

## BAHFA Advisory Committee

July 27, 2023

Agenda Item 6.a.

### Preparation for 2024 Affordable Housing Bond Measure

#### Subject:

Continued discussion regarding BAHFA's Regional Housing Revenue Allocation Options – Part Two Decision Points

#### Background:

On June 16<sup>th</sup> and June 22<sup>nd</sup>, 2022, the ABAG Executive Board and the BAHFA Board (“Boards”), respectively, requested that the BAHFA Oversight Committee and ABAG Housing Committee (“Joint Housing Committees”) undertake preparatory work necessary to enable consideration of an affordable housing general obligation bond measure in November 2024 (“2024 Ballot Measure”). Specifically, the Boards directed staff to explore a \$10-20 billion bond pursuant to the authority granted to BAHFA and ABAG in the San Francisco Bay Area Regional Housing Finance Act (Gov. Code § 64500, et seq.) (the “Act”).

On June 22, 2023, the BAHFA Advisory Committee received a report about the next phase of preparation for the 2024 Ballot Measure. This month, the same report was delivered to the Joint Housing Committees (July 12), the ABAG Executive Board (July 20), and the BAHFA Board (July 26). In this report, staff presented a series of key decisions over which BAHFA and ABAG have discretionary authority regarding BAHFA's expenditure plan for regional housing revenue (“Regional Expenditure Plan”). The Regional Expenditure Plan will establish an investment framework to guide the 20% of funds retained by BAHFA from the 2024 Ballot Measure. Investment priorities for the 80% of funds directly administered by the counties and several cities will be set by separate expenditure plans developed by the local governments and are not subject to the Regional Expenditure Plan.

The policy decisions for the Regional Expenditure Plan have been divided into “Step 1” and “Step 2” decision points. The prior report focused on the following “Step 1” decision points and corresponding staff recommendations:

1. 1<sup>st</sup> Regional Expenditure Plan Programming: Given the fluidity of market conditions and other external factors, staff recommended limiting most regional revenue programming decisions to the first issuance of bonds only. Staff anticipate 3-5 issuances, incorporating lessons learned and adjusting for changed circumstances when recommending expenditure priorities for each successive issuance.
2. Flexible Funds: Due to the region's severe housing shortage and the corresponding scale and urgency to create new homes, staff recommended allocating the 18% of “flexible funds” from the first bond issuance towards Production (as opposed to Preservation).
3. Production Priorities and Collaboration: To implement BAHFA's Equity Framework and to underscore BAHFA's collaborative (as opposed to competitive) relationship with local governments, staff recommended a three-point prioritization strategy for earmarked Production funds from the first bond issuance:

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- a. *First:* Prioritize permanent supportive housing (PSH) and extremely low-income (ELI) new construction investments whenever possible, but only in collaboration with the local government that has jurisdiction and at their invitation.
- b. *Second:* Prioritize low-income housing development that does not require tax-exempt bonds (from the California Debt Limit Allocation Committee, “CDLAC”) and tax-credit funding if this funding is over-subscribed.
- c. *Third:* Retain flexibility in funding approaches. If CDLAC and tax credit funding are readily available, BAHFA investments should rely on those sources of funds to make BAHFA resources go as far as possible.

### “Step 2” Decision Points and Recommendations:

The report today focuses on “Step 2” decision points:

1. Geographic Disbursement for Production Funds: How can BAHFA disburse regional housing revenue for new housing production to meet BAHFA’s Equity Framework and Funding Program goals while also achieving appropriate geographic balance?
2. Preservation Expenditure Priorities: For the 15% of funds that must be set aside for preservation (approximately \$60 million in the first bond issuance), which strategies will best achieve BAHFA’s anti-displacement goals and meet the needs of historically disinvested communities?
3. Local Government Grant Program: For the 10% of funds that can be set aside for a local government grant program (approximately \$40 million in the first bond issuance), which eligible uses should be prioritized?

Staff’s recommendations for these decision points are informed by more than a year of extensive engagement with stakeholders and practitioners throughout the region, a thorough analysis of the current housing finance landscape, and research into pathways for BAHFA to advance housing equity across the Bay Area.

