



Office of the Mayor

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CONSENT CALENDAR  
June 11, 2019

To: Members of the City Council

From: Mayor Jesse Arreguin, Councilmember Kate Harrison, Councilmember Sophie Hahn, and Councilmember Lori Droste

Subject: Measure O Affordable Housing Bonds and a Request for Proposals from the City's Housing Trust Fund

RECOMMENDATION

Adopt a Resolution:

1. Directing the City Manager to prepare any documents required to use Measure O bond funds and Housing Trust Funds to fulfill existing funding reservations for the Berkeley Way and 1601 Oxford affordable housing projects; and
2. Directing the City Manager to release a Request for Proposals (RFP) under the City's Housing Trust Fund (HTF) guidelines for affordable housing development with a priority given to projects meeting certain readiness criteria, to be funded by the balance of the first issuance of Measure O funds (estimated at \$30M) and the Housing Trust Fund that remain after fully funding the projects identified above; and
3. Directing the Measure O Bond Oversight Committee:
  - a. To act in any role specified for the Housing Advisory Commission in the HTF Guidelines for the purpose of this RFP for both Measure O and existing HTF funds,
  - b. To be responsible for providing both general priority recommendations and project-specific funding recommendations for Measure O bonds to the City Council; and
  - c. To add the Housing Advisory Commission's Chair to the committee as an ex-officio, non-voting member; and
4. Approving certain waivers of the HTF Guidelines to ensure timely funding awards in this funding round and allow for consideration of a Berkeley Unified School District-sponsored educator housing development serving households at up to 120% of Area Median Income.

POLICY COMMITTEE RECOMMENDATION

On May 16, 2019, the Land Use, Housing & Economic Development Committee adopted the following action: M/S/C (Arreguin/Hahn) to send the item to the full Council with a Positive Recommendation. Vote: All Ayes.

BACKGROUND

On November 6, 2018, Berkeley voters approved Measure O, authorizing the City to issue up to \$135M in general obligation bonds to support the development, rehabilitation, and preservation of affordable housing for extremely low-, very low-, low-, median-, and middle-income households, including teachers, seniors, veterans, the homeless, students, people with disabilities, and other vulnerable populations. The City's bond counsel indicated that up to \$30M in Measure O funds can be reserved through the first issuance in late 2019 or early 2020. In addition to a predevelopment loan, Council reserved \$23.5M for Berkeley Way. Of that Berkeley Way reservation, \$14M will be for the project's capitalized operating reserve which is not a Measure O-eligible expense and will require a local funding source, such as mitigation fees in the HTF or General Funds received pursuant to Measure U1. The BHA's recent approval of project-based Section 8 vouchers is expected to greatly reduce this need. Council also reserved \$6M in funding for 1601 Oxford on October 16, 2018. All funds requested for 1601 Oxford are Measure O eligible. To date, Council has not identified sources of funding for the reservations.

On May 9, 2019, the Berkeley Housing Authority board voted to allocate a total of 75 project-based Section 8 vouchers to the project, including 53 for the permanent supportive housing component. If the project can satisfy all of the voucher program's requirements during this calendar year, these vouchers will significantly reduce the need for the \$14M capitalized operating reserve. The project may still need to include a smaller, funder-required operating reserve; BRIDGE is currently revising the budget in preparation for work with City staff on examining this issue. Since the project is still waiting on state funding awards and the operating subsidies still require closer examination, the attached resolution does not yet specify the sources for meeting the project's funding reservation. Staff will work with BRIDGE with a goal of reducing the total amount of City funds needed and minimizing the amount of non-Measure O funds (i.e. General Funds received pursuant to Measure U1, mitigation fee revenue, and other funding sources for the Housing Trust Fund.)

