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Worksession Item

Office of the City Manager

WORKSESSION
January 15, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Paul Buddenhagen, Interim Deputy City Manager

Subject: Measure O Implementation Recommendations

SUMMARY

Measure O authorizes the City to issue $135 million in general obligation bonds to finance the acquisition and improvement of real property to create and preserve affordable housing. The bond law and bond measure language require the City to use the funds for affordable housing development costs, including design, and construction, and certain soft costs, including program management.

This report presents information to help Council identify priorities for a Measure O implementation and expenditure plan that maximizes affordable housing development. It includes details on four potential programs that staff believe would be good options to start: (1) an expansion of the Housing Trust Fund (HTF); (2) a Small Sites multifamily loan program; (3) an Accessory Dwelling Unit loan program for moderate and low-income homeowners; and (4) an expansion of the Senior and Disabled rehabilitation loan program to include low-income households. These programs will leverage outside funding, build on City and developer capacity, and promote equitable benefits.

The Council has already reserved $29.5M for two affordable housing projects, a little more than half of which could be funded from Measure O. Staff is in the process of analyzing the best bond offering structures and schedule based on capacity, needs, and the ability to spend the bond proceeds within the legally mandated timeframe. Initial analysis suggests a funding need of $30 to $40 million for a first issuance. A detailed follow-up schedule, expenditure plan and timeline will be produced once development programs are prioritized.

For context, the City will also be issuing a T1 bond offering in November of 2021 for $30 - $40 million. Based on these two measures, staff is consulting with the City's municipal advisor to determine the most cost-effective way to issue the bonds and to ensure that Measure O bonds comply with the tax projections described to voters, and do not negatively impact the City's bond rating and financial stability (which influences the cost of borrowing). The use of the proceeds will also determine whether Measure O bonds

can be issued as tax exempt bonds under federal tax law, and staff is consulting with the City's bond counsel on that topic.

CURRENT SITUATION AND ITS EFFECTS

Measure O authorizes the City to issue $135 million in general obligation bonds to finance the acquisition and improvement of real property to create and preserve affordable housing. Approved by more than two-thirds of Berkeley voters, the expenditure of bond funds is limited to the specific purposes identified by the measure. Bonds will be issued in multiple series over a predetermined period, and the City must have an expectation when tax-exempt bonds are issued that at least 85% of the funds from such issuance will be dispersed within three years of the issuance. All funds must be expended within five years of issuance.

Measure O's affordable housing directive restricts all funding to capital costs related to affordable housing development and preservation. This includes development hard costs (i.e. materials and construction), soft costs (i.e. architecture and legal fees) and delivery costs (i.e. project administration costs). Other important housing affordability programs, such as rent subsidies, operating reserves, or tenant legal services, are not eligible for financing with Measure O funds.

Current Obligations & Disbursement

The Council has reserved $29.5M for two affordable housing developments:

- $23.5M for BRIDGE Housing and Berkeley Food and Housing Project's 2012 Berkeley Way.
- $6M for Satellite Affordable Housing Associates' 1601-1603 Oxford Street.

However, other than $3.5M in the Housing Trust Fund (HTF), the City does not have funds budgeted to satisfy the $29.5M reservation. Additional Affordable Housing Mitigation Fee (AHMF) and federal funds revenue are not anticipated to reach this level in the near future. Measure O funds could cover at least $15.5M of the reserved total; within its $23.5M reservation: the Berkeley Way project would be eligible for $9.5M Measure O funding, (the projected need for a $14M capitalized operating reserve cannot be funded from Measure O proceeds), plus $6M for the Oxford project.

If the current round of non-City funding applications for Berkeley Way is successful, the City's loan funds for capital costs (other than the capitalized operating reserve) will be needed by approximately December 2019. SAHA also proposes to start construction in December 2019 for the 1601-1603 Oxford development. The City can wait until those projects are awarded Low Income Housing Tax Credits to issue bonds in order to minimize the City's bond expenditure timing risks.

In November, HHCS received a $368,000 predevelopment loan application from Resources for Community Development (RCD) for its development at 2001 Ashby Avenue, currently home to the Cooperative Center Federal Credit Union (CCFCU).

