

Date: June 26, 2024
W.I.: NA
Referred by: BAHFA Executive Board

ABSTRACT

Resolution No. 34

This resolution calls for an election to submit to the qualified electors of the nine county Bay Area a ballot measure authorizing an affordable housing general obligation in an amount of \$20 billion, requests consolidation of the election for said ballot measure at the next general election on November 5, 2024, and authorizes staff to take actions related, necessary or incidental to carrying out the intent of this Resolution.

Further discussion of this action is contained in the Bay Area Housing Finance Authority Summary Sheet dated June 26, 2024

Date: June 26, 2024
W.I.: N/A
Referred by: BAHFA Executive Board

RE: Submittal of a Ballot Measure for an Affordable Housing General Obligation Bond to the Voters of the Bay Area at the November 2024 General Election

BAY AREA HOUSING FINANCE AUTHORITY
RESOLUTION NO. 34

WHEREAS, the San Francisco Bay Area Regional Housing Finance Act (Cal. Gov. Code, § 64500, *et seq.*) (the “Act”) finds that the Bay Area is facing the most significant housing crisis in the region’s history because as a region, it has failed to produce enough housing at all income levels, preserve affordable housing, protect existing residents from displacement, provide adequate housing at all income levels in close proximity to jobs, and address the housing issue regionally and that regional funding is necessary to help address the housing crisis in the Bay Area, estimating that as of January 1, 2020, the Bay Area faces an annual shortfall of \$2.5 billion (Cal. Gov. Code, § 64501); and

WHEREAS, this shortage has created a demand for more homes than exist today, contributing to the high cost of housing and a steady rise in homelessness; and

WHEREAS, based on a poll conducted in December 2023, 74% of Bay Area residents were concerned about friends or family being able to find an affordable place to live; and

WHEREAS, pursuant to the Act, the Bay Area Housing Finance Authority (“**BAHFA**”) was formed pursuant to the San Francisco Bay Area Regional Housing Finance Act (California Government Code Section 64500, *et seq.*) to be a regional housing finance authority in the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma, the cities within those counties, and the City and County of San Francisco (collectively referred to as the “**Bay Area**”), with the purpose 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, BAHFA, a separate legal entity, is a joint effort of Metropolitan Transportation Commission (“**MTC**”), the regional transportation planning agency for the Bay Area pursuant to California Government Code Section 66500 *et seq.*, and the Association of the

Bay Area Governments (“**ABAG**”), formed in 1961 by a joint powers agreement among Bay Area local governments and serves as the comprehensive regional planning agency and Council of Governments for the nine counties and 101 cities and towns of the Bay Area, with the Commissioners of MTC serving on the BAHFA Board, and the ABAG Executive Board serving as the BAHFA Executive Board (“**Executive Board**”); and

WHEREAS, pursuant to California Government Code Sections 64510(d) and 64520(j), staff of MTC, including but not limited to, the MTC Executive Director (“**Executive Director**”), the MTC Chief Financial Officer (“**Chief Financial Officer**”) and the MTC General Counsel (“**General Counsel**”) serve as staff to BAHFA; and

WHEREAS, in 2020, MTC received a grant of \$20 million to set up the Bay Area Housing Finance Authority and a portion of the grant was used by BAHFA to create its Welfare Taxation Exemption Program, to facilitate the preservation of naturally occurring affordable housing and the Doorway Housing Portal, an online platform to connect affordable housing seekers with affordable housing opportunities throughout the Bay Area; and

WHEREAS, in 2022, the BAHFA adopted Resolution No. 28 accepting from MTC a subrecipient grant of \$43 million from Regional Early Action Planning 2.0 grant to establish the Housing Preservation Pilot Program, an affordable housing preservation program, and the Priority Sites Pilot Program, a predevelopment funding program for affordable housing units at locally identified, regionally significant sites; and

