



Housing Advisory Commission

HOUSING ADVISORY COMMISSION

AGENDA

Special Meeting
Thursday, March 4, 2021
7:00 pm

Mike Uberti, Secretary
HAC@cityofberkeley.info

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Housing Advisory Commission will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://zoom.us/j/95339567365>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial +1 669-900-6833 and Enter Meeting ID: 953 3956 7365. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Housing Advisory Commission by 5:00 p.m. the day before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record. City offices are currently closed and cannot accept written communications in person.

All agenda items are for discussion and possible action.

Public comment policy: Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may also comment on any item listed on the agenda as the item is taken up. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

1. **Roll Call**
2. **Agenda Approval**
3. **Public Comment**
4. **Approval of the February 10, 2021 Special Meeting Minutes (Attachment 1)**
5. **Discussion and Possible Action on the City of Berkeley's Draft Annual Action Plan (AAP) PY 2021 for Department of Housing and Urban Development (HUD) – All/Staff (Attachment 2)**

6. **Discussion and Possible Action on Affordable Housing Development Funds: Ashby and North Berkeley BART Station Areas and Future Housing Funding NOFAs – All/Staff (Attachments 3-4)**
7. **Update on Council Items (Future Dates Subject to Change) – All/Staff**
8. **Announcements/Information Items**
9. **Future Items**
10. **Adjourn**

Attachments

1. Draft February 10, 2021 Special Meeting Minutes
2. Rhianna Babka, HHCS, Draft Annual Action Plan (AAP) PY 2021
3. Mike Uberti and Jenny Wyant, HHCS, Affordable Housing Development Funds: Ashby and North Berkeley BART Station Areas and Other Notices of Funds Available (NOFAs)
4. Abigail Thorne-Lyman, BART, Berkeley BART Station Transit-Oriented Development – Affordable Housing Funds

Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Secretary of the commission. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary for further information.

Written communications addressed to the Housing Advisory Commission and submitted to the Commission Secretary will be distributed to the Commission prior to the meeting. This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.

COMMUNICATION ACCESS INFORMATION:



To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.



HOUSING ADVISORY COMMISSION
Wednesday, February 10, 2021

Housing Advisory Commission

Time: 7:03 pm
Held via Video and Teleconference

Secretary – Mike Uberti
HAC@cityofberkeley.info

DRAFT MINUTES

1. Roll Call

Present: Sara Fain, Xavier Johnson, Libby Lee-Egan, Mari Mendonca, Alexandria Rodriguez, Ainsley Sanidad, Maryann Sargent, Leah Simon-Weisberg, and Marian Wolfe (departure at 9:33).

Absent: None.

Commissioners in attendance: 8 of 8

Staff Present: Amanda Montez, Alisa Shen, Mike Uberti

Members of the public in attendance: 48

Public Speakers:17

2. Agenda Approval

Action: M/S/C (Wolfe/Rodriguez) to approve the agenda.

Vote: Ayes: Fain, Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Sargent, Simon-Weisberg, and Wolfe. Noes: None. Abstain: None. Absent: None

3. Public Comment

There were fourteen speakers during public comment.

4. Approval of the January 20, 2021 Special Meeting Minutes

Action: M/S/C (Mendonca/Wolfe) to accept the January 20, 2021 Special Meeting Minutes.

Vote: Ayes: Fain, Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Sargent, Simon-Weisberg, and Wolfe. Noes: None. Abstain: None. Absent: None

5. Officer Elections

Action: M/S/C (Simon-Weisberg/Wolfe) to elect Maryann Sargent as the Chair of the Housing Advisory Commission.

Vote: Ayes: Fain, Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Sargent, Simon-Weisberg, and Wolfe. Noes: None. Abstain: None. Absent: None.

Action: M/S/C (Mendonca/Simon-Weisberg) to elect Xavier Johnson as the Vice Chair of the Housing Advisory Commission.

Vote: Ayes: Fain, Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Sargent, Simon-Weisberg, and Wolfe. Noes: None. Abstain: None. Absent: None.

