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July 26, 2023

Agenda Item 3.a.

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Preparation for 2024 Affordable Housing Bond Measure

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**Subject:**

Discussion regarding BAHFA's Regional Housing Revenue Allocation Options

**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").

Over the course of the last year, the Joint Housing Committees and Boards have considered presentations from staff regarding this preparatory work, including:

- Extensive public outreach, primarily through townhall public meetings and presentations, with affordable housing and homelessness advocates, nonprofit developers, neighborhood and community groups, environmental advocates, equity organizations, home builder representatives, organized labor leaders, and business organizations. In addition, staff have conducted outreach to cities and counties by presenting to boards and councils and convening public sector housing and planning staff in all nine counties.
- Completion of final versions of two elements of BAHFA's Business Plan – the Equity Framework and Funding Programs – both of which the Boards have reviewed as part of staff's informational presentations.
- Creation and implementation of programs that set the stage for BAHFA's role as a regional affordable housing lender and provider of new housing resources, including:
  - The Doorway Housing Portal, the design of which included substantial philanthropic assistance from Google.org, and which launched its listings phase on June 29<sup>th</sup>, 2023.
  - The Welfare Tax Exemption Preservation Program, through which BAHFA has assisted 5 developments that preserve the affordability of 325 units and prevented displacement of tenants.
  - The Preservation Pilot Program, with \$15 million in Regional Early Action Planning grant of 2021 ("REAP 2.0") funds from the California Department of Housing and Community Development ("HCD").
  - A predevelopment lending program for the Priority Sites Pilot, created in collaboration with MTC and ABAG and funded with HCD's REAP 2.0 funds.
  - The Bay Area Affordable Housing Pipeline Study, completed in collaboration with Enterprise Community Partners, which determined that approximately 33,000

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- affordable homes are currently in predevelopment across the region and in need of funding.
- SB 35 Technical Assistance aimed at helping local governments and developers implement best practices for tribal notification as required by state law streamlined entitlement processes.
  - A Bay Area Eviction Study that will soon analyze eviction data throughout the region to better understand causes, household characteristics, and ancillary conditions of evictions to develop data-driven prevention strategies tailored for the Bay Area.
  - A Rental Subsidy Program, which will repurpose \$5 million of funds previously used for land acquisitions in order to assist seniors and other vulnerable households at risk of homelessness.

**Next Steps, Part 1: Decision Points and Recommendations:**

The next phase of preparation for the 2024 Ballot Measure requires certain decisions regarding BAHFA's expenditure plan for regional housing revenue ("Regional Expenditure Plan"), including:

- 1) 1<sup>st</sup> Regional Expenditure Plan Programming: determination of the appropriate portion of regional funds to program in BAHFA's first Regional Expenditure Plan.
- 2) Flexible Funds: determination of the allocation of the 18% of regional housing revenue that is "flexible," i.e., monies that may be used for production, preservation, or tenant protections ("3Ps").
- 3) Project-Type Priorities and Collaboration: determination of the project types BAHFA should fund as top priorities and how BAHFA can best assist counties and direct-allocation cities with their individual expenditure plans and planning processes.

As described above, staff's recommendations for these decisions come after a year of extensive outreach throughout the region; a thorough analysis of the existing affordable housing finance landscape; and deep research of the ways in which BAHFA can advance greater housing equity throughout the Bay Area.

For the three decision points set forth, staff recommendations are as follows:

- 1) 1<sup>st</sup> Regional Expenditure Plan Programming: **Staff recommend limiting regional revenue programming decisions to the first issuance of bonds only.** Assuming a \$10 billion bond, \$2 billion of which would go to BAHFA, and a total of 5 issuances, the 1st Regional Expenditure Plan programs would allocate \$400 million of regional housing revenue.

This recommendation is based on the fluidity of market conditions and the currently unknown status of many conditions which will affect BAHFA's expenditures in 2024 and beyond. For example, it is possible that voters will pass a statewide constitutional

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amendment in 2024 that enables expenditures for protections, a use of funds that is currently prohibited under constitutional general obligation bond rules.

With a successful ballot measure, staff anticipate bringing forward expenditure recommendations for the second bond issuance approximately three years after the first (2028) and incorporating in that and all subsequent Regional Expenditure Plans the successes, challenges and lessons learned from prior bond issuances.

2) **Flexible Funds: Staff recommend programming Flexible Funds from the first issuance for new affordable housing production.**

The San Francisco Bay Area Regional Housing Finance Act (Gov. Code § 64500, et seq.) (the “Act”) gives BAHFA discretion to spend 18% of the regional housing revenue on either production, preservation, or protections (“Flexible Funds”). Staff recommend programming Flexible Funds from the first issuance for production due to the Bay Area’s severe housing shortage and the corresponding need to create new homes. The total value of this tranche of first issuance funds is estimated to be \$72 million. Together with the required 52% of funds that must be spent on production (per the Act), the total of the first issuance that would go to new construction is estimated to be \$280 million (or 70% of the regional housing revenue). First issuance funds set aside for preservation projects are estimated to be \$60 million, a significant amount to spend on preservation over a 2–3-year period given the relatively lower investment level each preservation project requires compared to new construction. Additionally, preservation is a relatively emerging field of practice that may already be stretched by the simultaneous infusion of \$240 million in earmarked preservation funds across all nine counties from BAHFA’s first bond issuance.

