



CITY OF OAKLAND

AGENDA REPORT

TO: Steven Falk
Interim City Administrator

FROM: Christina Mun
Interim Director, Housing
and Community
Development

SUBJECT: 2023 NOFA Affordable Housing
Funding and Bond Commitments

DATE: March 16, 2023

City Administrator Approval

Date: Mar 17, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopts A Resolution:

Allocating Funds From Measure U Housing Bond Funds And Other Non-bond Funds In A Total Amount Not To Exceed \$63,000,000 To Fund New Construction Of Multifamily Rental Affordable Housing Projects, And Authorizing The City Administrator To Make Development Loans Under The New Construction Of Multifamily Rental Affordable Housing Program Without Returning To Council, Contingent On Funding Availability.

EXECUTIVE SUMMARY

The proposed resolution would authorize up to \$63,000,000 of City financing for loans to affordable housing developments identified through the Housing and Community Development Department (HCDD) New Construction of Affordable Multifamily Rental Housing Notice of Funding Availability (NOFA) process. These funding commitments would be enabled by \$13,000,000 of existing and anticipated funding sources, and by the forward commitment of \$50,000,000 of Measure U Affordable Housing Bonds, without returning to City Council (Council) for additional approval. This item is separate from but related to a proposal from Councilmembers Kaplan and Fife to commit approximately \$18,000,000 in Measure U Affordable Housing Bonds to the Mandela Station Affordable Housing project at the West Oakland Bay Area Rapid Transit (BART) station that was discussed at the Community and Economic Development (CED) Committee on March 14, 2023, and is on the Council agenda for March 21, 2023. In order to advance equity among similarly situated affordable housing projects desiring to meet the same upcoming State funding deadlines, HCDD is seeking advance authorization to make commitments to projects that were identified through the City's well established NOFA process and fulfill the City's existing underwriting guidelines. HCDD staff will share results from the New Construction NOFA with Council after funding commitments have been made.

City Council
March 21, 2023

When the City has federal, state and local funding sources available to allocate to affordable housing programs and projects, HCDD solicits applications for project funding on a competitive basis. This competitive process, otherwise known as the New Construction of Affordable Multifamily Rental Housing NOFA process, typically prioritizes projects that serve extremely low-income households (and particularly those experiencing homelessness), that leverage outside resources including highly competitive state and federal funding sources), that are ready to start construction, that are sustainable and promote equitable outcomes for Oakland residents, workers and businesses, and that are near transit and near amenities, among other criteria. This resolution will streamline HCDD's NOFA process in order to meet upcoming State funding deadlines and increase the supply of affordable housing through new construction activities.

BACKGROUND / LEGISLATIVE HISTORY

Notice of Funding Availability

The City's Housing and Community Development Department (HCDD) has issued the New Construction Notice of Funding Availability (NOFA) on an annual or biennial basis in recent years and will seek to transition to an annual issuance as funding becomes available and the capacity of staff increases. Please see **Table 1** (page 4 of this report) summarizing HCDD's issued NOFAs from 2019 through present.

In accordance with HCDD's 2021-2023 Strategic Action Plan (SAP)¹, HCDD has identified program priorities for addressing housing affordability with a funding strategy in which roughly half the department's affordable housing funding will be directed towards new construction (production) or affordable housing, and half will be directed to acquisition and rehabilitation of affordable units (preservation). Through these NOFA processes, HCDD staff will recommend awards for new construction projects, the rehabilitation and preservation of existing affordable housing, and the conversion of unregulated housing to restricted affordable housing.

This resolution would authorize funding for rental projects only, covering the production side of the department's goals under the SAP. It is worth noting that the SAP identifies both the intended use of funds available to the HCDD to undertake the mission of reducing homelessness, rent burdens for Oakland residents and the immense chasm between funding available and the need for affordable housing; particularly extremely low-income housing for households earning at or below 30 percent of Area Median Income (AMI). In order to meet the full Regional Housing Needs Allocation (RHNA) production goals for just the two-year duration of the SAP, Oakland would need over \$300 million in additional funding to subsidize affordable housing development in Oakland.

Projects must meet basic threshold standards to become eligible for funding, including the engagement of community constituents, providing evidence of site control, evidence of planning approvals, and having a viable financial plan in place with committed funds and City funds used to leverage other yet-to-be-committed County, State, and Federal funds, conventional private financing and grant funds. Each project that applies under the NOFA for New Construction of Multifamily Affordable Housing is required to provide a minimum of 20% of the units targeted to

¹ <https://cao-94612.s3.amazonaws.com/documents/HCD.final.21-21Strategic-Plan.pdf>

households with incomes at or below 30% AMI, and is awarded points for exceeding this threshold. This income band is targeted at AMI levels either to provide housing for homeless Oaklanders or address displacement pressures on some of Oakland's most vulnerable renters. For projects providing units for formerly homeless or special needs households, the owner/property manager must incorporate tenant selection criteria consistent with *Housing First principles*, with the intent of reducing barriers to housing for those most in need. All project marketing and management plans are subject to review and approval by City staff.