CCFCU selected RCD to develop the site as affordable housing with ground floor commercial space, including space for the nonprofit service provider Healthy Black Families. RCD has initiated work on funding and entitlements in anticipation of acquiring the site from CCFCU in fall 2019. The Housing Advisory Commission will review the application at its February 2019 meeting and may make a recommendation to Council to support this request, although there are currently no funds available in the HTF. RCD's predevelopment application anticipates the project would need $6.3M in City funds as early as September 2019 to purchase the site. The total development budget and timeline are likely to change during the predevelopment process as RCD gathers more information.

Another project in the City's pipeline of affordable housing projects is Bay Area Community Land Trust's 1638 Stuart Street, which was funded at $50,000 in predevelopment funds and has requested $900,000 in HOME funds to complete the proposed rehabilitation.

Other possible opportunity sites include the properties at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, the Ashby BART station, the North Berkeley BART station and the West Berkeley Service Center, although the Council and BART have not identified any specific plans for these sites. Staff expect that local development organizations will be able to identify other opportunities once the Council establishes the priorities and process for Measure O funding.

<u>Programs for Discussion</u>

Staff recommend that Council identify priority housing programs, adopt program guidelines, and then award funds via competitive processes that evaluate proposals on the basis of identified City priorities, including feasibility. Staff have identified four programs that could fulfill identified City priorities that take into account the following criteria:

- Build on existing programs, council referrals and staffing;
- Match funds to vendor capacity to deliver housing results;
- Leverage state and federal funds to the greatest extent possible; and
- Promote equitable benefits.

Measure O funds could be expended to finance portions of the following four programs. Staff estimate that the City's program delivery costs will be about 10% of the total costs, or about $13.5M in total over the 9 to 10 year implementation period. This is likely to include staffing in the HHCS, Legal, Planning and Finance departments. Four programs are described in detail for discussion below, and Attachment 1 summarizes key aspects, costs, and impacts for each. Staff will work with bond counsel to ensure that the expenditures of Measure O funds are consistent with state law, federal tax law (to the extent applicable) and the Measure.

A) Housing Trust Fund Expansion ($115M). Providing funds through the HTF will build on the City's existing program and staffing infrastructure and leverage state and federal resources for multifamily housing development. Berkeley and the Bay Area have many capable nonprofit affordable housing development organizations with the capacity to provide housing on a significant scale with the support of local investment. The HTF guidelines and the bond measure allow for both rehabilitation and new construction. Council could establish a limit on funds available for rehabilitation in order to encourage new construction. Rental homes created through this program would be affordable to various income levels up to a maximum of 60% of Area Median Income (AMI) (currently $62,760 for a family of 3).[1]

In order to implement this expansion, staff recommend Council consider a significant revision of the HTF guidelines before issuing any Notices of Funds Available (NOFA's). While key terms and most processes would remain the same, revisions to the guidelines will make them more consistent with the City's operations and Commission structure, as well as current affordable housing lending practices. The current guidelines have been revised incrementally since 1990 and can be confusing to applicants and staff, and mandate a process which can be duplicative of the land use entitlement process.

Council and community members have also discussed the need for affordable housing for Berkeley Unified School District employees. Measure O funds would be appropriate for this use, and either the HTF guidelines would need to be revised or separate guidelines be established to accommodate this type of model.

Typical affordable housing development sources may not be able to be used for educator housing. Low Income Housing Tax Credits and other conventional affordable housing funds, such as those provided by the State of California, are usually limited to people earning less than 60% AMI. While BUSD para-professionals, beginning teachers and teachers without an advanced degree—who are the only wage-earner in their household—may qualify for typical affordable housing, those with partners and/or advanced degrees would largely not qualify even though they may still have difficulties affording market rate housing. As a result, teacher housing is more dependent on local funding sources, which means using a larger proportion of City funds.

The San Francisco Examiner recently reported the City of San Francisco plans to fund a teachers' housing project for moderate income households (80% - 120% AMI)

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[1] The City's Housing Trust Fund guidelines require 20% of the units to be affordable at or below 30% AMI and another 40% of the units to be affordable at or below 60% AMI. Most funded developments restrict all but the manager's units to a mix of incomes below 60% AMI in order to be competitive for Low Income Housing Tax Credits, as well as other affordability restrictions in other funding sources.

at $385,000 to $513,000 of City funds per unit. As an illustration, this translates to $19.3 to $25.7M for a theoretical 50-unit project (San Francisco's is larger).

An alternative to new construction for educators could be providing homebuyer loans that would be paid off at the sale of the home. This would allow BUSD employees more choices to select a home that met their needs. The loan could bear interest or be repaid with shared appreciation, meaning a portion of the increase in the value of the home during the loan term. As an example, the organization Landed[2] reports they are now partnering with more than 80 school districts to administer this type of loan for educators.