On June 13, 2017, with Resolution 68,025-NS, Council made the full funding of the Berkeley Way project the first priority for funds allocated to the HTF program. Until the reserve needs of that project have been finalized, HTF program funds are not available for other projects. Therefore, although projects can apply for HTF predevelopment funding at any time, there are no funds currently available. Staff have determined that Measure O funds cannot be used for predevelopment, but the City could provide a predevelopment loan from another source for example, General Funds received pursuant to Measure U1, and then a Measure O funded loan could repay the predevelopment loan at the time of construction start and stay in the project as permanent financing. Satellite Affordable Housing Associate's predevelopment loan for 2527 San Pablo Avenue has been recommended for funding by the Housing Advisory Commission, but is still outstanding since no funds are currently available for predevelopment loans. The Council could consider making a pool of General Funds available for predevelopment loans.

The HTF program has a current balance of approximately \$4.5M. HTF funds include funds generated through local impact and mitigation fees and approximately \$1M in federal HOME funds. The HOME funds carry commitment and expenditure requirements, and staff would need to review existing projects and proposed projects for suitability with the HOME program requirements. The HTF Guidelines were adopted to

formalize the processes and standards for awarding City HTF funds. The guidelines include certain thresholds for borrower eligibility, and standards for developer capacity. The HTF Guidelines require projects to restrict at least 60% of the units to households earning below 30% and 60% AMI. The guidelines identify the Housing Advisory Commission as the public body designated to make recommendations on funding priorities and recommendations for affordable housing. HTF guidelines are being updated to remove duplicative requirements and help streamline processes, but the revisions will not be finalized prior to the RFP issuance.

#### CURRENT SITUATION AND ITS EFFECTS

Assuming a \$30M issuance of Measure O bond funds later this year, the City will have approximately \$34.5M in Measure O bond funds and HTF funds for affordable housing developments. The City has already reserved \$29.5M for the Berkeley Way and 1601 Oxford projects for which funding sources have not previously been identified.

The attached resolution prioritizes using those funds for \$29.5M in existing reservations for Berkeley Way and 1601 Oxford. However, due to Berkeley Way's proposed funding including up to \$14M for a capitalized operating reserve it is likely that the \$29.5M could be greatly reduced or eliminated due to project-based Section 8 vouchers approved by the Berkeley Housing Authority and described in more detail in the Background, resulting in these funds being returned to the Measure O/HTF pool of funds and available for other projects. The purpose of the capitalized operating reserve is to subsidize homeless tenant rents for about 16 years, and it is not Measure O- or HOME-eligible; these funding requires another local source (general fund/U1). Staff will be working with BRIDGE to minimize the impact of the funding need from local sources.

The Measure O funds and HTF funds remaining after both Berkeley Way and 1601 Oxford are fully funded can then be combined into a Request for Proposals (RFP). This RFP would make approximately \$14.5M in Measure O funds available; HTF funds will be dependent on the need to capitalized Berkeley Way's operating reserve noted above. Due to the anticipated demand for City funding, it is recommended that projects are prioritized based on how far along they are in the predevelopment process, in addition to typical criteria such as developer capacity and project feasibility. Eligible proposals include applications for acquisition, development, or renovation of projects for the purpose of creating or preserving affordable housing units. Since HTF guidelines allow projects to apply for predevelopment funding at any time, the emphasis of this RFP would be development loans for permanent financing, provided at the time of construction.

The RFP would be issued based on the HTF Guidelines, with certain sections waived to mitigate duplicative processes and facilitate the expedient reservation of funds. Specifically, the City would waive sections related to noticing neighbors within a certain radius of the proposed project, which is already required by Planning as part of the entitlement process. The City would also waive the requirement to solicit feedback on RFP priorities and applications from City commissions, other than the Measure O Bond Oversight Committee, which can add several months to the RFP process, particularly during the summer when commissions meet less frequently. This would in no way preclude commissions from providing feedback at any point in the process.

Based on actions taken by the Land Use, Housing & Planning Policy Committee on May 16, 2019, the resolution creates the opportunity for Berkeley Unified School District-sponsored projects serving educator households earning up to 120% of the Area Median Income to be considered in this RFP. These projects would otherwise not meet the HTF guidelines' affordability requirements.

In addition, the attached Resolution establishes the Measure O Bond Oversight Committee as the body to assume any roles delegated to the Housing Advisory Commission in the HTF Guidelines for the purpose of this RFP. This includes providing input on RFP priorities, reviewing applications, and making funding recommendations to Council for both the Measure O funds and any available balance of the HTF program that is left after fully funding Berkeley Way.