The NOFA also sets forth criteria by which projects will be scored and ranked including the following:

- project readiness to begin construction;
- proximity to local resources such as nearby schools, transit, and grocery stores;
- projects that included an “emerging developer” as part of the development team (an “emerging developer” is defined as a developer who has less than five (5) years of experience as a developer and/or less than 5 completed projects).
- the ability to prevent residents from displacement; by increasing the supply of affordable housing for those who are homeless and households most vulnerable to displacement, including extremely low income renters, limited income seniors, veterans, and people with disabilities;
- low-income populations with extra points awarded for projects serving extremely low-income populations and permanent supportive housing projects for those experiencing homelessness and for people with special needs, and
- developer experience & overall capacity to facilitate the work.

The City has funding from a variety of sources that are detailed in the Fiscal Impact section of this report below.

This section has been intentionally left blank.

Table 1 below provides a summary of the NOFAs that have been awarded from 2019 to present.

Table 1: Summary of HCDD NOFA Awards, 2019-Present		
NOFA Round	NOFA Release Date	Capital Funding Awarded
2019-20 New Construction NOFA	August 2019	\$14,683,000
2019-20 Acquisition and Conversion to Affordable Housing (ACAH) – all developer pool	August 2019	\$10,970,000
2019-20 Acquisition and Conversion to Affordable Housing (ACAH) - community land trusts and limited equity cooperatives	December 2019	\$7,756,053
2019-20 ACAH – all project types	December 2019	\$16,250,000*
2020 New Construction Pipeline NOFA	April 2020	\$13,050,000
2020-21 Acquisition and Conversion to Affordable Housing	November 2020	\$3,985,000
<u>2020-2021 Homekey</u>	<u>August 2020</u>	<u>\$7,255,239</u>
<u>2021-2022 Homekey</u>	<u>October 2021</u>	<u>\$7,500,000</u>
<u>2021–22 New Construction</u>	<u>November 2021</u>	<u>\$37,561,000</u>
<u>Total Funding Awarded 2019-2022 NOFA Cycle</u>	-	<u>\$119,010,292</u>

*** The 2019-20 ACAH NOFAs allocated \$12 million for the Community Land Trust and Limited Equity Cooperative pool and \$18 million for the All Project pool, leaving balances in these funds that were allocated through the 2020-21 ACAH NOFA.**

Forward Commitment of Measure U Bonds for Mandela Station Affordable Project

Councilmembers Kaplan and Fife introduced an item ([File #23-0193](#)) that would provide a forward commitment of Measure U affordable housing bonds to support the Mandela Station Affordable Housing project at the West Oakland BART transit-oriented development. During the discussion of this item at the March 14, 2023, Community and Economic Development (CED) Committee meeting, several affordable housing professionals expressed a concern that this would provide access to Measure U bond funds for the Mandela Affordable project before previously-identified projects with funding gaps. CED members expressed an interest in

providing a broader range of affordable housing projects with access to Measure U forward commitments, and this item is intended to address that desire.

ANALYSIS AND POLICY ALTERNATIVES

Notice of Funding Availability Process

On January 13, 2023, the City issued the and applications are due on March 24, 2022. Applications will be reviewed for completeness and to determine whether the City's minimum standards for project and developer qualifications had been met. The eligible applications will then be evaluated and ranked per prepared criteria outlined in the NOFA solicitations. By increasing the supply of affordable homes, this resolution will advance the **housing, economic, and cultural security** of lower income Oakland residents.

Projects in the 2023 New Construction Notice of Funding Availability will be evaluated out of 188 possible points, with major categories including readiness (63 points), location (36 points), target population and project attributes (33 points), developer experience and capacity (46 points), and sustainability (10 points). The intention is to prioritize projects that provide the deepest affordability, serve the most vulnerable, are located close to community amenities, and are most likely to successfully compete for extremely competitive state and federal financing sources that will enable the project to begin construction in the immediate future.

Funding requests from the thirteen (13) applications in the 2021-22 Notice of Funding Availability totaled \$88,457,293. However, only \$37.5 million was available for awards. This funding shortfall created a pipeline of affordable housing projects that are in immediate need of City funds. Measure U will help address this shortfall.

As noted above, there is a vast funding gap between the funding available to subsidize affordable housing development in Oakland, and the funding needed to support our pipeline of affordable housing units. In acknowledgement of limited funding and staff availability, applicants in the current 2023 NOFA are limited to one application each (with limited exceptions for joint partnerships with emerging developers).

