

Association of Bay Area Governments

Executive Board

April 18, 2024

Agenda Item 10.c

November 2024 Ballot Measure for General Obligation Bond for Affordable Housing

Subject:

Adoption of a resolution by the ABAG Executive Board as the Executive Board to the Bay Area Housing Finance Authority (“Executive Board”) to make certain findings in support of, to approve the Bay Area Housing Finance Authority Board submitting a ballot measure for a general obligation bond for affordable housing in an amount not to exceed \$20 billion to the voters of the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma and the city and county of San Francisco (the “Nine Bay Area Counties”) at the November 2024 general election consistent with the requirements of the final version of Assembly Constitutional Amendment No. 1 (2023), and to take actions related, necessary, or incidental to carrying out the intent of this resolution

Discussion:

Authority to Place a Ballot Measure on the Ballot

The San Francisco Bay Area Regional Housing Finance Act, codified at California Government Code Section 64500, *et seq.* (the “Act”) authorizes the BAHFA Board, subject to the initial approval of the Executive Board, to place a measure on the ballot to raise revenue and allocate funds for affordable housing. Once the Executive Board adopts a resolution to initiate the submittal of a ballot measure to the voters, the BAHFA Board must then hold a discussion meeting about the ballot measure at least 30 days in advance of adopting a resolution to call for the election. Once the BAHFA Board adopts its resolution calling for the election, the board of supervisors for each of the counties in which the measure will be on the ballot will call a special election to be consolidated with the next regularly scheduled statewide election. For purposes of placement of a measure on a ballot, BAHFA is considered a district, as defined in California Elections Code Section 317.

Substantive Legal Requirements for the Ballot Measure

A ballot measure for a general obligation bond for affordable housing submitted by BAHFA must satisfy the requirements as set forth in the Act and Government Code Section 53410. Under current law, assuming the proposed ballot measure is placed on the ballot in all nine Bay Area counties, for the ballot measure to pass, 2/3 of the votes cast by the voters voting in the Nine Bay Area Counties must vote in favor of the ballot measure.

The Legislature has approved Assembly Constitutional Amendment 1 (2023) (“ACA 1”) to be considered by California voters at the November 2024 election. ACA 1 would set the voter threshold for passage of a bond measure at 55 percent of the votes cast instead of 2/3. If ACA 1 (or a successor measure with the same primary goal and vote threshold) passes, then the ballot measure submitted by BAHFA would be subject to a 55 percent approval threshold of votes cast on the measure in the Nine Bay Area Counties, provided the ballot measure meets the

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requirements of ACA 1 (or successor measure). At its January 25, 2024, meeting, the BAHFA Advisory Committee adopted the attached resolution, formally recommending that the BAHFA Board and Executive Board adopt the resolutions necessary to submit a ballot measure that conforms to ACA 1 to the voters at the November 2024 election.

Guiding Principles for the Text of the Proposed Ballot Measure and Ballot Question

The overall principle in drafting a bond authorization is to ensure that the language of the ballot measure is nonpartisan, accurate, and defensible over the life of the bond expenditures to mitigate against both pre- and post-election legal challenges. The ballot measure is drafted to ensure compliance with Government Code Section 53410 and election law, with an introductory sentence or two. BAFHA's bond counsel, Orrick Herrington & Sutcliffe, LLP, has advised numerous Bay Area public entities on bond authorizations, including both Alameda County and Santa Clara County for affordable housing bond obligations, and has well-tested, standard format and language, which will be incorporated.

For BAHFA's ballot measure, there are additional legal requirements that must be satisfied. The Act requires that the ballot measure include: the purpose and goal, categories of eligible expenditures to be funded, estimated number of affordable housing units to be built and preserved by household income category, estimated minimum funding levels by expenditure category for each county, and an overview of decisionmaking and oversight. ACA 1 includes other requirements, such as the creation of an oversight committee.

The ballot question must also satisfy legal requirements, namely that it be nonpartisan, include the rate of payment, and be limited to 75 words. The ballot question is informed by the voter information surveys conducted in December 2023 and March 2024. This research is ongoing, with the results from a final survey to be available immediately before the BAHFA Board acts, to ensure that the board has the most current information before making a final decision about whether or not to place the bond on the ballot.

The language of BAHFA's ballot measure and ballot question must satisfy several goals. For the ballot measure and ballot question, as discussed above, it must meet all the requirements of existing law as well as any additional requirements needed for the bond measure to qualify for a lower vote threshold pursuant to ACA 1 (or its successor). Further, the ballot measure is structured to provide BAHFA with the authority and flexibility to address the housing crisis over time and to be a self-sustaining agency, as intended by the Act. Staff have worked closely with the Office of General Counsel to ensure that all these goals are achieved in the current wording of the ballot question and ballot measure.

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Initiating Resolution

The Executive Board's initiating resolution determines the finance mechanism (a general obligation bond) and sets the amount of the bond. While staff have discussed a \$10 Billion or \$20 Billion, at this time staff is recommending the Executive Board approve "up to \$20 billion" with the BAHFA Board to make a final decision based on the latest voter survey results.

In addition, the initiating resolution authorizes the BAHFA Board to approve the ballot question, the text of the ballot measure, the tax rate statement and to authorize staff to take action necessary or incidental to carrying out the purpose of the resolution – to call for an election on a general obligation bond. The BAHFA Board resolution contains the ballot question; the ballot measure text and tax rate statement will be attachments to the BAHFA Board resolution.

The Bond Program

Included as Attachment C is a report entitled "2024 Bay Area Affordable Housing Bond: Regional Funding for Local Solutions", the "Bond Report". The Bond Report provides an overview of the program to be funded by a general obligation bond and why such funding is needed. BAHFA has used a portion of its \$20 million grant from the state to set up BAHFA to establish programs like the Doorway Housing Portal, an online platform to connect affordable housing seekers with affordable housing opportunities, and the Welfare Taxation Program to facilitate preservation of naturally occurring affordable housing. In addition, BAFHA adopted Resolution No. 28 accepting from MTC a subrecipient grant of \$43 million from Regional Early Action Planning 2.0 grant to establish the Housing Preservation Pilot Program, an affordable housing preservation program, and the Priority Sites Pilot Program, a predevelopment funding program for affordable housing units at locally identified, regionally significant sites. This funding is insufficient to address the affordable housing need and the impacts that flow from the affordable housing crisis, as detailed further in the Bond Report.

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Recommended Action:

Staff recommends that the ABAG Executive Board as the Executive Board to the Bay Area Housing Finance Authority (“Executive Board”) adopt a resolution to make certain findings in support of, to approve the BAHFA Board submitting a ballot measure for a general obligation bond for affordable housing in an amount not to exceed \$20 billion to the voters of the Nine Bay Area Counties at the November 2024 general election and that said ballot measure satisfies the requirements of the final version of Assembly Constitutional Amendment 1 (2023) or successor act and to take actions related, necessary, or incidental to carrying out the intent of this resolution.

Attachments:

- A. Presentation
- B. Resolution No. 1-2024 of the BAHFA Advisory Committee
- C. Bond Report
- D. Executive Board Initiating Resolution

Reviewed:



Andrew Fremier