6. Discussion and Possible Action on Housing Trust Fund Subcommittee Predevelopment Loan Application Recommendations

- a. Community Housing Development Corporation/St. Paul AME's Application for 2024 Ashby Avenue

Action: M/S/C (Simon-Weisberg/Mendonca) to adopt the Housing Trust Fund Subcommittee's recommendation to recommend Council approve Community Housing Development Corporation/St. Paul AME's Predevelopment Loan Application for 2024 Ashby Avenue.

Vote: Ayes: Fain, Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Sargent, and Simon-Weisberg. Noes: None. Abstain: Wolfe. Absent: None.

- b. Community Housing Development Corporation/Ephesians Church of God In Christ (ECOGIC)'s Application for 1708 Harmon Street

Action: M/S/C (Simon-Weisberg/Mendonca) to adopt the Housing Trust Fund Subcommittee's recommendation to recommend Council approve Community Housing Development Corporation/Ephesians Church of God In Christ (ECOGIC)'s Predevelopment Loan Application for 1708 Harmon Street.

Vote: Ayes: Fain, Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Sargent, and Simon-Weisberg. Noes: None. Abstain: Wolfe. Absent: None.

7. Discussion on Affordable Housing Development Funds: Ashby and North Berkeley BART Station Areas and Future Housing Funding NOFAs

Public Comment: 3

Action: M/S/C (Sargent/Simon-Weisberg) to extend the meeting to 9:45pm

Vote: Ayes: Fain, Johnson, Mendonca, Rodriguez, Sanidad, Sargent, and Simon-Weisberg. Noes: Lee-Egan and Wolfe. Abstain: None. Absent: None.

8. Update on Council Items (Future Dates Subject to Change)

9. Announcements/ Information Items

- a. Temporary Suspension of Certain Provisions of the Commissioners' Manual for Subcommittees

10. Future Items

11. Adjourn

Action: M/S/C (Mendonca/Rodriguez) to adjourn the meeting at 9:43 pm.

Vote: Ayes: Fain, Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, Sargent, and Simon-Weisberg. Noes: None. Abstain: None. Absent: Wolfe (unapproved).

Housing Advisory Commission Special Meeting Minutes
February 10, 2021
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Approved:
_____, Mike Uberti, Secretary



Health Housing and
Community Services Department
Housing & Community Services Division

MEMORANDUM

To: Housing Advisory Commission (HAC)
From: Rhianna Babka, HCS, Community Services Specialist III
Date: February 22, 2021
Subject: **Draft Annual Action Plan (AAP) PY 2021**

Each year, HCS staff prepares and submits an Annual Action Plan (AAP) which identifies how the City plans to spend federal Department of Housing and Urban Development (HUD) funds. This report is typically due in May of each year. The current draft plan outlines how the City of Berkeley will spend its Community Development Block Grant (CDBG), HOME Investment Partnership Program (HOME) and Emergency Solutions Grant (ESG) funds for the federal program year (PY) 2021 which corresponds to the City's fiscal year (FY) 2022. The HAC acts as the advisory commission to Council on the allocation of CDBG, HOME and ESG funds.

The City of Berkeley has not yet received notice of our entitlement amount, therefore the budget shown in the draft AAP is an estimate based on PY20 entitlement.¹ We have, as in past years, estimated a 2% reduction in CDBG funding, which is standard practice to allow for the likelihood that more jurisdictions will become eligible for this funding, and both HOME and ESG are estimated as unchanged.

The draft CDBG budget includes estimated program income and unused funds and proposes allocations for eligible categories and activities. The allocations also include the HAC's recommendations, and Council-adopted, four-year (PY19-23/FY20-24) community agencies awards for both public and housing services.

The budget in the AAP sets aside approximately 5% of HOME funds for CHDO operating funding. This is the maximum amount available under HOME regulations and has been budgeted at this level for over a decade (except during PY20, when HOME issued a waiver during COVID-19 to temporarily increase it up to 10%).

