibility and capacity to carry out the project.</p>
<p>Reserves</p>	<p><u>Replacement Reserve</u>:</p> <ul style="list-style-type: none"> • Capitalized: Reserves must be sufficient to cover 20 years of replacement needs as identified in the Physical Needs Assessment (“Original Capitalized Replacement Value”). • Annual Deposits: \$500 per unit per year, included in the annual operating budget. Borrower will also deposit 1/3 of annual surplus cash flow into Replacement Reserve until Borrower achieves 1.5 of the Capitalized Replacement Reserve value. • <p><u>Emergency Rental Assistance Reserve</u>:</p> <ul style="list-style-type: none"> • Annual Deposits: Once Borrower has achieved 1.5 of the Capitalized Replacement Reserve value, Borrower will deposit 1/3 of annual surplus cash flow to establish and maintain an Emergency Rental Assistance Reserve, which is based on the average rent per regulated unit, for 20% of total regulated unit count, for 3 months (e.g., \$xx average regulated unit rent x 20% of total regulated units x 3 months). Once Replacement Reserve and Emergency Rental Assistance Reserve are fully funded, Borrower may retain remaining surplus cash flow.

	<p><u>Operating Reserve:</u></p> <ul style="list-style-type: none"> Capitalized: 25% of operating expenses, plus debt in Year 1. Borrower shall maintain this funding level throughout the term of the agreement. <p><u>Vacancy Reserve for Rehabilitation and/or Initial Lease-Up:</u></p> <ul style="list-style-type: none"> Capitalized: Sized to cover monthly rent for Project units vacant at the time of acquisition and for the duration of any expected continued vacancy, whether to accommodate a lease-up period or to provide temporary relocation space for the purposes of building rehabilitation. <p><u>Property Tax Reserve:</u></p> <ul style="list-style-type: none"> Capitalized: Sized based on Borrower’s estimate of timeline to qualify for the welfare tax exemption
<p>Maximum Developer Fee</p>	<p>Borrowers may include a one-time developer fee at their discretion within the Maximum Loan Amount up to \$150,000, plus an additional\$10,000 per unit for any planned rehabilitation.</p> <ul style="list-style-type: none"> The \$150,000 developer fee may be paid at the time of acquisition closing \$10,000 per unit may be paid at the time of Borrower’s receipt of a certificate of completion (or similar document) from the permitting local agency for the rehabilitation work
<p>Compliance</p>	<p><u>Regional Early Action Planning Grant:</u> The Borrower must comply with California Health and Safety Code</p>

	<p>section 50515.08(c)(1), all REAP 2.0 requirements and guidelines, all applicable state and federal statutes, rules, regulations, the Standard Agreement that will be executed by and between MTC and HCD for REAP 2.0 funding.</p> <p><u>Fair Housing and Rehabilitation</u>: The Borrower must comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination as well as all applicable laws and regulations governing construction, rehabilitation, relocation and building operations.</p> <p><u>Welfare Tax Exemption</u>: Borrower is solely responsible for and must annually secure the welfare exemption from the applicable governing bodies. Borrower shall provide evidence of the welfare exemption to BAHFA annually, as well as any other Project-related information BAHFA requests.</p>
<p>Community-Controlled Set Aside Eligibility Requirements</p>	<p>A minimum of \$3M will be set aside for community-controlled projects that include resident ownership, governance, and/or management. This set aside does not preclude such projects from applying for the remaining \$12M deployed under the Program.</p> <p><u>Eligible Borrowers</u>:</p> <ul style="list-style-type: none"> • Community Land Trusts (CLTs) • Cooperative Housing Entities with existing 501C3 designation and executed governance and operating agreements • Community Based Organizations in a documented partnership with a CLT <p><u>Eligible Tenure Types</u>:</p>