At its May 15, 2019 meeting, the Measure O Bond Oversight Committee approved correspondence (Attachment 1) expressing interest in providing both general recommendations on priorities for Measure O bond funds and the distribution of funds to eligible areas, and specific recommendations on the use of Measure O funds for specific projects. The attached resolution provides that direction. Staff recommend that for each new priority area, the City develop administrative guidelines and competitive processes before awarding funds for specific projects.

The proposed HTF Program RFP, using both Measure O bond funds and the HTF balance, subject to input and recommendations by the Measure O Bond Oversight Committee, is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

#### RATIONALE FOR RECOMMENDATION

Allocating Measure O and HTF funds to Berkeley Way and 1601 Oxford will facilitate moving these projects forward to construction on schedule and help the City identify the types and amounts of funding available for other affordable housing projects. Issuing an RFP will allow the City to identify a pipeline for future projects and facilitate a transparent and fair public process to provide financial support for affordable housing developments. These recommendations were discussed and supported by the Land Use, Planning & Economic Development Policy Subcommittee at its May 16, 2019 meeting and at Staff presentations on January 15, 2019 Measure O worksession report, and the Land Use, Housing & Economic Development Policy Committee reports from April 25, 2019 and May 2, 2019.

#### FISCAL IMPACTS OF RECOMMENDATION

These recommendations will commit up to \$30M in Measure O funds and up to the available balance of the Housing Trust Fund (currently approximately \$4.5M) to affordable housing developments.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

#### CONTACT PERSON

Mayor Jesse Arreguín, 510-987-7100

**Attachments:**

- 1: May 15, 2019 Correspondence from the Measure O Bond Oversight Committee
- 2: Resolution

## Attachment 1: Correspondence from the Measure O Bond Oversight Commission

May 15, 2019

Dear Honorable Members of the Land Use, Housing and Economic Development Policy Committee:

The Measure O Bond Oversight Committee (“MOBOC”) respectfully submits this letter in order to share our desired role and responsibilities.

As you know, the Measure O ballot question stated that the use of Measure O funds would be “subject to citizen oversight and independent audits.” Additionally, the Measure O impartial analysis stated, in part, that Measure O “include[d] financial accountability requirements to ensure that the expenditure of Bond proceeds will be used only for the purpose of financing affordable housing projects and related costs. Financial accountability measures include an annual independent financial audit and oversight by an independent oversight committee to ensure that Bond proceeds are expended to finance affordable housing projects.” MOBOC enthusiastically embraces its role as an independent oversight committee and we look forward to fulfilling this required responsibility.

MOBOC is also interested in, and believes it has the expertise to be entrusted with, additional responsibilities regarding the use of Measure O funds and affordable housing funds more broadly. MOBOC respectfully requests that it be tasked with the following responsibilities:

- To provide **general recommendations** to the City Council on (a) the priorities for Measure O funds as well as (b) the distribution of Measure O funds for eligible program areas
- To provide **specific recommendations** as to the use of Measure O funds for specific projects (e.g., Berkeley Way)

To the extent the Land Use, Housing & Economic Development Policy Committee feels that it is appropriate and would not contribute to procedural duplication, MOBOC also would be interested in taking on the same responsibilities (i.e., providing general and specific recommendations) with respect to other affordable housing funding sources (e.g., General Fund.)

At its May 15, 2019 meeting, the MOBOC took the following vote in support of this letter:

Action: M/S/C (Tregub/Calavita) to send a letter, with edits noted, to the Land Use, Housing and Economic Development Policy Committee outlining the Committee’s desired roles and responsibilities.

Vote: Ayes: Calavita, Cutler, Daniels, Marthinsen, Smith and Tregub. Noes: None. Abstain: None. Recused: Oatfield. Absent: Carr (excused) and Williams (unexcused).

June 11, 2019

Thank you for your consideration.

Sincerely,

Josh Daniels, Chair  
On Behalf of the Measure O Bond Oversight Committee

June 11, 2019

RESOLUTION NO. ##,###-N.S.