¹ Note: The entitlement amount does not include the CARES Act funds that the City received in PY20.

The City is proposing continued use of ESG funds for the eligible categories of Rapid Rehousing and Emergency Shelter/Outreach, and with a small amount supporting the City's contribution to the Homeless Management Information System (HMIS).

At your March 4, 2021 meeting the HAC shall consider, discuss and make a recommendation to Council on the PY21 AAP. The final draft AAP will then be submitted for the April 27, 2021 Council meeting, which is also a Public Hearing on the AAP.

Below is the link to the webpage where the draft Annual Action Plan will be made available on Friday February 26, 2021. This is the same link where you can find the final plan upon Council adoption, and prior plans.

Link: <https://www.cityofberkeley.info/ContentDisplay.aspx?id=12160>



Department of Health, Housing
& Community Services

To: Measure O Bond Oversight Committee
Housing Advisory Commission

From: Jenny Wyant, Community Development Project Coordinator
Mike Uberti, Community Development Project Coordinator

Subject: Affordable Housing Development Funds: Ashby and North Berkeley BART
Station Areas and Other Notices of Funds Available (NOFAs)

Date: March 1, 2021

This report is a companion to the Department of Planning & Development's February report on the Ashby and North Berkeley BART station areas.¹ The purpose of this report is to solicit Commission recommendations to Council about funding options for the BART station areas as well as other projects likely to seek City affordable housing funding.

The same report is being provided to the Housing Advisory Commission (HAC) and the Measure O Bond Oversight Commission (MOBOC) because of its complex and interrelated content. Commissioners should keep in mind the respective areas each Commission advises Council on: MOBOC is charged with overseeing the use of Measure O funds, while the HAC is charged with housing policy generally, the Housing Trust Fund program, and Measure U1 funds.

RECOMMENDATION

Staff recommends the following three-pronged approach for City action to reserve housing funds for the BART sites and other City housing priorities:

For the Ashby and North Berkeley BART sites:

1. Reserve \$40 million of City's Measure O funds and pledge at least \$13 million in future Affordable Housing Mitigation Fees and/or a new source of revenue to be identified no later than 2024 in order to cover the balance of \$53 million currently estimated City subsidy needed for 35% affordable housing at the

¹ See 2/1/21 Staff Report, Agenda Item 5 available online at:
https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/_2021-02-01_MOBOC%20Agenda%20Packet.pdf

- Ashby and North Berkeley BART sites, and; allow for a portion of the funding (to be determined at a later date) to be considered for predevelopment.
2. Refer to the City Manager to investigate a new bond measure that could fund housing and/or infrastructure needs at the two BART sites and in the Adeline Corridor, or in the City as a whole.

For Other City Housing Priorities:

In order that housing funds can be made available this year, staff ask the Commissions to recommend the following actions to Council, modified as needed to be consistent with the BART funding option identified:

3. Release one or more NOFAs to support development of new affordable housing projects or rehabilitation of existing affordable projects using the balance of any remaining Measure O funds available beyond the BART commitment, Permanent Local Housing Allocation (PLHA) funded operating subsidies for homeless households and PLHA funds for housing rehabilitation, as well as HOME funds and the balance of City Housing Trust Funds using the Housing Trust Fund Guidelines and operating subsidy guidance established by staff, and reviewed by the Housing Advisory Commission.

SUMMARY

This report is intended to assist the MOBOC and HAC in making a recommendation to Council on funding for the BART station areas, the Adeline Corridor Planning Area, and/or, recommendations for issuing NOFAs this year. The following is a summary of the range of requests for City affordable housing funding:

1. City and BART MOU minimum threshold of 35% affordable housing for both BART sites. The City has entered into a Memorandum of Understanding with BART related to the station areas which agreed to identify funding for these sites within an agreed-upon timeframe of April 2021. While there are many important outstanding questions that still need to be resolved, analyses based on what we know today estimate that **\$53 million** in City subsidy will be needed. Given that achieving 35% or higher affordable housing is estimated to take 11 to 17 years or more and over multiple phases of development to complete, the total amount of City subsidy may not be needed in one lump sum, but phased over time.²

² Memorandum prepared by Street Level Advisors (January 21, 2021). See Measure O Bond Oversight Committee 2/1/21 Staff Report, Agenda Item 5, Attachment 1.