For the “Step 2” decision points, staff recommendations are as follows:

1. Geographic Disbursement for Production Funds: **Staff recommend establishing county-level investment goals for BAHFA’s total Production funds over the life of the bond. Staff have prepared two options for establishing county-level investment goals; one that functions as “return to source” based on each county’s tax contribution, and the other based on affordable housing targets in the 6<sup>th</sup> Cycle Regional Housing Need Allocation (“RHNA”).**

This recommendation differs from the others in that it relates to total bond amount, not just the first issuance. This approach provides BAHFA with the flexibility to make the most strategic and high-impact investments based on the current pipeline of projects while also committing to geographic balance in the long run. Taking the long-term view

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of regional funding disbursements also allows BAHFA to be opportunistic and direct money where it will be most immediately effective. The alternative – to tie BAHFA to established quotas for each county *in each bond issuance* could slow down spending, delay investments in shovel-ready projects, and potentially perpetuate inefficiencies in the existing finance system by requiring small BAHFA investments to layer on an already complex project finance stack. In the recommended approach, BAHFA will actively monitor and report on its performance against the geographic goals and tailor future funding rounds to achieve the overall targets. For example, if a county underperforms in the first issuance, BAHFA could give that county’s projects top-tier priority or a set-aside from the second issuance.

To establish the county-level Production investment goals, staff recommend two options for the Committee’s consideration:

- **Option 1: “Return to Source”** – Goals are set in proportion to each county’s contribution to the regional bond.
  - Pros:
    - Each county is “made whole” for its tax contribution with respect to BAHFA’s Production funding.
    - Easy for voters to understand.
  - Cons:
    - Does not address the differing levels of lower-income housing need across the region.
- **Option 2: “Affordable RHNA”** – Goals are set based on each county’s share of the region’s “low-income” and “very low-income” RHNA.
  - Pros:
    - Prioritizes areas with the greatest lower-income housing need and incorporates a regional affirmatively further fair housing (AFFH) analysis embedded in RHNA.
    - Aligns funding with approved regional plans (RHNA and Plan Bay Area 2050).
  - Cons:
    - May create the perception of “winners” and “losers” across counties.
    - Some counties have very low investment targets (e.g., Napa)

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The table below shows the potential investment goals for each county as a share of BAHFA's regional Production funds:

County	Option 1: "Return to Source"	Option 2: "Affordable RHNA"
Alameda	17.1%	20.6%
Contra Costa	11.6%	11.7%
Marin	4.4%	3.6%
Napa	2.2%	1.0%
San Francisco	15.2%	18.2%
San Mateo	13.1%	10.7%
Santa Clara	28.3%	28.2%
Solano	3.1%	2.4%
Sonoma	5.0%	3.5%

An estimate of the amount of regional Production funds for each county under both options, shown in comparison to the amount of direct funding to be administered within each county, is included as Slide 7 in Attachment A. The percentages and values in the "return to source" option are based on recent tax rolls and may change depending on future tax rolls.

2. **Preservation Expenditure Priorities: Staff recommend prioritizing the first tranche of regional Preservation funds (approx. \$60 million) with four criteria:**
  - a. *Anti-Displacement Best Practices*: Within the Notice of Funding Availability ("NOFA"), BAHFA will incorporate deal terms that draw upon the best practices learned from the Preservation Pilot Program (funded by REAP 2.0). Staff anticipate that this will include caps on rent increases and eviction protections (regardless of whether a building is subject to a local rent stabilization/just cause ordinance).
  - b. *Prioritize Historically Disinvested Areas*: Similar to the Preservation Pilot Program, this will include Equity Priority Communities, Displacement Risk Areas, and Low/Moderate Resource Areas, while ensuring that all counties contain some prioritized geographies.
  - c. *Prioritize Investments to Protect Tenants at Immediate Risk of Eviction or Affordability Loss*: Establish additional criteria to prioritize projects with the highest acuity of displacement risk. E.g., buildings subject to Ellis Act evictions, projects with imminent affordability restriction expirations, properties with indicia of high displacement risk.