	<ul style="list-style-type: none"> • Affordable rental • Affordable homeownership • Shared or limited equity resident shareholder ownership in the cooperative • Affordable rental-to-homeownership (“lease to own”) projects • Affordable rental-to-cooperative projects <p><u>Homeownership</u>: Units must be sold to households at or below 80% of AMI. BAFA will structure its financing with the expectation that Borrower will secure a first mortgage loan.</p> <p><u>Cooperative Conversion</u>: The average income of resident shareholders should not exceed 80% AMI, and income cap of 120% AMI shall apply for all households. Until such time that the CLT owner demonstrates approval of a conversion from traditional rental to a cooperative governance structure from all (100%) residents, CLT must operate the building as traditional rental. If the CLT anticipates the ability to secure approval from all residents for conversion, it must submit a proposed timeframe and resident engagement and training plan for the conversion, along with all resident and organizational documents supporting the conversion that BAHFA may reasonably request. BAHFA retains sole discretion to approve the conversion. Cooperative projects must establish ongoing training curriculum milestones to be met during regulatory agreement term, as set forth in the Regulatory Agreement, as well as training protocols for new residents who join the cooperative when units turn over.</p>
<p>Waivers</p>	<p>The Executive Director or designee may waive any of these terms, provided the Executive Director or</p>

	<p>designee finds such waiver is necessary achieve the Program goals.</p>
<p>Application Process and Loan Commitment</p>	<p>Projects will be selected through an over-the-counter process subject to the release of a Notice of Funding Availability (NOFA) from BAHFA. Applications will be reviewed for completeness, project feasibility, and compliance with this Term Sheet. If multiple eligible projects are received on the same day, BAHFA will prioritize projects based on Program priorities (see attachment) as established in the NOFA.. After loan commitment, BAHFA will require a minimum of 90 days for a synchronized closing with a third-party construction-to-perm lender.</p>
<p>Application Requirements</p>	<p>Applicants must submit the following documents for BAHFA review:</p> <ol style="list-style-type: none"> 1) Project proposal and acquisition due diligence documents, including but not limited to: <ol style="list-style-type: none"> a. Purchase and Sale Agreement (or alternate form of site control, such as long term ground lease) b. Third-party, independent appraisal to be submitted within 60 days of the loan application with the following valuations: <ol style="list-style-type: none"> i. As-is value ii. As-improved value (for rehabilitation projects) iii. As-restricted and improved value c. Independent, third-party physical needs assessment, which shall include a 20-year capital needs schedule and associated costs (as inflated) d. Additional physical reports, e.g., wood-destroying pests; asbestos and lead; roof examinations; structural/seismic; sewer laterals; electrical; plumbing; elevator; any others recommended in property inspection report e. Zoning analysis

	<ul style="list-style-type: none"> f. Environmental review documents (e.g., Phase 1 and, as applicable, Phase 2, lead and asbestos survey, etc.) g. Preliminary Title Report h. ALTA Survey (this requirement may be waived for small projects) i. Rent roll and all other seller-provided documentation, including, e.g., existing operating expenses, utility payment information, property improvement information j. Income certifications, if available k. Subordination Non-Disturbance and Attornment (SNDA) for commercial tenants, as applicable l. Building plans and specifications, as applicable <p>2) Project financing documents, including:</p> <ul style="list-style-type: none"> a. Sources & Uses budget b. Rehabilitation scope c. Operating budget d. 20-year cash flow <p>3) Development Team Documents, including:</p> <ul style="list-style-type: none"> a. Current year unaudited financials b. Prior two years of Applicant's audited financials c. Organizational documents: <ul style="list-style-type: none"> i. Firm description ii. Leadership & governance (Board, Committees, profile of leadership) iii. Key staff resumes iv. Strategic planning documents (if available) v. Annual Report (if available) vi. Schedule of real estate owned and projects under construction (if any) d. As applicable, description of Project architect; general contractor; and property manager
<p>Contact Information</p>	<p>Somaya Abdelgany Preservation Program Coordinator Bay Area Housing Finance Authority sabdelgany@bayareametro.gov</p>