WHEREAS, since 2023, utilizing a \$5 million grant from the Metropolitan Transportation Commission, BAHFA has created an emergency rental assistance program to prevent displacement of low-income households at risk of losing their housing; and

WHEREAS, the Bay Area’s affordable housing funding needs far exceed grants received by BAHFA to date; and

WHEREAS, pursuant to California Government Code Sections 64520(a), 64520(p), 64521(a), and 64630, *et seq.*, subject to the Executive Board’s approval, BAHFA is authorized to submit to the qualified electors of the Bay Area a measure for an affordable housing general obligation bond; and

WHEREAS, California Government Code Section 64521(a) authorizes BAHFA to call an election, which shall be consolidated with the next general statewide election, for the qualified electors of the Bay Area to consider such a bond measure; and

WHEREAS, since June 2022, MTC staff have conducted an extensive public participation process to educate the Bay Area community about the region's housing affordability challenges and to solicit input from a broad range of stakeholder groups, including affordable housing and homelessness advocates, nonprofit developers, neighborhood and community groups, environmental advocates, equity organizations, home builder representatives, business organizations, and the boards, councils and staff at cities and counties throughout the Bay Area regarding ways to improve access to affordable housing; and

WHEREAS, at its January 25, 2024, meeting, the BAHFA Advisory Committee, comprised of members with expertise in affordable housing finance, construction workforce and development, tenant protection and housing preservation, considered the results of the public participation process and adopted BAHFA Advisory Committee Resolution No. 1, recommending that the Executive Board approve and BAHFA submit a ballot measure for an affordable housing general obligation bond to the qualified electors of the Bay Area, and

WHEREAS, the ABAG Housing Committee and the BAHFA Oversight Committee have met jointly throughout the past two years to discuss submitting an affordable housing general obligation bond to the qualified electors of the Bay Area; and

WHEREAS, at its April 18, 2024, meeting, the Executive Board adopted Resolution No. 6-2024, initiating approval to submit a ballot measure for an affordable housing general obligation bond in an amount not to exceed \$20 billion to the qualified electors of the Bay Area; and

WHEREAS, at its May 22, 2024, meeting, the BAHFA Board received a report entitled, *2024 Bay Area Affordable Housing Bond: Regional Funding for Local Solutions*, and an accompanying presentation on the need for funding for affordable housing and how the proposed ballot measure for bond authorization addresses this need; and

WHEREAS, at its May 22, 2024, meeting, the BAHFA Board discussed submittal of a ballot measure for an affordable housing general obligation bond to the qualified electors of the

Bay Area and directed staff to prepare a ballot measure for an affordable housing general obligation bond in an amount of \$20 billion; and

WHEREAS, the BAHFA Board, having received and discussed the results of the public participation process, and input and recommendations from the BAHFA Advisory Committee, the BAHFA Oversight Committee and the Executive Board, now desires to approve the BAHFA Board calling for an election for the purpose of submitting to the qualified electors of the Bay Area a ballot measure for incurring bonded indebtedness of BAHFA to mitigate the scarcity and cost of housing within the Bay Area; and

WHEREAS, the BAHFA Board determines that the shortage of affordable housing for all residents has led to:

- Approximately 37,000 people currently experiencing homelessness in the Bay Area, with the fastest-growing segment over age 55
- 1.6 million renters paying more than half of their income toward rent
- People commuting 90+ minutes to work to find housing they can afford
- People living in overcrowded and unsafe housing, and
- Key employees and community members leaving the area entirely; and

WHEREAS, the BAHFA Board determines that the consequences of a shortage of affordable housing affects everyone through:

- Congested freeways and high vehicle emissions from long commutes,
- Loss of teachers, co-workers and essential service workers who cannot afford to stay,
- Closed restaurants and small businesses due to staffing challenges,
- Strained familial ties, as grown children cannot afford housing near their parents and grandparents,
- Retirees forced to decide between buying medicine or paying rent, and living in housing that does not meet their financial and physical needs, and
- The broad community impact of thousands of people living in unsafe and inhumane conditions on the streets; and

