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| **Association of Bay Area Governments** | **Bay Area Housing Finance Authority** |
| **Housing Committee** | **Oversight Committee** |

May 13, 2026 Agenda Item 7.a.

Welfare Tax Exemption Preservation Program Update to Terms and Name Change

## Subject:

Recommend adoption of Resolution No. 16, Revised to update the terms of the Welfare Tax Exemption Preservation Program (Program), expanding the program to include new construction projects and changing its name to the "Welfare Tax Exemption Program"

## Background

The California Legislature has the authority to exempt property from taxation if it is used exclusively for charitable purposes and if it is owned by nonprofit organizations. This is known as the "welfare exemption" and California's statutory requirements include rental housing dedicated to occupancy by low-income households as one property type that qualifies for the exemption. Eliminating property taxes from a building's operating budget enables the owner to offer lower rents to tenants.

For an affordable or mixed-income housing project to obtain the welfare exemption, state law requires: 1) building ownership by a nonprofit organization; 2) a financial investment of public sector funds; 3) recordation of a deed restriction by a public agency memorializing the occupancy restrictions; and 4) an income cap of 80% of area median income (AMI) for occupants of restricted units.

In June of 2022, the Bay Area Housing Finance Authority (BAHFA) created the Welfare Tax Exemption Preservation Program to provide housing developers with the public sector support they need to secure a welfare tax exemption and ultimately convert existing unrestricted residential buildings to permanently affordable housing. The program's assistance includes a $5,000 grant, which is the minimum public financing required to apply for a welfare tax exemption, and a recorded deed restriction on the property that ensures that rents remain affordable to low-income residents.

To date, BAHFA's $40,000 grant investment across eight properties has successfully preserved 881 units of affordable housing with 55-year restricted terms. BAHFA's regulatory agreement introduces several anti-displacement measures to assisted properties, including:

- Occupancy and rent restrictions at 80% of AMI for 55 years
- Proposed rents must offer a 10% discount to market rate rents
- Annual rent increase limits on restricted units, specifically (1) adherence to any existing local rent regulation, and, if no such local regulations apply, then (2) rent increases capped at the increase in AMI for that year or 4%, whichever is less
- Rent reductions for severely rent-burdened tenants
- No displacement of existing residents, regardless of income

## Discussion:

During the course of program implementation over the last four years and BAHFA's strategic planning process over the last year, staff have identified opportunities to improve and expand the Welfare Tax Exemption Preservation Program to more effectively preserve and produce affordable housing throughout the region.

### Relationship of Program to BAHFA's Strategic Plan

BAHFA's Strategic Plan includes two modules that have informed lessons learned for the Welfare Tax Exemption Preservation Program:

- Module 3, New Mixed-Income Housing Program: The purpose of Module 3 is to develop a new, small-scale regional finance program before a successful ballot measure, both demonstrating and testing BAHFA's potential as a public lender and creating a stable revenue stream for the agency. Staff recommends a "kit-of-parts" approach for the program to ensure long-term affordability by combining multiple tools to reduce the financing gap for middle- and mixed-income projects. One of these layered tools includes operating support to decrease projects' ongoing expenses, including integration of BAHFA's existing Welfare Tax Exemption Preservation Program and expansion of the program to include new construction, in addition to preservation.
- Module 4, Regional Housing Programs: The purpose of Module 4 was to evaluate BAHFA's initial portfolio of pilot programs, including the Welfare Tax Exemption Preservation Program, to prioritize regional programs in the near-term, resource-constrained environment while positioning BAHFA to scale in the future. This included measurement of the program's progress against BAHFA's Equity Framework metrics and collecting feedback from program grantees and potential applicants. Given the program's efficacy, consensus was reached to continue support for the Welfare Tax Exemption Program by rolling it into the new Mixed-Income Financing Program and to make revisions that incorporate feedback received.

### Proposed Revisions to Program Terms

Since program launch, BAHFA has received several inquiries from potential applicants regarding projects that meet the broad goals of the Welfare Tax Exemption Preservation Program by providing affordable homes to low-income residents earning no more than 80% of AMI, but don't squarely meet the program's current eligibility requirements laid out in the Board-approved term sheet. Most notably, while eligible projects under the current program are limited to preservation of existing, occupied buildings, developers have expressed interest in using the welfare tax exemption as a financing tool for new construction of affordable housing. As such, staff propose revisions to the term sheet to include new construction projects, with a corresponding change of the program name from Welfare Tax Exemption Preservation Program to Welfare Tax Exemption Program or "WTEP."

Staff also propose the following minor revisions to further expand the pool of eligible projects and incorporate other feedback received from grantees and potential applicants.

- Elimination of requirement that projects comprise of 4 or more units to allow for smaller projects, which is likely to benefit emerging and community-based developers
- Elimination of requirement that the majority of building square footage in a mixed-use project be used for residential uses to allow for projects with any amount of residential square footage
- Clarification that unrestricted units may be designated as new affordable units through either turnover or income certification of existing low-income tenants (better enabling an increase in the total number of income-restricted, affordable units over time)
- Increase of allowable temporary relocation from 90 days to 180 days to allow for projects with more substantial rehabilitation scopes
- Clarification of rent-setting requirements to ensure protections for most vulnerable tenants, while also allowing some flexibility around how property owners will alleviate rent burden for such residents
- Introduction of program fees governed by a new program fee schedule, further described in item 7b for Oversight Committee review and approval

Staff have drafted redlines to the program's current Resolution 16 and attached term sheet to implement these proposed changes, which can be found in Attachments B and C to this summary sheet.

## Issues:

None

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## Recommended Action:

The BAHFA Oversight Committee is requested to recommend that the Bay Area Housing Finance Authority adopt Resolution No. 16, Revised to update the terms and name of the Program

## Attachments:

A. Resolution 16, Revised (Clean)

B. Resolution 16, Revised (Redline)

C. Attachment A to Resolution 16, Revised, Welfare Tax Exemption Program Term Sheet, Revised (Redline)

D. Presentation

## Reviewed:

Andrew Fremier