ATTACHMENT C



BAY AREA HOUSING FINANCE AUTHORITY

REAP 2.0 Priority Site Pilot Program

DRAFT Terms and Underwriting Guidelines

<p>Program Description</p>	<p>To be funded with an anticipated \$28M in Regional Early Action Planning (REAP 2.0) Grant funding from the California Department of Housing and Community Development (HCD), the Priority Sites Program provides low-interest loans to developers and public agencies for predevelopment activities necessary to advance development projects that provide deed-restricted affordable homes on sites identified by the Metropolitan Transportation Commission and Association of Bay Area Government as Priority Sites.</p> <p>For more information on eligibility requirements for Priority Sites and nomination procedures, go to the Priority Sites website. Typically, a Priority Site will be nominated in advance of an application for predevelopment funding, but sites can also be nominated concurrently with an application.</p> <p>In accordance with HCD’s REAP 2.0 Objectives, projects funded through this program will:</p> <ul style="list-style-type: none">• Accelerate infill development that facilitates housing supply, choice, and affordability• Affirmatively further fair housing
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	<ul style="list-style-type: none"> • Reduce vehicle miles traveled
<p>Eligible Borrowers</p>	<p>Eligible borrowers include:</p> <ul style="list-style-type: none"> • Project sponsor with an entitled development project with at least 100 new housing units on an eligible Priority Site, with the following provisions: <ul style="list-style-type: none"> - For mixed-income projects, inclusion of a non-profit partner able to secure a welfare tax exemption for all eligible affordable units. Applicants must demonstrate active participation of the non-profit partner in the development process documented by a Memorandum of Understanding (MOU) that specifies the non-profit partner’s role (e.g. responsibility for community outreach, participation of a project manager in financing and entitlements). - For 100% affordable housing projects, applicants must demonstrate the experience necessary to submit competitive applications for all proposed sources of permanent funding and compliance with Article XXXIV of the California Constitution, if applicable. • Public agency that owns land on which project will be built.
<p>Eligible Uses</p>	<p>All funds must be used to advance an affordable housing project that meets the eligibility criteria. Eligible expenditures include:</p> <ul style="list-style-type: none"> • Architectural and engineering services, entitlement and permitting fees, legal expenses, environmental review and other approved predevelopment activities required to accelerate construction commencement • Construction of affordable housing or infrastructure required to complete the affordable housing described in the application • Acquisition of land required for an affordable housing project

<p>Eligible Projects</p>	<p>All the following:</p> <p><u>Location.</u> Project must be located on a Priority Site that has been previously nominated or is nominated concurrently with the project application. A nomination portal for Priority Sites will be established prior to the release of a NOFA for the funding associated with this Term Sheet.</p> <p><u>Site Control.</u> Lead applicant must have one of the following forms of control over project site:</p> <ul style="list-style-type: none">• Fee simple ownership• An executed lease agreement or lease option for the duration of the proposed term of the permanent financing• An executed disposition and development agreement between the borrower and a public agency• A valid, current, enforceable purchase and sale agreement (PSA) or option agreement (Option), with terms that provide transactional control for the Applicant. Predevelopment funding for PSA or Option transactions may be committed but not disbursed until acquisition closing.• Exclusive Negotiating Rights Agreement (ENRA), with ENRA terms both within the control of the Applicant and subject to a milestone schedule that the Executive Director or designee determines in their sole discretion reasonably enables construction commencement within 5 years. <p><u>Entitlements.</u> One of the following:</p> <ul style="list-style-type: none">• Entitlements secured. The affordable housing component of the project, and any other components of the project seeking funding, have been fully entitled; or• If the project has not been fully entitled, both of the following:<ul style="list-style-type: none">- Eligibility for, and demonstrated commitment to submit an application for entitlements pursuant to permit streamlining; and- Conformance with zoning or is eligible for concessions or waivers under local/state legislation, e.g., State Density Bonus Law.
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	<p><u>Financing Plan.</u> Financing plan with demonstrated financial feasibility, including, as applicable:</p> <ul style="list-style-type: none"> • Competitiveness for proposed state funding applications; • Commitments of financing from local jurisdictions; • Equity contribution commitments; • Reasonable terms for proposed debt leveraging; and • Feasible assumptions regarding market conditions, development timeline, and affordability levels <p><u>Affordability.</u> A minimum of 25% of housing units shall be deed-restricted affordable to low- income households, at or below 80% of the area median income (AMI).</p> <p><u>Accessibility and Mobility.</u> The deed-restricted affordable housing shall include:</p> <ul style="list-style-type: none"> • Mobility features for a minimum of 15% of units • Communications features for a minimum of 10% of units <p>Developers must prioritize leasing of accessible units to households in need of those features.</p>
<p>Loan Terms</p>	<p><u>Maximum Loan Amount:</u> Up to \$3,000,000, depending on need and the availability of other funds. Borrowers demonstrating financial need coupled with the ability to commence construction within 24 months may borrow up to \$5 million.</p> <p><u>Interest Rate:</u> 3.0% simple per year. However, the Executive Director or designee will evaluate project-specific loan terms with the intent of maximizing financing leveraging (see below for additional information regarding potential permanent financing terms).</p> <p><u>Lien priority.</u> BAHFA requires first lien priority for its occupancy deed restriction. In their sole discretion, the Executive Director or designee may agree to subordinate the restriction if Borrower demonstrates and the Executive Director or designee finds that subordination is necessary to secure financing and if</p>