WHEREAS, the BAHFA Board, having received and discussed the results of the public participation process, input and recommendations from the BAHFA Advisory Committee, and

the BAHFA Oversight Committee and initial approval from the Executive Board, now desires to call an election for the purpose of submitting to the qualified electors of the Bay Area a proposition for incurring bonded indebtedness of BAHFA to mitigate the scarcity and cost of housing within the Bay Area; and

WHEREAS, Article XXXIV of the Constitution of the State of California (“**Article XXXIV**”)¹ provides that no low-rent housing project shall be developed, constructed, or acquired in any manner by any state public body until a majority of the qualified electors of the jurisdiction in which it is proposed to develop, construct, or acquire the project, voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election; and

WHEREAS, the BAHFA Board hereby determines that there is a need for affordable housing for low- and middle-income families, vulnerable populations, and others throughout the Bay Area; and

WHEREAS, the BAHFA Board has evaluated funds from other sources and has found that they are insufficient to cover the shortfall to address the housing shortage in the Bay Area; and

WHEREAS, expenses related to the issuance of the bonds, bond program delivery, and the bond program will be paid from bond proceeds to the extent permitted by law; and

WHEREAS, in the judgment of BAHFA it is in the public interest, serves a public purpose and is necessary that the bond proceeds shall be expended for the purposes described in the attached Measure (defined below) and in accordance with applicable law, and the bond proceeds are authorized to expend funds for said purposes and their respective expenditure plans as required by Government Code Section 64650; and

WHEREAS, BAHFA now wishes to submit a ballot measure for an affordable housing general obligation bond to the qualified electors of the Bay Area at the November 5, 2024, election for the purpose of authorizing general obligation bonds in an amount of \$20 billion to be spent on affordable housing preservation and new affordable housing production, and tenant

¹ If Assembly Constitutional Amendment No. 13 (2023), which is being considered by California voters at the November 5, 2024 election, becomes law, Article XXXIV will be repealed and not applicable to the Measure.

protection, as provided for in the Act and may be allowed by the California State Constitution, throughout the Bay Area.

NOW, THEREFORE, THIS BOARD OF BAHFA HEREBY RESOLVES AS FOLLOWS:

Section 1. The Board hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Based on the findings above, BAHFA certifies that it has evaluated other funding sources for the expenditures as described in Attachment A and finds that other funding sources are not sufficient to address the purpose and goal as described in Attachment A.

Section 3. BAHFA hereby calls a bond election (the “**Election**”) throughout the Bay Area, which includes the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma, and the City and County of San Francisco, at the next general election, to be held on November 5, 2024, for the purpose of submitting to the qualified electors of each of the nine counties throughout the Bay Area the proposition set forth in the Measure set forth in Attachment A hereto (the “**Measure**”) for their approval, such approval to constitute the approval required by Article XXXIV and authorization to issue the general obligation bonds contemplated therein. The Registrar of Voters for each of the counties throughout the Bay Area, which include Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, Sonoma, and the City and County of San Francisco, (collectively referred to as the “**Registrars of Voters**”) is requested to cause the exact wording of the abbreviation of the Measure (shown in italics below), and also referred to as the ballot question, to appear on the ballot:

BAY AREA AFFORDABILITY PLAN. To address housing affordability and reduce homelessness by:

- *providing an estimated 70,000 affordable apartments/ homes;*
- *creating homes near transit, jobs, and stores;*
- *converting vacant lots/ blighted properties into affordable housing; and*
- *providing first-time homebuyer assistance;*

shall the measure issuing \$20,000,000,000 in bonds at legal rates, levying an estimated \$19 per \$100,000 of assessed valuation generating \$670,000,000 annually while bonds

are outstanding, and requiring public reporting, independent audits/ citizen oversight, be adopted?