RESERVING MEASURE O AND HOUSING TRUST FUND PROGRAM FUNDS FOR  
BERKELEY WAY AND 1601 OXFORD, AND ISSUING A REQUEST FOR  
PROPOSALS FOR AFFORDABLE HOUSING DEVELOPMENT PROJECTS

WHEREAS, on November 6, 2018, Berkeley voters approved Measure O, a \$135 million affordable housing bond measure to support the acquisition, development, and renovation of property for the creation or preservation of affordable housing; and

WHEREAS, the City's bond counsel indicated that approximately \$30 million is available for the first issuance of Measure O bonds; and

WHEREAS, City Council established a Housing Trust Fund Program (the "HTF Program") to assist in the development and expansion of housing affordable to low and moderate income persons who either work or reside within the City of Berkeley; and

WHEREAS, the HTF Program has approximately \$4.5 million in uncommitted funds, which, combined with the first issuance of Measure O bonds, creates \$34.5 million in City funds available to support affordable housing development projects; and

WHEREAS, on June 26, 2018 and December 4, 2018, Council made two reservations of development funding for Berkeley way totaling \$23.5 million, of which \$9.5 million is Measure O-eligible; and

WHEREAS, on October 16, 2018, Council reserved \$6 million for the development of 1601 Oxford; and

WHEREAS, City Council did not identify the source(s) of funds to be used for the Berkeley Way and 1601 Oxford reservations; and

WHEREAS, City Council appointed a Measure O Bond Oversight Committee to oversee Measure O funding and confirm that expenditures meet the intent of the measure; and

WHEREAS, City Council adopted HTF guidelines (the "Guidelines"), as revised on April 5, 2016, and authorized the City Manager to implement the HTF Program in accordance with the Guidelines; and

WHEREAS, the HTF Guidelines designate the Housing Advisory Commission to make funding recommendations to Council for HTF funds; and

WHEREAS, the City has not adopted Measure O-specific guidelines for administering and reserving the bond funds; and

WHEREAS, the HTF Guidelines currently require developments that receive HTF funding to establish rent limits below the threshold criteria for Moderate Income households that would exclude many households employed by the Berkeley Unified School District.



June 11, 2019

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to prepare any documents required to use funds from the Measure O bond and Housing Trust Fund Program to fulfill existing funding reservations for the Berkeley Way and 1601 Oxford affordable housing projects.

BE IT FURTHER RESOLVED, the City Manager is hereby authorized to issue a Request for Proposals for the balance of the Measure O and HTF Program funds remaining after the Berkeley Way and 1601 Oxford reservations are fulfilled, estimated at up to \$19 million, which will be made available for affordable housing developments and prioritized for projects meeting certain readiness criteria.

BE IT FURTHER RESOLVED, that the Measure O Bond Oversight Committee will:

1. Act in any role specified for the Housing Advisory Commission in the HTF Guidelines for the purpose of both Measure O and funds in the Housing Trust Fund balance for this RFP; and
2. In the implementation of Measure O, provide both general priority recommendations and project-specific funding recommendations to the Council; and
3. Add the Housing Advisory Commission's Chair to the committee as an ex-officio, non-voting member.

BE IT FURTHER RESOLVED, that the Request for Proposals will be issued in accordance with the HTF Guidelines, with the following sections waived to encourage an expedient process:

1. Section VI.C.5, which requires that staff solicit recommendations for housing priorities from interested commissions.
2. Section VI.B.3.c and VI.B.3.d, which require that staff forward proposal summaries to the Planning Commission, Zoning Adjustments Board, and the Commission on Disability.
3. Section VI.B.3.e, which requires that written notice of the public hearing be given to neighbors within 300 feet of the proposed project.
4. For applications for educator-serving housing sponsored by the Berkeley Unified School District (BUSD), Section VI.A.1.a which establishes rent restrictions. Units funded in BUSD-sponsored educator housing will be limited to households earning up to Moderate Income with associated rent limits. The Guidelines define Moderate Income as up to 120% of the Area Median Income.

