



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: July 24, 2017

Approved

Date

7/28/17

**SUBJECT: COUNTY MEASURE A (AFFORDABLE HOUSING BOND)
IMPLEMENTATION**

RECOMMENDATION

Adopt a resolution authorizing the Director of Housing to submit a letter to the County of Santa Clara reflecting the City's recommendations regarding Measure A implementation.

OUTCOME

Approval of this item will enable Housing Department staff to submit a letter to the County of Santa Clara's Board of Supervisors and staff prior to the Board's planned August 15, 2017, action on its proposed Measure A Loan Program Guidelines. The Loan Program Guidelines will implement funding priorities, underwriting requirements, and specify the role of the County and other funders. The County's Office of Supportive Housing is expected to release a Call for Projects after Board approval and finalization of the Loan Program Guidelines. These guidelines will establish priorities for the vast majority of the County's housing development funds.

BACKGROUND

Voters of the County of Santa Clara County approved the landmark Measure A in November 2016 to support new affordable housing. Measure A authorizes the County to issue \$950 million in general obligation bonds to be repaid by a new parcel tax for affordable housing. The bonds are expected to be issued in at least three tranches over a 10-year period. Measure A funds will be used to acquire or improve real property to provide service-enriched affordable housing for vulnerable residents. The target populations include veterans, seniors, the disabled, victims of abuse, the homeless, and individuals suffering from mental health or substance abuse illnesses. Most of these households will be extremely low-income ("ELI"), while others may be very low-income ("VLI") or low-income ("LI"). Up to \$150 million of the total bond may be spent for

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moderate-income families. This includes a maximum of \$50 million for first-time homebuyer programs.

The County's goal as stated in its Draft Loan Program Guidelines is to develop or finance at least 4,800 new apartments in the next 11 years, including: at least 1,600 apartments to be used for rapid rehousing of households experiencing homelessness; 1,200 permanent supportive apartments for persons with disabling conditions who are experiencing homelessness; 600 permanent supportive apartments for persons with disabling conditions; and, 1,400 apartments for other extremely low-income ("ELI") households. The Draft does not list a goal for the use of funds for moderate-income residents or first-time homebuyers.

The City's role in Measure A-funded developments depends on whether it is a lender, a ground lessor, and/or a multifamily housing revenue bond issuer for the development. If the City is involved as a lender, the Housing Department will fully underwrite the transactions' financial, physical, and operational feasibility, and will help to shape and drive the developers' community outreach plan and execution.

Regardless of whether the City contributes resources to Measure A-funded transactions, the City will be in control of land use entitlement approvals for all Measure A developments in San José. The Housing Department and Department of Planning, Building and Code Enforcement ("PBCE") together will be actively involved in the siting and approval of these projects.

On June 6, 2017, the City Council approved the Housing Department's *Affordable Housing Investment Plan for FY 2016/17 – FY 2017/18*. In its approval, the City Council directed staff to return to the City Council with information on the County's Draft Measure A Guidelines so that the City Council could review its implementation and have its comments conveyed to the County Board of Supervisors and County staff. In addition, the City Council concurred with staff's recommendation that the City's funding strategy for the next fiscal year should support VLI and LI households because of Measure A's limited funding for these income levels. As approved in the Investment Plan action, the Housing Department will work in collaboration with the County to pursue opportunities that leverage City resources with Measure A funds to help create new mixed-population, mixed-income affordable homes.

The County issued revised Draft Loan Program Guidelines on February 7, 2017, May 9, 2017 and the most recent draft on July 5, 2017. Public comment is open until July 30, 2017. The County Board of Supervisors is scheduled to consider the Guidelines at its August 15, 2017 meeting.

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ANALYSIS

The Housing Department has developed draft components for the City's position on Measure A implementation. The recommended position statements are provided on the following page.

Support: First, the City is strongly supportive of Measure A funds being used rapidly to help our County's most vulnerable residents. By 2022, the Regional Housing Needs Allocation goal calls for the City to produce 4,503 housing units for ELI households and 4,071 for VLI households. With over 4,000 individuals literally homeless on any given night, the need for this type of deeply affordable housing is clear. We commend the County for taking such strong leadership in generating much-needed funds for this important use that will benefit our community.

Community Engagement Plan: The City wants to serve as a co-reviewer of the developer's Community Engagement Plan that is required as part of the County's funding application for all San José developments. It is critical the developer perform meaningful community engagement to promote neighborhood acceptance and to minimize local opposition to developments. The City and County should continue to work cooperatively in the early stages of the development's award to ensure a robust outreach process is done before and/or during process of seeking land use entitlements. Part of this work may also include a coordinated and sustained community education campaign on the need for supportive housing and the related benefits.

Siting criteria: The Draft Loan Program Guidelines do not contain information on how to evaluate a development's proposed location with regards to incomes and opportunities in that area. The County needs to clarify its project siting criteria. The siting of affordable developments must comport with the City's Dispersion Policy or its successor policy. This policy is administered jointly with the Housing Department and the Department of Planning, Building and Code Enforcement. If Measure A developments use project-based vouchers ("PBVs") from the Housing Authority of the County of Santa Clara ("HACSC"), the developments would be subject to project siting guidelines agreed to by the City, County and HACSC in its 2016 joint Notice of Funding Availability.