The Registrars of Voters are further requested to print the full text of the measure set forth in Attachment A, the tax rate statement set forth in Attachment B and the impartial analysis in the voter information pamphlet to be distributed to voters, and perform other services as required by Elections Code Section 10002. The measure shall be stated separately in the ballot from the state and local measures. The BAHFA Board hereby submits the measure to the qualified electors of the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma and the City and County of San Francisco, at the Election, in the form set forth above. The Election shall be held and conducted, the votes received and canvassed, and the results ascertained and determined all in the same manner as the statewide election to be held on that date and in conformity with the election laws of the State of California. Only qualified electors of the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma, and the City and County of San Francisco, may vote on the Measure.

Section 4. If at the Election, the required percentage of the electors of the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma, and the City and County of San Francisco, voting vote in favor of the Measure, then BAHFA may issue bonds, in one or more series, in an aggregate principal amount not to exceed \$20 billion. Under current law, if 2/3 of the electors in of the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma, and the City and County of San Francisco voting, vote in favor of the Measure, the measure will pass. However, if Assembly Constitutional Amendment No. 1 (2023), as may be amended by Assembly Constitutional Amendment No. 10 or other constitutional amendment thereto in substantially similar form as determined by BAHFA (collectively referred to as “ACA 1”), passes at the November 5, 2024, statewide election, BAHFA finds that BAHFA constitutes a special district within the meaning of ACA 1 and that the Measure complies with ACA 1 requirements, and therefore, the required voter threshold to pass the Measure will be lowered to 55% of the Bay Area electors voting. The bonds shall bear interest at a rate not to exceed the maximum rate permitted by law per annum. In no event shall the total indebtedness incurred exceed the amount permitted by law. BAHFA will have an

annual report prepared describing the funds expended and the programs and projects authorized. The Board shall establish and appoint a citizens' oversight committee as set forth in the Measure.

Section 5. The provisions of Elections Code Section 9317 relating to arguments concerning district measures, shall apply to the Measure submitted at the Election. The Chief Financial Officer is hereby authorized to prepare and file with each of Registrars of Voters the tax rate statement required by the provisions of Section 9401 of the Elections Code substantially in the form of Attachment B attached hereto.

Section 6. The General Counsel is directed to prepare and submit an impartial analysis, subject to the review and revision of Counsel for the County of Santa Clara, as required by California Government Code Section 64521(d) and consistent with all applicable provisions of the California Elections Code.

Section 7. The Election is ordered to be consolidated with the statewide general election to be held on November 5, 2024, and for the Board of Supervisors for each of the counties in the Bay Area to take action consistent with Government Code Section 64521(a).

Section 8. The Board hereby declares, and the voters by approving the Measure concur, that every section, paragraph, sentence and clause of the Measure has independent value, and the Board and the voters would have adopted each provision hereof regardless of every other provision hereof. Upon approval of the Measure by the voters, should any part be found by a court of competent jurisdiction to be invalid for any reason, all remaining parts hereof shall remain in full force and effect to the fullest extent allowed by law.

Section 9. The Executive Director, the Chief Financial Officer, General Counsel and Clerk of the BAHFA Board and their respective designees are hereby authorized and directed, individually and collectively, to take the actions described herein, and to do any and all things that they deem necessary or advisable, including undertaking actions to comply with direction or guidance from the ROVs, making necessary or non-substantive changes to the materials submitted to the ROVs and Board of Supervisors in order to effectuate the purposes of this Resolution. This authority includes, but is not limited to, setting aside funds and making payment for the incremental costs associated with the election as provided for in Government Code Section 64521(h)(1), and General Counsel's ability to make technical amendments to conform the Measure to any applicable constitutional amendments lowering the voter threshold.

Section 10. This Resolution relating to an election shall take effect immediately.

BAY AREA HOUSING FINANCE AUTHORITY

Alredo Pedroza Chair

The above resolution was entered into by the Bay Area Housing Finance Authority at a duly called and noticed meeting held in San Francisco, California and at other remote locations, on June 26, 2024.