Date: May 10, 2023
W.I.: 1611
Referred by: Administration Committee
Revised: 05/27/26

ABSTRACT

Resolution No. 4578, Revised

This resolution authorizes the Executive Director with respect to the BAY AREA TRANSIT ORIENTED AFFORDABLE HOUSING FUND (the "FUND"), to negotiate and enter into Amendment No. 1 to the Amended and Restated Funding Agreement with BAY AREA TRANSIT ORIENTED AFFORDABLE HOUSING LLC, a California limited liability company, as the "FUND LLC", and the LOW INCOME INVESTMENT FUND, a California non-profit public benefit corporation, as the "Program Manager," for the purposes of 1) extending the origination period for the "TOAH II" lending program, which expired on April 19, 2022, and 2) redirecting approximately 50% of the Fund ($5 million) to the Bay Area Housing Finance Authority (BAHFA) to establish a new Rental Assistance Program to prevent homelessness.

The resolution was revised on May 27, 2026, to authorize the Executive Director to negotiate and enter into Amendment No. 2 to the Amended and Restated Funding Agreement with the FUND LLC and the Program Manager for the purpose of redirecting the remaining $5 million in the FUND to the Bay Area Housing Finance Authority (BAHFA) to support a new Mixed-Income Financing Program.

Further discussion of this action is contained in a memorandum to the MTC Administration Committee dated May 10, 2023, and in a memorandum to the MTC Programming and Allocations Committee dated May 13, 2026.

Date: May 10, 2023
W.I.: 1611
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RE: Transit Oriented Affordable Housing Fund Reprogramming

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4578

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 and Association of Bay Area Governments (ABAG) adopted Plan Bay Area 2050 which outlines strategies to protect and preserve affordable housing, spur housing production for residents at all income levels, and to create inclusive communities; and

WHEREAS, Plan Bay Area 2050, adopted by MTC on October 21, 2021, includes Housing Strategy #7, which recommends, among other things, the provision of rental assistance to the residents of Equity Priority Communities as a means of creating inclusive communities; and

WHEREAS, in 2011, the LOW INCOME INVESTMENT FUND (LIIF), a community development financial institution, was selected to create and manage the Transit Oriented Affordable Housing Fund (FUND) through the FUND LLC; and

WHEREAS, on March 23, 2011, MTC adopted Resolution No. 3991, authorizing the MTC Executive Director to enter into a funding agreement with LIIF for MTC to contribute $10 million towards the FUND, based on the Principles of Agreement outlined in the attachment to Resolution no. 3991, and the LIIF and MTC entered into a certain Funding Agreement dated March 30, 2011 pursuant to Resolution No. 3991; and

WHEREAS, on December 20, 2017, to address the challenges in the development of Bay Area affordable housing near existing and proposed transit stations, MTC adopted Resolution No. 4306 to authorize the MTC Executive Director to enter into an amended and restated funding agreement with LIIF and the FUND LLC in order to convert the FUND and the existing FUND loan program to

"TOAH II" and to continue MTC's $10 million investment of funding toward the converted FUND based on the Principles of Agreement attached in Resolution No. 4306; and

WHEREAS, on April 1, 2018, MTC, LIIF, and FUND LLC executed the Amended and Restated Funding Agreement for the TOAH II Loan Program ("TOAH II Funding Agreement"); and

WHEREAS, under the terms and conditions of the TOAH II Funding Agreement, approximately $5.8 million of the $10 million initially contributed by MTC has been repaid, with the repaid funds to be distributed to MTC at the end of the term of the TOAH II Funding Agreement in 2035; and

WHEREAS, there is a limited but ongoing number of projects that could continue to benefit from the FUND, to be managed by LIIF; and

WHEREAS there is an emerging and urgent need for rental assistance to support housing stability for vulnerable and low-income renters, such as seniors, who are at imminent risk of displacement and funds for this purpose are not available elsewhere; and

WHEREAS there is a pressing need for subordinate debt to bridge the financing gap for prospective mixed-income housing projects; and

WHEREAS, the Bay Area Housing Finance Authority was created pursuant to Government Code section 64500, et seq., 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 could use the repaid funds being held pursuant to the TOAH II Funding Agreement to establish a Rental Assistance Program for low-income and vulnerable renters from displacement and to support a new Mixed-Income Financing Program; and