	<p>such subordination furthers the goal of creating permanent affordable housing.</p> <p><u>Loan Term</u>: 3-5 years, with repayment due at construction loan closing, with the following additional provisions:</p> <ul style="list-style-type: none"> • For 100% affordable projects, including those that are individual developments: <ul style="list-style-type: none"> - Projects able to repay the loan in full at construction loan closing will be prioritized; or - For Projects demonstrating need, readiness, and beneficial community impact, funding may be converted to permanent financing, with the term co-terminus with other leveraged sources term restrictions, such as Low Income Housing Tax Credits (LIHTC). - Loans BAHFA approves as permanent financing will be structured as residual receipts debt with a 3% simple interest rate, though BAHFA may adjust the rate as appropriate depending on capital account and residual debt analysis needs. • For Mixed-income projects: <ul style="list-style-type: none"> - For projects where more than 25% but less than 40% of all units are deed-restricted affordable, and where the predevelopment funding will assist both affordable and market-rate housing, repayment of principal and interest is due at construction loan closing; or - For projects where more than 40% but less than 100% of all units are deed-restricted affordable, BAHFA will consider structuring the loan as permanent financing, with additional terms such as interest rate and repayment obligations to be established in the Executive Director or designee’s sole discretion, provided there is a demonstrated furtherance of the goals of this Program.
<p>Additional Loan Terms</p>	<p><u>Affordability</u>: As described above, BAHFA will consider projects with a range of affordability. Priority considerations include:</p>

	<ul style="list-style-type: none"> • Beneficial Impact: Projects that provide the highest share of affordable units and highest number of units affordable to extremely low- and very low-income households. • Financial Feasibility: Project unit mix must demonstrate feasibility, whether through cross-subsidies, average area median income (AMI), or access to operating subsidies. <p><u>Displacement</u>: No displacement of existing residents shall occur.</p> <p><u>Temporary Relocation</u>: If the borrower must temporarily relocate tenants for the purpose of developing the proposed project:</p> <ul style="list-style-type: none"> • Temporary relocation shall not exceed 12 months unless approved by the Executive Director or designee. Permanent relocation is prohibited. • The borrower shall provide temporary housing that is decent, safe, sanitary and of comparable size to and within the vicinity of the relocated tenant’s dwelling unit as determined by the Executive Director or designee. • Tenants shall continue to pay the rent for their original unit, but shall bear no costs related to relocation, including: <ul style="list-style-type: none"> ○ Moving and packing expenses ○ Any costs associated with the relocation dwelling that exceed their typical housing expenses (rent, utilities, other charges)
<p>Community Engagement</p>	<p>Borrowers should include a narrative regarding their community engagement efforts to date, a description of community response and support (as applicable), any identified community concerns, and plans for ongoing engagement.</p>

<p>Underwriting and Financing Assumptions</p>	<p>BAHFA will apply industry standard underwriting in its evaluation of applicant’s proposed financing plan, including, but not limited to:</p> <ul style="list-style-type: none"> • The project’s competitiveness for proposed but unsecured funding • Assumptions regarding conventional debt rates, terms, coverage ratios, and other repayment obligations • Assumptions regarding project income, including commercial income assumed to cross-subsidize residential construction; income and operating expense inflators; and rent levels proposed relative to affordable housing funding requirements and market conditions. • Operating expense assumptions • Reserves funding, both capitalized and cash-flow funded • Surplus cash allocations
<p>Compliance</p>	<p><u>Regional Early Action Planning Grant:</u></p> <p>The applicant must agree to comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination as well as all applicable laws and regulations governing construction, land use, and building operations.</p>
<p>Waivers</p>	<p>The Executive Director or Designee may waive any of these terms, provided the Executive Director or designee finds such waiver is necessary to achieve the Program goals.</p>
<p>Application Process and Loan Commitment</p>	<p>Projects will be selected through a competitive process subject to the release of a Notice of Funding Availability (NOFA) from BAHFA. Applications will be reviewed for completeness, project feasibility, and compliance with this Term Sheet. BAHFA will prioritize</p>