If the cadence of preservation projects outpaces production and preservation requires additional funding to meet demand, the allocation of Flexible Funds can be changed in the second and/or other future bond issuances to meet that need.

3) **Project-Type Priorities and Collaboration: Staff recommend a three-point prioritization strategy that implements an equity-focused, collaborative approach with counties and direct-allocation cities:**

- 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, so that local governments can retain decision-making control regarding scarce operating and capital subsidies.

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- 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. BAHFA’s investments will thus be additive to the regional affordable housing stock, will not compete with local governments for competitive state funds, and will demonstrate regional leadership to chart an investment strategy that avoids the gridlock that has defined our affordable housing financing system.
- 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.

Staff’s recommendations above pursue BAHFA’s Equity Framework and Funding Program goals, which call for, among other things, investments that serve those with greatest needs (PSH and ELI housing); achieving scale in production to address the harm done by our affordable housing shortage (non-LIHTC investments that can be delivered cost-effectively and quickly); and achieving operational sustainability inclusive of the ability of BAHFA to reinvest proceeds in tenant protections around the region.

Staff’s recommendations also acknowledge the financing challenges attached to PSH and ELI housing, especially regarding long-term operating and services subsidy needs. For example, most of the Bay Area’s public housing authorities, which provide project-based Housing Choice Voucher contracts (or “project based Section 8” contracts – the best, most reliable source of long-term operating subsidies) are currently over budget and not able to provide additional project-based vouchers at a volume that meets demand (if they can provide them at all, given budget constraints and other HUD rules). If Section 8 contracts are not available, individual jurisdictions may be able to tap other subsidy sources, but often not for the long term. And, notably, current law prohibits general obligation bond funds from being spent on operating and services subsidies.

Finally, staff’s recommendations highlight the uncertainty developers and jurisdictions have faced in recent years when applying for tax credits and a CDLAC tax-exempt bond allocation. These sources of funds are the only substantial sources of affordable housing capital provided by the federal government (with allocations coming through the state). Between 2020 and 2022, the Bay Area’s success rate at CDLAC was between 40% and 50% -- meaning more than half of the region’s “shovel ready” projects stalled, resulting in significant cost escalation. The inflation and high interest rates currently defining the market changed this dynamic in the last two CDLAC application rounds. Many projects became financially infeasible without more state tax credit equity or other gap funds.

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Regardless of whether the funding scarcity point is CDLAC, state tax credit funding, or California HCD grants, the ongoing competition for leveraged public funding for new affordable housing development demands leadership from BAHFA and the pursuit of investment strategies that do not compete with or diminish jurisdictions' access to resources.

By working alongside local governments, co-lending with them when invited, and pursuing investments that are additive and not competitive, BAHFA can bring innovation to a system that does not adequately meet the housing needs of Bay Area residents.

Informing all decision-making must be the third of the three-point prioritization strategy recommended above: retention of flexibility in program implementation. For example, if at any point CDLAC and other state funds can be non-competitively secured, or if Congress were to approve substantial new Housing Choice Voucher resources for California, BAHFA could quickly change course to take advantage of these new opportunities.

BAHFA's overarching goal, regardless of market conditions, will be to provide additive, collaborative investments that enhance counties' and direct-allocation cities' affordable housing objectives.

**Next Steps, Part 2: September 2023 Decision Points and Recommendations:**

Following the provision of guidance from the BAHFA Advisory Committee, Joint Housing Committees, and Boards on the recommendations outlined above, staff will return to its governing bodies for direction on a second phase of decision-making, including:

- 1) Geographic Disbursement Priorities: how best for BAHFA to disburse regional housing revenue among local governments in a way that meets BAHFA's Equity Framework and Funding Program goals:
  - Equitable access to resources for all counties
  - Meeting the needs of those most impacted by housing unaffordability
  - Providing additive, collaborative assistance
- 2) Preservation Expenditure Priorities: determination of which strategies will best achieve BAHFA's anti-displacement goals and meet the needs of historically disinvested communities (\$60 million in the first bond issuance).
- 3) Local Government Incentive Grant Program: determination of prioritized, eligible uses for this 10% set-aside of regional funds (\$40 million in the first bond issuance).

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- 4) Protection Priorities: if protection funding expenditures become eligible under a GO bond, determination of how to prioritize that spending (\$20 million in the first bond issuance).

### Decision-Making Timeline

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

#### September 2023: Informational

- Geographic distribution of regional housing revenue
- Preservation program priorities
- 10% Local Government Incentive Grant priorities

#### October 2023

- Approval of initial funding priorities for regional housing revenue (decision points from July & September meetings)
- Adoption of Business Plan Equity Framework & Funding Programs
- Protection program priorities (if protection funding is available)

#### 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

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Recommended Action:

Information

Attachment:

A. Presentation

Reviewed:

A handwritten signature in black ink that reads "Andrew Fremier". The signature is written in a cursive, flowing style.

Andrew Fremier