Competitiveness for State Financial Resources

The 4% tax credit and bond financing structure has historically been very successful for Oakland projects. However, in recent years, the scoring criteria between California HCD programs (which like Oakland's, prioritize deep affordability targeting) and the California Debt Limit Allocation Committee/ Tax Credit Allocation Committee (CDLAC/TCAC) programs (which have been recently prioritizing projects with shallow levels of affordability in lower cost and "high opportunity" areas), have made it difficult for projects to line up remaining funding sources and commence construction. Oakland is at a structural disadvantage when pursuing these essential state resources due to the mischaracterization of much of Oakland as "low opportunity" and use of misguided cost adjustment factors. One of the ways that Oakland projects can be competitive for these essential tax-exempt bonds and federal Low Income Housing Tax Credits (LIHTC) is to increase the local subsidy for these projects. This enables projects to reduce their subsidy request of the State and thereby improve their competitiveness in the State's scoring

framework. It is for this reason that the resolution authorizes the City Administrator to pre-commit Measure U bonds to previously funded New Construction projects without returning to Council in order to improve their competitiveness in and to make the deadline of the May 23, 2023, CDLAC/TCAC application round.

In addition, applicants in the current NOFA round are also likely to include applications for California HCD’s Super NOFA funding program (for which the State currently anticipates having applications due in June 2023).

FISCAL IMPACT

Table 2: Available/Projected Funding – Sources and Uses

	Affordable Housing Impact Fees	Jobs/Housing Impact Fee	Former Redevelopment Funds	HUD HOME	LHTF	Low Mod Income Asset Fund	Measure U	Total
Fund	1870			2109	2144	2830	Fund # TBD	
Available FY 2022-2023	0	0	0	0	\$500,000	0	0	\$500,000
Available FY 2023-2024	\$3,807,000	\$2,211,000	\$2,611,900	\$2,642,100	0	\$1,228,000	\$50,000,000*	\$62,500,000
Committed in this resolution	\$3,807,000	\$2,211,000	\$2,611,900	\$2,642,100	\$500,000	\$1,228,000	\$50,000,000	\$63,000,000

* An additional \$18,000,000 in Measure U affordable housing bond funds is being recommended for allocation to the Mandela Station project, as described earlier in this report.

Funding for the projects will come from the following below sources, either through Finance’s carryforward process or programed through the biennial budget process.

- 1) Low and Moderate Income Housing Asset Fund (Fund 2830, Project 1000388, Org 89929). The Low and Moderate Income Housing Asset Fund is a fund required under the Redevelopment Dissolution law to hold funds generated from housing assets (such as land sales or loan repayments) transferred to the City from the former Redevelopment Agency when the Agency dissolved. The current funding is from loan repayments received by the City from existing rental or ownership properties and from redevelopment funded Mortgage Assistance Loans.
- 2) Affordable Housing Trust Fund (AHTF) (Fund 1870) is made up of the following sources:
 - a. Jobs/Housing Impact Fees (JHIF). (Project 1001664, Org 89929) The Jobs/Housing Impact Fee is assessed on construction of buildings for office and warehouse/distribution uses per Ordinance No. 12242 codified as Chapter 15.68 of the Oakland Municipal Code.

- b. Affordable Housing Impact Fees (AHIF). (Project 1001667, Org 89929) The Affordable Housing Impact Fee is assessed on construction of new market-rate housing units including live/work and work/live units per Chapter 15.72 of the Oakland Municipal Code.
 - c. Former Redevelopment Funds (Project 1000386, Org 89929) “Boomerang funds” are former property tax increment financing payments that are received by the City and specifically designated for affordable housing. In 2013, after the dissolution of redevelopment, the City committed to setting aside 25 percent of the funds distributed to the City as a taxing entity under the Redevelopment dissolution and deposit them into the Affordable Housing Trust Fund.
- 3) State Funded Local Housing Trust Fund (LHTF) (Fund 2144). In 2020 and 2021, the City successfully competed for a total of \$10 million (\$5 million each round) to fund the development of new construction affordable rental housing through the New Construction NOFA. The LHTF dollars must be “matched” one-for-one with funds from the City’s AHTF per the requirements of the LHTF program. Those matching funds have been identified from budgeted AHIF and JHIF funds for FY 2021-22 that are available for this NOFA as they have not yet been allocated or committed to projects with the approved Resolution No.89128 C.M.S., amending and restating Resolution No. 88765 C.M.S., to appropriate funds and Resolution No 88213 C.M.S., to allocate the funds.
 - 4) HOME funds (Fund 2109). (HOME Project 1000394, HOME-ARP Project 1006277, both Org 89929) Each year, the City receives an entitlement grant from the HUD HOME Investment Partnerships Program, as well as a one-time infusion of HOME-ARP funds through the federal American Rescue Plan. FY 2023-24 HUD HOME funds are budgeted and available for this NOFA.

