

Exhibit B

Public Process and Comments Received

Measure A1 Rental Housing Development Policies

Public Process to Date

An inclusive and multi-faceted community input process has been utilized for the development of implementation policies. A series of input meetings were held prior to release on June 8, 2017 of the Draft Rental Program policies for a formal comment period which ended on July 10th. Input from these meetings was taken into consideration in the development of the draft implementation policies released for comment. The input process included:

- The Measure A1 Implementation Schedule and list of community meetings to be held was widely publicized on April 20, 2017 through emails to everyone who signed up to receive notices on HCD's Measure A1 and Interested Developers listserves, encompassing approximately 1400 email addresses of interested individuals and organizations.
- HCD convened individual meetings with staff from all of the cities in the County in late January and early February 2017 to discuss broad concepts related to the Rental Program policies and an additional meeting with all housing staff from the cities was held in late April to gather their initial input on key policy issues.
- In May and June 2017, three open community meetings were held and attended by a diverse array of advocacy organizations, realtors, faith-based organizations, developers, city staff, and interested individuals. An outline of the June 28, 2016 adopted policy areas, and key outstanding questions was distributed and discussed at these meetings in iterative versions. Records of all comments received were kept and influenced the content of the draft policies.
- HCD received additional comments via email, phone, and letters during this period.
- On June 8, 2017, a draft of implementation policies was released for public comment, with comments due by July 10th. The initial deadline requested written comments to be submitted by 10 a.m., although staff accepted and included public comments received until close of business on July 10th. Comments were received via U.S. Mail, email, and hand delivery. Additional input was provided by Board of Supervisors staff.

In total, 40 written public comments were received regarding the draft rental policies during the comment period. Copies of these written comments may be found on HCD's website, <http://www.acgov.org/cda/hcd/bond.htm>. These written comments represent 38 organizations and were signed by 51 individuals.

Throughout the process to date, staff has received ongoing feedback regarding Rental Housing Development Fund policies, Innovation and Opportunity Fund policies, and HCD's Administrative Loan Terms for the Affordable Housing Development Program. Bond Counsel has performed a preliminary review of the public comment draft policies and will perform a

review of revised policies prior to staff making formal recommendation for adoption to the Board.

Schedule

While the January 23, 2017 Implementation Plan anticipated bringing proposed policies for adoption this month, due to the extent and depth of public comment received by July 10th and the complexity of several of the issues to be addressed, Staff is bringing this update without formal recommendation at this time. This change will also necessitate a change in the published schedule. Staff anticipates bringing formal recommendation on policies to this Committee as early as possible in September and to bring recommendations to the full Board as soon as possible after the Committee's approval.

Outstanding Key Issues

There are a number of key policy areas for which staff is still completing development of recommended policies, including analyzing comments received. These include policies related to the following areas:

- Workforce and employment, including Small, Local and Emerging Business requirements, Project Labor Agreements, local enterprise and hiring requirements, small contractor bonding program, and the Enhanced Construction Outreach Program,
- Tenant selection and screening, including Fair Housing-related issues.
- Priorities within target populations and geographic areas.

Exhibit A contains the draft policies with recommended changes to date incorporated from the public comment period, for your review and discussion. A redlined version of the draft policies will be available on HCD's website. Below is a summary of key changes made in response to the comments received during the comment period

Highlighted Policy Changes to Public Comment Draft Policies

Anti-Displacement

Several comments were received related to adding more explicit anti-displacement language to ensure that Measure A1 funding will be used to stem displacement and to safeguard against funded projects causing displacement of existing low- or moderate-income tenants. Staff has added language to explicitly prohibit Measure A1 funds from being used to finance projects that would permanently displace current low or moderate-income households. Additional language was added to make clear that in projects that require temporary relocation of current residents, for example to allow for rehabilitation of existing apartments, current low- and moderate-income residents will be provided with temporary relocation benefits and would be provided with first right of refusal to return when units are ready for occupancy, at comparable or lower rents.

In addition, a policy was added to address possible displacement of current residents of acquisition/rehabilitation projects whose household incomes exceed Measure A1 requirements. In acquisition/rehab projects where existing tenants' household incomes do not meet Measure A1 requirements, they may continue to reside in the project and upon turnover, income-qualifying tenants will be moved in.

Eligible Uses of the Funds

Some comments were received expressing concern that for acquisition of land using Measure A1 funds, the draft policy regarding the expectation that a project is developed with a ‘reasonable’ period of time, defined as starting construction within years, was overly restrictive and did not allow for enough time in which to either start construction or spend Measure A1 funds. The “reasonable amount of time” was established in order to prevent long-term land banking without timely development of housing. In response to the comments, the definition of reasonable amount of time has been modified to allow more flexibility while still encouraging development as quickly as possible. In the current draft, the milestones and time periods are defined as having a financing plan in place within two years and starting construction within three years. Extensions of up to an additional year are allowed as long as the project is making significant progress towards these milestones.

In addition, comments were received that the milestones and deadlines for cities in regards to projects selected for funding with Base City Allocations were insufficient and the Policy should include additional deadlines for the start of construction and expenditure of funds to ensure progress towards completion of Measure A1-assisted units. Staff recommends modifying the Policy to state that cities will have up to three years from fund commitment to start project construction and up to five years to expend those funds.