WHEREAS, on May 24, 2023, MTC adopted Resolution No. 4578 to authorize the Executive Director to enter into Amendment No.1 to the Amended and Restated Funding Agreement with LIIF and the FUND LLC in order to continue the FUND loan program with a reduced $5 million investment of funding toward the FUND based on the revised Principles of Agreement outlined in Attachment A, with the remaining $5 million to be paid to the Bay Area Housing Finance Authority to establish a rental assistance program for low-income and vulnerable renters; and

WHEREAS, FUND LLC has repaid to BAHFA Five Millions Dollars ($5,000,000) in accordance with Amendment No. 1; and

WHEREAS, there is a limited but ongoing number of projects that could continue to benefit from the FUND, to be managed by LIIF; and

WHEREAS, MTC endeavors to support the ongoing mission and impact of the Bay Area Housing Finance Authority ("BAHFA"); and

WHEREAS, MTC has determined proceeds from the FUND can be more effectively used to support programs originating from the BAHFA strategic planning process; and now therefore be it

RESOLVED, that the Commission revises MTC Resolution No. 4578 to authorize the Executive Director to negotiate and enter into Amendment No. 2 to the Amended and Restated Funding Agreement with LIIF and the FUND LLC in order to wind down the FUND loan program based on the revised Principles of Agreement outlined in Attachment A, with the remaining $5 million in the FUND to be paid to the Bay Area Housing Finance Authority to support a new Mixed-Income Financing Program.

METROPOLITAN TRANSPORTATION COMMISSION

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Alfredo Pedroza, Chair

The above resolution was entered
into by the Metropolitan Transportation
Commission at a regular meeting
of the Commission held in San Francisco,
California, on May 23, 2023
and supersedes all prior resolutions.

Principles of Agreement
Bay Area Transit Oriented Affordable Housing Fund: Amendment No. 2 to TOAH II

The Commission adopts the following Principles of Agreement to govern the AMENDED AND RESTATED FUNDING AGREEMENT between MTC and the FUND LLC to wind down $5 million of MTC's investment in the FUND's TOAH II lending program.

1. Pursuant to Amendment No. 2 to the Amended and Restated Funding Agreement between MTC and the FUND LLC, the FUND LLC shall return the remaining balance of MTC's $5 million investment in the FUND to MTC as Project Loans currently outstanding are repaid.

2. The FUND term will continue until the remaining balance of MTC's $5 million investment in the FUND is returned to MTC, but no later than December 31, 2035;

3. LIIF, a non-profit public benefit corporation, will continue to manage the FUND as the Program Manager;

4. The FUND's origination period for the TOAH II loan program will terminate as of the effective date of Amendment No. 2 to the Amended and Restated Funding Agreement between MTC and the FUND LLC;

5. After the FUND LLC returns the remaining balance of MTC's $5 million investment in the FUND to MTC, the FUND will no longer retain any MTC investment.

6. LIIF, as the Program Manager, will cause the FUND to use standard accounting controls, and MTC will have the right to review all financial reports of the FUND;

7. No representative from MTC will participate in the FUND in any paid capacity;

8. MTC funds will remain in the subordinate position to the funds advanced by the CDFI Lenders for repayment during the life of the FUND and at the close of the FUND. As such, after all CDFI Lenders have been fully repaid and reimbursed and all unpaid FUND expenses

are paid or reimbursed at the close of the FUND, any balance remaining in the FUND will be returned to MTC unless MTC agrees to reinvest in a new fund, facility or program that promotes transit-oriented development.

9. As of the effective date of Amendment No. 2 to the Amended and Restated Funding Agreement between MTC and the FUND LLC, the following Principles of Agreement shall no longer apply:

    I. $5 million of MTC's investment will be held by the FUND and deployed in the TOAH II loan program to acquire participation interests in direct project loans to be made by the CDFI Lenders;
    II. The FUND will leverage MTC's $5 million in the TOAH II lending program by at least three (3) times ($15 million) with capital from that portion of funds in each participated loan that are directly advanced by the CDFI Lenders, equity from the project borrowers, and/or support from government and philanthropic sources, to the extent then committed. With such leveraging, the total anticipated funding for the TOAH II lending program will be at least $20 million;
    III. The FUND will prioritize applications for eligible projects that address housing needs in North Bay fire-affected areas up to $5 million.
    IV. All TOAH II program loans made by the CDFI Lenders (and in which the FUND LLC will acquire participation interests) will be made to projects in Plan Bay Area 2050 Growth Geographies, excluding Priority Production Areas, as these designations may be revised in future Plan Bay Area updates, or Transit Priority Areas;
    V. MTC will continue to be represented on the Fund Advisory Committee to monitor the Fund's progress against the business plan. MTC will not participate in the selection of specific projects;