2. As part of adoption of the Adeline Corridor Specific Plan (December 2020), the Council referred two items related to the MOBOC and HAC:
 - Reserve \$50 million of Measure O funds for the Ashby BART station and/or Adeline Corridor Plan Area; and
 - Refer to the City Manager to develop a policy for the Affordable Housing Mitigation Fees collected from projects in the Adeline Corridor Planning Area to be placed in a fund dedicated for affordable housing at the Ashby BART site.
3. There are also many other potential requests for City affordable housing funding, including potential projects that are in very early stages of planning, as well as funding for programs.

This report provides information about the currently available and reserved City affordable housing funding; known funding requests; and advantages and challenges of various options to fulfill the requests. Since there is a greater need for funding identified than funds currently available, this report outlines a recommended approach for the Commissions to consider in order to balance reserving sufficient funding for the BART sites without turning away fundable projects that could be providing much needed housing even sooner.

CURRENT SITUATION AND ITS EFFECTS

This section provides information about available City affordable housing funding sources (current and projected); estimated potential requests for such funding for the Ashby and North Berkeley BART sites and other housing priorities, and; options for the Commissions to consider as a basis for their recommendations to City Council.

A. Available City Affordable Housing Funding

The City's sources of available funding for affordable housing are summarized in this section and in **Table 1** below.³

The largest source of funding controlled by the City comes from Measure O, which Berkeley voters passed in 2018. Out of the \$135 million in general obligation bonds that may be issued, approximately \$59 million is still available.⁴ Measure O's affordable

³ Currently reserved City affordable housing funding is summarized below in **Table 4** in the Background section of this report.

⁴ This amount is \$2M less than noted in 02/01/2021 MOBOC meeting staff report based on the updated amount reserved for the Berkeley Unified School District (BUSD) Notice Of Funding Availability (NOFA), \$22M instead of \$20M.

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. 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.

Table 1. Current Available and Projected Affordable Housing Funding Sources

Source	Amount	Notes
Measure O*	\$59M	Amount available after funds reserved for specific projects, including an allowance of \$22M for a BUSD-sponsored project. Staff anticipate \$2M in 2022, \$35M in 2025, and \$22M in 2027. All funds must be expended within five years of issuance.
Measure U1	\$2.5M	Anticipated available for HTF activities in FY2023, pending availability of revenue. This amount could be lower if commercial tax revenue is lower than projected.
Permanent Local Housing Allocation (PLHA)	\$3M	Anticipated available for HTF rehab activities in FY2023-2025, pending availability of revenue. These are not included in the total for the BART sites since the City's application designated them for rehabilitation. All PLHA funds must be spent by 6/30/2030. Annual allocations will not be distributed if current year's uncommitted funds exceed the following year's allocation.
HTF ²	\$3.4M	Balance currently available less amounts requested by CHDC/St. Paul AME and CHDC/Ephesians for predevelopment and SBNDP rehab project.
Total	\$67.9M	

Note: *This amount is \$2M less than noted in 02/01/2021 MOBOC meeting staff report based on the updated amount reserved for the BUSD NOFA, \$22M instead of \$20M. This HTF amount currently does not account for any HOME funds but City will likely receive more next fiscal year, typically around \$1M per year.

B. Estimated City Subsidy Needed for Ashby and North Berkeley BART

There are major outstanding questions critical to pinpointing the exact amount and timing of City subsidy needed to fulfill the City-BART MOU minimum requirement of 35% affordable housing at both BART sites (or higher). These questions include what the actual design of the proposed development will be, including the amount of BART patron parking and other desired community amenities.⁵ Because the subsidy needs are so high, the City cannot wait until all of these questions are settled and must begin planning for sources for the City's contribution to the development of these sites.