Measure U Bond Pre-commitment (Fund TBD). Up to \$50 million in Measure U affordable housing bonds will be pre-committed to fund projects that either already received City funding allocation and require additional funds to be competitive for tax-exempt bonds and tax credits in the May 2023 CDLAC/TCAC application round or are identified via the 2023 New Construction Notice of Funding Availability. These funds are expected to be available in early 2024, but the commitment may be counted for purposes of pursuing state grants and tax credits in 2023 funding opportunities.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Under the California Environmental Quality Act (CEQA), the City is required to review possible environmental impacts of all projects prior to a definitive commitment of funding, unless the project is exempt from CEQA review. All projects funded through this item will have a complete environmental review or be determined exempt from CEQA review prior to the award of funds.

PUBLIC OUTREACH / INTEREST

An announcement regarding the NOFA's release was made via email on January 31, 2023, to approximately 216 interested parties, from an HCDD mailing list that includes developers, affordable housing advocates, architects, and contractors, as well as other parties who have expressed interest in hearing about City funding opportunities for affordable housing. A NOFA pre-application meeting was held on February 2, 2023, to explain the NOFA application process, CEQA and National Environmental Policy Act (NEPA) requirements, as well as the City's required employment and contracting programs. Staff was available to answer NOFA-related questions. Approximately 45 participants attended the meeting. The City HCDD staff also worked with East Bay Housing Organization to conduct outreach and provided monthly general NOFA announcements to stakeholders; along with distributing New Construction NOFA interested party release announcements, reminders, and all information was updated on the City's HCDD website. In addition, HCD staff held office hours for potential applicant questions on February 9, 2023 and have published frequent questions and answers updates based on inquiries received.

NOFA applicants were required to contact neighborhood organizations in the vicinity of the proposed development and hold at least one meeting with an established neighborhood organization prior to application submission. The applicant's community outreach plan, a required exhibit of each NOFA application, documents each project's community outreach plan.

COORDINATION

For this report, HCDD staff consult the City Attorney to ensure legality of funding commitment resolutions. The Department of Finance was consulted to confirm funding amounts. In respect to the NOFA and the award of funding commitments to projects, Planning and Building Department staff will coordinate CEQA determinations, planning and zoning conformity, and to identify possible barriers to development. The Department of Workplace and Employment Standards will be consulted to confirm fair and equitable involvement of Oakland Businesses, Workers, and Residents. The Department of Public Works Environmental Services Division will review the Phase I and Phase II environmental reports, and the Department of Economic and Workforce Development will review the appraisals for the recommended projects.

SUSTAINABLE OPPORTUNITIES

The housing development projects recommended for funding will address the "3 E's" of sustainability in the following ways:

Economic: These projects will generate construction, professional services, and ongoing property management jobs in Oakland. Providing families with affordable housing helps provide financial stability for low and very low-income households which could free some household income to be spent on other goods and services in Oakland. Providing units with supportive services for homeless Oaklanders helps residents experiencing homelessness stabilize their

health and housing. Also, providing viable housing creates activity on underutilized parcels which could stimulate demand for goods and services in Oakland.

Environmental: By developing in already built-up areas, infill projects to reduce the pressure to build on agricultural and other undeveloped land. Proposed projects are near public transit which enables residents to reduce dependency on automobiles and further reduce any adverse environmental impacts of development. Projects are selected for funding partially based on sustainability criteria.

Race & Equity: Affordable housing is a means of achieving greater social equity through stabilization and accessibility. Equity indicators like homelessness, affordability/rent burden, and displacement are racialized with Black, Indigenous, and other People of Color (BIPOC) residents experiencing disproportionate rates compared to other communities. Creating more, and more affordable, housing options will help alleviate the burden BIPOC residents face throughout the city. Oakland's neighborhood-level environment will be improved by replacing underused and sometimes blighted buildings and lots with residents in new homes. The proposed developments will provide affordable rental and ownership housing for low and very low-income residents. Social services, such as computer centers for residents, are a component for some rental developments and further build social equity.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt:

A Resolution Allocating Funds From Measure U Housing Bond Funds And Other Non-bond Funds In A Total Amount Not To Exceed \$63,000,000 To Fund New Construction Of Multifamily Rental Affordable Housing Projects, And Authorizing The City Administrator To Make Development Loans Under The New Construction Of Multifamily Rental Affordable Housing Program Without Returning To Council, Contingent On Funding Availability.

For questions regarding this report, please contact Christia Katz Mulvey, Housing Development Manager, at 510-332-4461.

Respectfully submitted,



Christina Mun, Interim Director
Housing and Community Development

Prepared by:

Christia Katz Mulvey, Housing Development
Manager
Housing and Community Development

Meghan Horl, Housing Development
Coordinator IV
Housing and Community Development

Caleb Smith, Program Analyst III
Housing and Community Development