	<p>projects based on Program priorities as established in the NOFA.</p>
<p>Application Requirements</p>	<p>Applicants must submit the following information through the Priority Sites application portal:</p> <ol style="list-style-type: none"> 4) Up to 3-page narrative describing the project vision, partnerships, and impact. 5) Project timeline, including dates projected for each phase of development, as applicable. 6) Development program, including but not limited to, total unit count, share of units that are deed-restricted by income level, non-residential floorspace, and any community-serving facilities. 7) Project proposal and acquisition due diligence documents, including but not limited to: <ul style="list-style-type: none"> • Site control documentation • As applicable, a third-party, independent appraisal of the land and/or existing improved site, with a date that provides currency of value. • Entitlement documentation, including all planning documents submitted and approved; demonstration of zoning conformity or variance application approval; density bonus application (as applicable); streamlining applications submitted and/or approved (as applicable) • Environmental review documents (e.g., Phase 1, Phase 2, and any additional environmental review) • Preliminary Title Report • ALTA Survey Building plans and specifications, as applicable 8) Project financing documents, including: <ul style="list-style-type: none"> • Detailed Sources & Uses Development budget indicating: <ol style="list-style-type: none"> i. All capital costs, with commercial and residential development costs shown separately ii. The status of each source of proposed funding (i.e., committed, projected, application submitted, etc.), and basic

	<p>terms (e.g., projected interest rate, loan term)</p> <ul style="list-style-type: none"> • 20-year cash flow projection, showing all debt service payments and surplus cash allocations • Year 1 Operating budget, including reserves funding • Additional budget documents necessary to achieve the development program, e.g., services funding and operating subsidy sources and assumptions • Jurisdictional support documents, as applicable (e.g., letters of financial commitment) <p>9) Development Team Documents. For each principal member of the development team (e.g., managing general partner, equity partners, developer(s)), include:</p> <ul style="list-style-type: none"> • Current year unaudited financials • Prior three years of Borrower's audited financials • Organizational documents: <ul style="list-style-type: none"> i. Firm description ii. Leadership and governance (Board, Committees, profile of leadership) iii. Key staff resumes iv. Strategic planning documents (if available) v. Annual Report (if available) vi. Schedule of real estate owned and projects under construction (if any) vii. MOU with non-profit partner, if applicable • Project architect resume and sample completed projects • Additional principal design consultants' resumes and sample completed projects (e.g., landscape architect) • General contractor resume and sample completed projects • Property manager resume and sample projects under management. <p>10) CEQA Compliance. Documentation that the project will be exempt from review as required by the California Environmental Review Act or a CEQA determination from the lead agency.</p>
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Contact Information	<p><u>For questions regarding term sheet:</u> Somaya Abdelgany Priority Sites Program Coordinator Bay Area Housing Finance Authority sabdelgany@bayareametro.gov</p> <p><u>For questions regarding Priority Site eligibility and nomination:</u> Mark Shorett Principal Planner Association of Bay Area Governments & Metropolitan Transportation Commission mshorett@bayareametro.gov</p>
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Agenda Item 9.a.

Attachment C:

Higher Impact Transformative Grant Application Summary

In December 2022, MTC and BAHFA, in partnership with Turner Housing Innovation Labs and the Housing Accelerator Fund, submitted a REAP 2.0 Higher Impact Transformative Allocation application to the California Department of Housing and Community Development. The application requests \$10 million in competitive funding to implement two main actions: 1) create a “Bay Area Builders Lab”, a new construction technology incubator created and operated by Turner; and 2) establish the “Industrialized Construction Catalyst Fund” (ICCF), a revolving fund managed by the HAF that is designed to facilitate location-efficient, off-site affordable housing production.

The Builders Lab proposal is summarized as follows:

Principal Goals:

- Lower the barriers to entry for new companies.
- De-risk iterative refinement of design and construction innovation, which will reduce the time it takes for new initiatives to reach the market.
- Increase the financial and market feasibility of new construction and retrofits of existing structures.
- Concentrate on transit-oriented, infill housing, with VMT reduction as an ongoing objective.