Income Levels

Clarification was requested on what percentage of units may be assisted for households between 61% and 80% of Area Median Income (AMI) since the Program Description allows that a “portion of the funds may be allowed to subsidize units for households at or below 80% of AMI to create affordable housing for a mix of lower-income levels within developments.”

In response, language was added to the draft policies defining the maximum portion of funds that can be spent of units at 80% of AMI at five percent (5%) of each Base City Allocation and each Regional Pool.

Comments were received that units should count towards the Board-adopted minimum requirement that 20% of Bond-assisted units be restricted to households with incomes at or below 20% of AMI if the units have project-based rental assistance, such as Section 8, even if the units are restricted at a higher AMI level (for example 50% of AMI). This appears to be reasonable so long as these units have preferences for households at or below 20% of AMI.

Additional comments expressed that the 20% of Bond-assisted units at 20% of AMI requirement should be imposed on the regional pools by each RFP cycle round, as opposed to a per-project or per-jurisdiction for the Base City Allocations basis. Additionally, that points should be included in the Regional Pool RFPs to encourage greater than 20% of units in projects to be affordable at the 20% AMI level, based on this change would harness the experience that some developers have in managing 20% AMI units and that some communities can absorb more 20% AMI units than others. The implementation policies propose that the ‘20% at 20%’ requirement be met by each Base City Allocation and each Regional Pool, in order to provide flexibility regarding income levels in each specific project, while also ensuring that communities fund a share of these units and that the units will be geographically spread. In response to the comment, a goal has

been added that each RFP cycle for the Regional Pools fund 20% of the anticipated units at the 20% AMI level in order to ensure that these units are financed on an on-going basis and not left until the end of the implementation period. No change to the proposed requirement that each Base City Allocation also achieve the “20% at 20%” requirement was made.

Match Requirements

Comments requested that the match section be clarified to allow city match to include a combination of sources that constitute match in one project. That is the intention of the draft policies. Language has been added to make explicit that a combination of sources can be utilized as match in each project.

Commenters also noted that the County should be required to provide the jurisdictional match for the Unincorporated County’s portion of the City Base Allocation. Requiring an Unincorporated County match is equitable and feasible and this change has been incorporated.

Commenters also expressed some concern regarding the timing of the match commitment. Commenters requested that cities should be allowed to preliminarily commit matching funds conditional on award of Measure A1 funds and that the match commitment be formally finalized before the construction loan closes because for many financing sources, the commitment of both City and County funding will be needed to secure other sources, even if the City commitment is preliminary. The policies have been modified to allow for a city’s administrative commitment of the amount of matching funds at the time of Measure A1 application, with formal commitment of the match by city councils prior to construction loan closing.

Per-Project Maximum Amount of Measure A1 Funds

Several commenters noted that the proposed per-project cap of 25% of total project costs is too low and would result in funding gaps, especially for 4% Tax Credit projects, small, or special needs projects. Staff has modified the proposed policies to specify that the maximum per Measure A1 funds per project will be the lower of the State’s HCD maximum loan subsidy limit for each Measure A1 funded unit in the project or a percentage of the Total Project Costs (TPC).

Additional clarifying language is included in this section for Tax Credit Projects, as well as small and special needs projects. For 9% Tax Credit projects, the per-project cap will be a maximum of 25% of the TPC or the State 9% subsidy limit per unit size whichever is lower. In 4% Low Income Housing Tax Credit projects, a maximum per-project cap will be 35% of the TPC or the State’s non 9% subsidy limit per unit size, whichever is lower. For projects of 20 units or less, or special needs projects, an additional 10% increase in subsidy may be allowed should the project demonstrate a financial need in order to be feasible and leveraging from other available financing sources have been sought;

Target Populations

Some commenters requested clarification on how priorities will be given for target populations identified in the implementation policies as well as how the County will work to ensure that Measure A1 benefits all of the target populations over time. This is an area that HCD is still working on, however additional language has been added regarding an annual review of projects funded and cumulative units for each named target population and that this review may impact

future RFP scoring in order to ensure benefit to all target populations, in addition to use of tenant screening tools that don't unfairly screen out the Measure A1 target populations.

Tenants' Rights and Responsibilities

Comments were received that requested that strong tenant protections be incorporated into the Rental Program implementation policies, including requests that references to, and reliance upon, the HUD-produced Tenants Rights and Responsibilities document be included. A policy has been added that requires that projects must provide to residents and post a Tenant Rights and Responsibilities document to be developed by HCD based on the HUD Tenants Rights and Responsibilities document.

Types of Projects

Comments were submitted that there should be a cap on the percentage of each Base City Allocation that can be used for homeless crisis, interim or transitional housing, for example 10% of the city's base allocation, since the primary goal of Measure A1 is to create permanent housing opportunities. A policy has been added that sets a maximum percentage of Base City Allocations for this purpose, with different percentages scaled to the size of the Allocations: up to 10% for cities with allocations over \$15 million, 15% for cities with allocations under \$15 million and over \$10 million, and up to 20% for cities with allocations under \$10 million.

Additional Comments

Some comments were received on policies which are not yet being proposed, for example on the form and functions of the Oversight Committee. Per the Implementation Plan, staff will bring recommendations on the Oversight Committee by January 2018. These comments have been noted and will be considered as part of that work, however staff does not anticipate recommending that the Oversight Committee's purpose change from annual review of Measure A1 implementation to ensure that Bond proceeds are being spent in compliance with the ballot Measure to functioning more as a pro-active loan committee and decision maker on specific project loan terms.