B) **Small Sites Loan Program ($12M).** Measure O funds could expand the pool of funds available through the Small Sites program, and transition the program from its pilot phase. This program provides funding to acquire and rehabilitate "naturally occurring affordable housing" developments between 2-25 units and transition them to permanently affordable housing. The pilot program will begin accepting applications in January 2019 with $950,000 in available funds. Staff recommend adopting revised, consolidated guidelines for the program based on lessons learned from the pilot phase. The adopted guidelines require incomes to average to 80% AMI (currently $83,680 for a family of 3). For example, a two-unit building could have one tenant household with an income at 40% AMI and one tenant household with an income at 120% AMI.

The possible scale of the Small Sites program is constrained by the organizations interested in operating Small Sites. Extremely low operating margins due to the combination of low rents and small numbers of units, combined with the inability to access state and federal funds, deter many affordable housing providers from pursuing this type of development and limit the capacity of organizations operating these buildings. The two Berkeley-based organizations which have indicated interest in Small Sites are both small and thinly staffed, which limits their capacity and, potentially, long-term sustainability. Having more predictable funding might increase interest in the program.

C) **Accessory Dwelling Unit (ADU) Conversion Loan Program ($4M)**. The City could design a complement to Alameda County's ADU loan program, assisting low-income homeowners to renovate their homes to add housing units in the form of Accessory Dwelling Units.

Alameda County authorized a portion of Measure A1 funds to assist low-income homeowners to create new units within their existing home, called an "attached ADU". This program will improve local housing stock, and help low-income homeowners age in place, support family and caregivers, and/or generate income to

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[2] https://www.landed.com/how-it-works

reduce cost burden. The County also provides additional loan funding to address health and safety deficiencies and/or incipient code violations that must be addressed as part of the ADU conversion. Alameda County selected Habitat for Humanity to administer this program.

An initial design idea is to provide loans of up to $100,000 to homeowners with incomes below 120% AMI (currently $125,500 for a family of 3). Homeowners below 80% AMI income could be directed to apply to the County's program first. Like Alameda County's program, City loans could support typical hard and soft costs associated with this type of conversion. These include materials, labor, permits, design and loan processing fees. The resulting units could be used to house family members, aides, or rented out, creating an income stream for the low-income homeowner.

Staff would need to return with program guidelines, and will examine options for neighborhood-based targeting to ensure equity.

D) **Expand Senior & Disabled Rehabilitation Loan Program to Qualifying Low-Income Families ($4M).** The City's current program helps low income senior and disabled homeowners repair/modify their homes to eliminate conditions that pose a threat to their health and safety and allow them to stay in Berkeley while preserving the City's housing inventory. Qualified borrowers can receive interest-free loans of up to $100,000 that are deferred until the property is sold or transferred, or the loan reaches maturity. This program is currently limited to senior or disabled households earning up to 80% AMI (currently $83,680 for a family of 3).

Expanding this program to include all income-qualifying families will increase its scope and help more middle and low-income people improve and ultimately remain in their homes over the long term. This program slows the loss of people of color, facilitates an improved local housing stock and improves neighborhood stability. Alameda County has a similar program that is offered in conjunction with its ADU loans—borrowers can address health and safety issues before adding an ADU. Staff would need to return with program guidelines, and examine options for neighborhood-based targeting to ensure equity.

<u>Timing of Bond Issuance</u>

The program ideas outlined above place the majority of Measure O funds into HTF projects, so should council move in this direction, spending on those projects would strongly influence the timing of funds. Measure O completely changes the outlook for the HTF, which has not had significant, predictable funding in the past. After Berkeley Way and Oxford Street, the City's affordable housing pipeline includes only Bay Area Community Land Trust's 1638 Stuart Street project (which has a predevelopment loan) and RCD's 2001 Ashby development (which has applied for a predevelopment loan). In order to use the Measure O funds, the City will first need to grow its pipeline of future projects. Staff recommend releasing a Notice of Funds Available in 2019 to request predevelopment applications.