The County should incentivize developments in high-opportunity areas to promote equity and choice. The recommended income-mix of the development should take into consideration if the neighborhood is already an area of high-poverty, or has a revitalization plan or is a gentrifying neighborhood. The City will work cooperatively with the County to ensure that the guidelines are clear so that developers know in advance which sites are appropriate for acquisition. Having this certainty will help ensure that Measure A funds are expended in a timely manner.

City as Bond Issuer: Consistent with the City's Policy 1-16 on the Issuance of Multifamily Housing Revenue Bonds, the City wants to issue all bonds to fund affordable housing developments located in our jurisdiction. Acting as bond issuer provides the City a formal role in transactions which permits staff to agree upon project design, services provided, and the likelihood of stable property operations. The City's role in performing annual bond monitoring compliance provides constructive ongoing contact with property owners. Bond issuance and

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monitoring fees also provide revenue to the Housing Trust Fund that supports our homeless activities and programs.

City as Ground Lessor: If the City is funding a Measure A-funded transaction in an amount sufficient to pay for the cost of land, the City wants the opportunity to purchase the property and to be ground lessor to the development. In this way, the City can ensure that affordable housing remains in that location ongoing, can participate fully in underwriting the transaction from the start, and can help facilitate early community acceptance of the development. Acting as a ground lessor means that the City will not receive repayments for its investment in the land. However, developments with special populations usually generate minimal loan repayments for subordinate lenders. The importance of the City maintaining its position as a ground lessor holds long-term development control advantages. Therefore, it is an option the City should be granted.

Convene Local Government Representatives: The County should continue to convene local government representatives to discuss and coordinate affordable housing production countywide to ensure that the Measure A funds are deployed most effectively to serve communities throughout the County. This would continue to facilitate ongoing communication for the County to update localities on the pace of Measure A expenditures, location of developments, anticipated new capital commitments, development pipelines, and the availability of services funding paired with capital commitments. Another topic of discussion may be the status of community outreach, or best practices on ensuring that development owners, property managers, and service providers work together effectively to serve formerly-homeless households.

Affordable Housing & Sustainable Communities funding (Cap & Trade): The City would like the County's commitment to work cooperatively together on determining developments that could be strong candidates for Affordable Housing & Sustainable Communities ("AHSC") funding. The City and the County share a mutual desire to provide amenities to communities that accept permanent housing opportunities for homeless residents. AHSC is a major source of funding for community-serving projects that enhance areas' walkability. The desire to plan together with the local community and seek AHSC funds could delay developments' timelines by several months, given the AHSC cycle is only annual; however, there may be certain developments that have appropriate timelines to fit into the AHSC cycle.

Underwriting: To the extent the underwriting concepts in the Draft Loan Program Guidelines are consistent with those contained in the three agencies' joint 2016 NOFA, the City is supportive of the proposed document. In general, the County's underwriting guidelines must be flexible enough to permit other subordinate lenders to enforce their own rules and guidelines. For instance, calculation of loan repayments due to subordinate lenders should be defined so that each lending entity can project potential repayment income. The County can of course establish its own guidelines, but the loan documents must be drafted to incorporate other lenders' rights.

Mixing of populations and development size: Some developments to be funded by Measure A will designate only a portion of units for a target population. Others will dedicate all apartments to serve the special population. Both models are commonly seen in the affordable housing industry. The City supports the creation of both types of properties. For those properties seeking

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to mix populations, the City advocates that a minimum of one-third of the development serve formerly chronically homeless or rapid rehousing residents for developers who do not have experience with building mixed-income PSH. The City supports prioritizing developments that have a greater mix of up to 50% of the project for developers who have experience building PSH mixed-income communities. For properties with 100% of the apartments serving formerly chronically homeless residents, the City advocates for an optimal maximum of 80 to 100 apartments. However, larger developments should still be considered on a case-by-case situation, based the location of the project and experience of the development and service provider team.

Services provision and funding: The provision of on-site services to residents who have experienced homelessness is key to creating a stable community. This suggests two comments. First, the City encourages the County to work with City staff to establish service delivery standards and guidelines for all developments with permanent supportive and/or rapid rehousing program apartments. Rapid rehousing developments that have a 50% set-aside will require more resident services than are typically provided at an affordable housing development. This is important to ensure smooth operations of the property and to satisfy lenders and investors for their underwriting. Second, the County should work with the City to clarify guidelines for the feasibility standard to which services funded as an above-the-line expense will be accommodated. This materially affects the sizing of capital commitments required and the City's loan repayments as a subordinate lender.