Components of the Builders Lab shall include:

- Development of the physical innovation space (the primary channel of investment) with a wide range of machines that can support rapid, iterative prototyping of products and processes for housing production. Turner has identified a potential physical space for the lab in the City of Alameda.
- Connections to coaching across a range of disciplines relevant to the housing industry, including design and engineering, technology innovation, real estate development and finance, and housing policy. This includes researchers at UC Berkeley in civil and

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Attachment C:

Higher Impact Transformative Grant Application Summary

environmental engineering, architecture, mechanical and industrial engineering, and other disciplines, as well as scientists at Lawrence Berkeley National Labs conducting sustainability and building science research.

- Access to product testing capabilities through UC Berkeley and Lawrence Berkeley National Labs. This includes facilities and machines to measure the performance of structural systems (especially for seismic safety), fire resilience, and thermal performance (i.e., energy efficiency), as well as other relevant metrics for new building materials and products.
- Guidance and potential partnership pathways to key industry players, nonprofits, community organizations, and local governments willing to support pilot projects, especially in disadvantaged and historically underserved communities.
- Close ties with impact-driven investors and other capital sources in the Bay Area with directed opportunities for follow-on funding.
- Access to and integration with workforce development programming to guide the training of the next generation of the construction workforce. This includes skills both digital and analog, in design and assembly, in a factory and on the site.

Proposed Use Details:

Activity Type	Activity No.	Activity Title	Deliverables
Proposed Use	1	Builders Lab	-First pilot projects from Builders Lab companies in early 2024 (i.e., direct development of housing units) -First incubator “graduates” in mid-to late 2024 -By 2025: Growth of incubator class size to 15+ simultaneous companies.
Subtask	1.1	Updated, detailed business plan for program launch	Updated business plan, financial model, and staffing plan for the Builders Lab program in alignment with REAP 2.0 HIT goals

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Attachment C:

Higher Impact Transformative Grant Application Summary

Subtask	1.2	Secure physical facility for Builders Lab	Lease with facility that meets the full needs of the Builders Lab program
Subtask	1.3	Launch of program	Program will launch with initial machines and core programming Starting class of five companies selected via a competitive selection process

The Industrialized Construction Catalyst Fund proposal is summarized as follows:

Principal Goals:

- Create a revolving fund to provide three critical, initial financing products that maximize cost and time-saving benefits of industrialized construction (IC) methods. Launch products include:
 - Predevelopment / Deposit Bridge Loans: Enables housing developers to make required factory production deposits ahead of permanent financing commitments.
 - Letter of Credit (LOC) / Guaranty Pool: Provides a backstop for project sponsors when factories are unable to provide a performance and payment bond or LOC to guarantee factory performance under the contract. This is a critical barrier to IC adoption as developers/sponsors do not have the financial capacity to mitigate the impact of factory failure during construction.
 - Builder’s Risk Insurance: Ensures developers/sponsors can secure builder’s risk insurance at an affordable price for IC projects, given recent loss/claim experience. Creation of a self-insurance pool or first loss fund would mitigate this issue.

Components of the ICCF include:

- A focus on mid-rise, mid-size affordable infill housing projects for which existing IC producers are best suited and which meet state and regional transit and sustainability goals.

March 9, 2023

Agenda Item 9.a.

Attachment C:

Higher Impact Transformative Grant Application Summary

- Alignment with available public subsidies.
- Prioritization of projects located in and benefitting disadvantaged and historically underserved communities.
- Service as a bridge lender as the modular industry matures and factories and developers can self-finance through existing barriers with products from traditional financial institutions.

Proposed Use Details:

Activity Type	Activity No.	Activity Title	Deliverables
Proposed Use	2	IC Catalyst Fund	REAP Funding will seed \$50M Industrialized Construction Catalyst Fund -By Q1 2023 complete product refinement and ICCF Business Plan -By Q2 2023 secure additional philanthropic funding commitments -By Q3 2023 make first ICCF loans to IC projects
Subtask	2.1	Refine product offerings and business plan for ICCF	-Complete developer, general contractor and factory interviews to test product concepts and identify ICCF pipeline. -C22Refine business plan for ICCF launch. -Develop/refine donor pitch based on interviews and secure commitments for \$50M fund
Subtask	2.2	Pipeline development	Establish pipeline of ICCF eligible projects beginning with first investment in Q4 2023 and projecting through first year of Fund
Subtask	2.3	Program/product launch	Launch ICCF, including pilot projects and revolving use Supportive research from Turner Center