Various opportunity sites in the City may be candidates for Measure O funding: the properties at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Ashby BART, and West Berkeley Service Center. Before the City will be able to spend Measure O funds on these sites, the City will need to identify priorities for these sites, conduct competitive processes to select developers, and work with the selected developers. Similarly, BART would need to initiate development work at the North Berkeley BART station. While City funds are typically reserved (set aside) for projects during the predevelopment period, the City does not expend the funds until projects obtain all their entitlements and other funding, and start construction, a process which can take years. Staff recommend that Council prioritize any of these sites that the City wishes to develop so that work can begin and Measure O funds reserved. Without a plan for those sites, it is possible that all Measure O funds could be committed before they are ready for funding.

Staff recommends an initial bond issuance in late 2019 of at least $19.5M for projects expected to start construction in late 2019 (Berkeley Way and 1601-1603 Oxford Street, assuming successful funding applications this year), $1M for HTF predevelopment loans, and $2M for Small Sites projects. Depending on Measure O priorities and timeline, the City could also consider a $6.3M loan for RCD’s acquisition of the CCFCU site by September 2019. Additionally, there may be costly rehabilitation projects the council wants to consider for the first issuance. Staff have identified about $14M in rehabilitation needs at existing Housing Trust Fund portfolio projects, in addition to any funds needed to rehabilitate Oregon Park Senior Apartments.

<u>Accountability Requirements</u>

Staff recommend that all uses for Measure O funds involve public participation and oversight consistent with the requirements identified by the measure. Each proposed program could include a public participation process similar to those in place for the HTF and community agency funding programs, including public hearings on needs and commission review of applications.

The bond language includes an oversight body to monitor the use of Measure O funds. Staff recommend that the new oversight board recommend specific programs and priorities for the Measure O dollars, and monitor progress on allocating and expending funds.

Staff recommend that the Council assign review of applications for all HTF dollars to the same body so that City funds for larger multifamily housing developments can continue to be administered in a coordinated way. The HTF allows the City to combine its multiple sources of funding for housing development—primarily HOME, CDBG, and various mitigation fees—into a single loan program. Maintaining separate oversight bodies for HTF and Measure O funds would make it more difficult to administer the City's funds in concert.

BACKGROUND

On November 6, 2018, Berkeley voters adopted Measure O to issue $135 million in general obligation bonds to create and preserve affordable housing for low-income households, working families, and individuals including teachers, seniors, veterans, the homeless, and persons with disabilities. The measure requires that all bond funding will be subject to public oversight and independent audits.

ENVIRONMENTAL SUSTAINABILITY

Providing infill affordable and/or workforce housing is generally considered a more environmentally sustainable type of development.

POSSIBLE FUTURE ACTION

At this worksession, Council will provide initial direction for staff to start its work on Measure O implementation, which will start to shape possible future actions. The use of bond funds will be restricted by the ballot measure language.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

In addition to the HHCS program and fiscal staff associated with the programs Council identifies, the City will need to add Planning staffing capacity to focus on affordable housing development, City Attorney time to help develop program guidelines, draft and revise boilerplate loan documents, and support loan transactions and monitoring. Finance will also need additional financial analyst staff support to assist with the process of bond offerings. New administrative costs for the recommended programs represent approximately 10% of total funds.

CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406

Mike Uberti, Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5114

Attachment:

1: Measure O: Projected Units and Development Costs

Attachment 1
Measure O: Projected Units and Development Costs

Program	Target AMI	2018 Income (3 Person Household)	Estimated Units	Measure O Cost Per Unit*	Total Program Budget
Housing Trust Fund Expansion**	<60%	Up to $62,760	414 - 690	$150,000-$250,000	$115,000,000
Small Sites Loan	<80%	Up to $83,680	31 - 58	$200,000-$375,000	$12,000,000
ADU Moderate/Low-Income Development Loan	80%-120%	Up to $125,500	24 - 48	$75,000-$150,000	$4,000,000
Senior/Disabled/ Low-Income Expansion	80%	Up to $83,680	29 - 48	$75,000-$125,000	$4,000,000
Total			**498 - 844**	**$75,000 - $375,000**	**$135,000,000**

* This column reflects the costs for Measure O only. Each project in the ADU and Senior and Disabled Loan Program Expansion will be primarily Measure O funded. Small Sites projects will include a bank loan. Each HTF project is likely to leverage multiple local, state, and federal sources. The total projected units and price per unit will vary depending on factors including project scope, targeted AMI/population, timing, and leveraged outside funds.

** These HTF projections are based on staff calculations for competitive, tax-credit financed projects for low-income AMI households. City contributions would need to be increased per-unit to support workforce/teacher housing for moderate income households, which would change the number of projected units.