Reporting: The County should provide the City with copies of affordability restrictions and the approved services plans for every development in its jurisdiction. Receiving basic information on all affordable housing developments in a city permits staff to best serve the public's interests. The City's Housing Department tracks and publishes to the public a report of the City's entire inventory of affordable apartments. This report includes those without City investment or restrictions so that policy makers and renters can have information on the entire affordable housing stock in the City. Internal reports also track developments' affordability covenant expiration dates to help ensure that our existing stock of affordable housing remains in place.

Coordinated compliance monitoring: The County should consider contracting out with the City to provide ongoing monitoring and compliance on behalf of the County once the developments are completed. By allowing the City to monitor, it would take advantage of the City's existing expertise and allow the County staff to focus on monitoring service delivery and oversight of the service provider contracts that support Measure A developments.

Universal Application for Residents Seeking Affordable Housing: The City is requesting that the County participate in the development and implementation of an application form which would be used by residents seeking to obtain affordable housing. Currently, low-income residents seeking affordable housing must submit a separate application at each affordable development in which they are interested. The new "universal" application would only need to be completed once and it would be transferrable to any of the Measure A developments. The City is developing this application form with the assistance of technical expertise awarded through IBM's Smarter Cities Challenge Initiative. The County's involvement in this project

would help ensure widespread use of this application for the benefit of the County's low-income residents.

Moderate-income strategies: Finally, the City encourages the County to carefully consider using some Measure A funds to serve moderate-income households in the near-term. Measure A is an unusual funding source in that it can be used for moderate-income households and first-time homebuyers. Neither federal HOME nor loan repayments from redevelopment-funded housing loans can be used in this way. Measure A also makes an unusually large amount of funds available at one time. One possible strategy to support moderate-income housing is to fund a traditional subordinate homebuyer loan fund. A more creative option that could better retain the up-front investment is to create a community land trust. The trust could acquire and hold homes and apartment buildings and restrict some or all homes to moderate-income households. If an average sales price of a condominium is \$640,000, the \$50 million identified in Measure A as eligible for first-time homebuyer programs could be spent to acquire over 70 condominiums. These could then be resold to buyers at a price lower than market with little to no additional subsidy needed to resell the home to a future buyer. As another alternative, the trust could buy apartment buildings that are naturally affordable and income-restrict them for moderate-income residents. Further, the County could work with the City on promoting and subsidizing second units (a.k.a. "ADUs" or "in-law units"). It could also examine its land holdings for possible development opportunities of moderate-income homes. City staff would welcome the opportunity to strategize with the County on creative ways to serve moderate-income buyers and renters.

EVALUATION AND FOLLOW-UP

The City's Planning Commission, Director of Planning, Building and Code Enforcement, and/or the City Council will be involved in granting land use entitlements for Measure A-funded developments. In addition, the City Council will consider approvals of funding, ground leasing, and/or issuing multifamily housing revenue bonds for any Measure A-funded developments if City funding is sought and is available.

POLICY ALTERNATIVES

Housing Department staff considered the following alternative:

Alternative #1: Do not comment on County Measure A implementation.

Pros: As the County's timeline to accept public comments is very brief and runs from July 5 to July 31, 2017, it is not possible to incorporate the City Council's comment during the official comment period.

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Cons: The City Council directed staff to return to Council regarding comments on Measure A. It is appropriate that the City advocate for a role to help ensure the success of Measure A-funded developments. Once this memorandum is public, staff will provide it to County staff. In addition, the Housing Director's letter summarizing the City's Council's position will be provided to the County after the public comment deadline, but it will still be provided before the planned Board of Supervisors meeting on August 15, 2017. In addition, as soon as this memorandum is available to the public, it will be provided to the County.

Reason for not recommending: The City Council's position on Measure A implementation should be conveyed to County staff and elected officials.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the August 8, 2017 Council Meeting. City staff will also communicate to County staff before the comment period ends on July 31, 2017, to inform them of the contents of this memorandum.

COORDINATION

Preparation of this report has been coordinated with the Office of the City Attorney and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

The Housing and Community Development Commission did not hear this item, as it pertains to underwriting specifics and concepts of affordable development financing, which do not fall under the functions, powers and duties of the Commission delineated in Section 2.08.2840 of the San José Municipal Code.

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FISCAL/POLICY ALIGNMENT

This action in supporting funds for ELI housing is consistent with: the City's *Envision 2040 General Plan, The 2014-23 Adopted Housing Element* in that it will help the City meet its Regional Housing Needs Allocation; the City's *Adopted FY 2016/17 – FY 2017/18 Housing Investment Plan* in that it increases the supply of affordable housing; the City's *2015-20 HUD Consolidated Plan* in that it will provide apartments that will be affordable for ELI households; and, the *Community Plan to End Homelessness* approved by the City Council in February 2015 in that it is providing supportive housing for homeless residents.

COST SUMMARY/IMPLICATIONS

This is a policy statement and therefore has no budget impact.

CEQA

Not a Project, File No. PP10-069(a), Staff Report.

/s/

JACKY MORALES-FERRAND

Director of Housing

For questions, please contact Kristen Clements, Division Manager, at (408) 535-8236.