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- d. *Support Community Controlled Models*: establish a 20% target (approx. \$12 million) for community land trusts, community-based organizations, and co-ops, with a preference for projects that enable tenant wealth-building. BAHFA will develop a separate funding application process for these projects (though they may also compete for the full amount of funding available). If an insufficient number of projects apply for funding, BAHFA will pivot funding to other prioritized Preservation projects and evaluate the reasons for undersubscription to inform future funding rounds.

The priority criteria above are additive to the threshold requirements in the Act. (See Cal. Gov. Code Section 64650(b)(2)(A)). The threshold requirements will operate as minimum standards that must be satisfied by all Preservation projects seeking BAHFA funding and include: (i) a guarantee that existing residents of any acquired building shall not be displaced because of BAHFA funds, even if the existing residents do not meet income qualifications, and (ii) a guarantee that acquired buildings will achieve 100% occupancy by low- and moderate-income households over time through unit turnover. Additionally, if rehabilitation or demolition is required, the following conditions must be met: (i) no net loss of units by income level, (ii) relocation benefits must be provided to any tenants temporarily displaced, and (iii) temporarily relocated residents have a right of first refusal on the rehabbed/new units at an affordable rent.

3. **Local Government Grant Program: Staff recommend a twofold approach to the first tranche of funds (approx. \$40 million):**

- a. *First*: Prioritize housing-related amenities that enhance benefits for the overall community as well as the residents of affordable housing. This can include parks, infrastructure, school improvements, etc. The need for such amenities is often an obstacle to delivering new affordable housing, especially since they otherwise often have very limited funding options.
- b. *Second*: Retain flexibility to invest in housing programs that directly serve households, especially if general obligation bond rules change to enable non-capital expenditures.

**Additionally, staff recommend a goal to fund at least one project in each county over the life of the bond.** Given the amount of available funding in each bond issuance and the scale of need from potential applicants, it would not be practical to thinly spread each tranche in all counties.

The staff recommendations are bounded by the statutory and constitutional limits for a Local Government Grant Program. The Act limits the uses of any such program to those that “support housing and related uses” and provides a non-exhaustive list of examples including technical assistance, infrastructure, homelessness alleviation, homeownership, and tenant protections. However, the California Constitution currently limits the eligibility of general obligation bond funds to the acquisition and improvement of real property,

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which precludes many of the potential uses listed in the Act. As recommended above, should the constitutional limits change, BAHFA could incorporate other priorities that suffer from chronic underinvestment (such as operating/services subsidies for permanent supportive housing as well as technical assistance).

#### Next Steps and Decision-Making Timeline

Subject to direction from the Advisory Committee, the Joint Housing Committees and the Boards, staff anticipate scheduling agenda items on all key regional funding decision points, as follows:

#### **September 2023: Informational Items for Joint Housing Committees, ABAG Executive Board, and BAHFA Board**

- Geographic distribution of regional housing revenue
- Preservation and protection program priorities (if protection funding is available)
- 10% Local Government Incentive Grant priorities

#### **October 2023**

- Approval of initial funding priorities for regional housing revenue (“Step 1” and “Step 2” decision points)
- Adoption of Business Plan Equity Framework & Funding Programs
- Protection program priorities (if Protection funding may be available per potential proposed Constitutional Amendment)

#### **December 2023**

- Adoption of final BAHFA Business Plan, including operational sustainability section

#### **January – May 2024**

- Approval of BAHFA’s Regional Expenditure Plan and Resolution to submit the 2024 Ballot Measure to the voters in all nine counties.

#### **Post-Bond (2025)**

- Loan Term Sheets and Underwriting Guidelines, including developer preferences

#### Issues:

None

**BAHFA Advisory Committee**

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**Recommended Action:**

Information

**Attachments:**

A. Presentation

**Reviewed:**

A handwritten signature in black ink that reads "Andrew Fremier". The signature is written in a cursive style with a large initial 'A'.

Andrew Fremier