As noted in more detail in the Planning & Development Department's February 1, 2021 staff report, Street Level Advisors estimates that achieving the minimum 35% affordable housing goal outlined in the City-BART MOU will require **approximately \$53 million** in affordable housing subsidy from the city of Berkeley. Among the different projected development scenarios modeled, this estimate of City subsidy required was selected because it corresponds with zoning standards that must be accommodated according to AB 2923.^{6,7} This estimate assumes funding projects by 2025. Alternatively, if it is assumed that these projects are phased over a 10-year period the total city funding need increases to \$55 million due to expected cost increases.

Because of the uncertainty in the timing of completion of the affordable housing projects at these BART sites, it may be prudent for the City to avoid tying up all of its currently available funding for a period of 15 years or longer. Given that achieving 35% or higher affordable housing is estimated to take 11 to 17 years or more and over multiple phases of development to complete, the total amount of City subsidy may not be needed in one lump sum, but phased over time. This is particularly true if the City intends to plan for exceeding the minimum 35% requirement. Exceeding 35% affordable housing at either site would require a new source of funding, possibly one which will require approval by Berkeley voters. **Table 2** below presents one scenario for the timing of funding need for a set of five separate affordable housing projects at the two sites.

⁵ See Background section of this report for more information about a parallel, grant-funded station access and parking management study BART has initiated.

⁶ See Table 9, Attachment 1 of Staff Report (2/1/21) available online:
https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/2021-02-01_MOBOC%20Agenda%20Packet.pdf

⁷ Because Assembly Bill 2923 (AB 2923) requires that the zoning standards for the sites allow development of at least 7 stories, the conceptual site design using a 7-story building height at each BART site (estimated at 850 apartments at Ashby and 775 apartments at North Berkeley) was selected to further model potential project phasing various levels of affordability. 35% affordable at both sites would result in 298 affordable units at Ashby and 271 at North Berkeley. These development projections for the BART sites are conceptual only, for the purposes of analyzing potential City subsidy needed and to inform development of zoning consistent with AB2923.

Table 2. – Street Level Advisors’ 1/21/21 Memorandum, Table 12: Hypothetical Project Funding Timeline (35% Affordable at Both Sites) – City Subsidy⁸

# Units Per Project Phase	2025	2026	2027	2028	2029	2030	2031	2032
Ashby								
Ashby #1			99					
Ashby #2				99				
Ashby #3								99
North Berkeley								
North Berkeley #1			136					
North Berkeley #2						136		
Ashby	9,253,403	9,531,005	-	-	-	10,727,230		
North Berkeley	12,509,008			13,668,931				
Total	21,762,411	9,531,005	-	13,668,931	-	10,727,230	-	-

C. Other Potential Requests for City Affordable Housing Funding

At this time, staff is aware of the following potential projects that may request City affordable housing funding. For projects #1 through #4 listed in **Table 3** below, staff have provided preliminary estimates based on information currently available. These four projects are currently under predevelopment and will likely require a commitment of local funds in the next 12 to 24 months in order to leverage additional funding from various state and federal programs, including federal or state low income housing tax credits and the State Multifamily Housing Program among others. For the remaining projects #5 through #12, staff is unable to provide actual estimates since the project scope is currently unknown. Assuming a local (City) funding amount of \$200,000/unit, an average project local subsidy of approximately \$10 million for a 50-unit project. However, this estimate could be higher based on unknown future factors including construction costs, total units and housing type. All variables are site specific and cannot be predicted with precision.

⁸ Based on conceptual site design assuming 850 housing units at Ashby and 775 at North Berkeley.

Table 3. Potential Requests City Affordable Housing Funding

Project	Sponsor	Notes
1. St. Paul AME 2024 Ashby Ave.	Community Housing Development Corporation (CHDC)/ St. Paul AME	Has requested predevelopment funds from the City. Projects a future development funding request of \$10.4M. This is very preliminary number and would likely be higher.
2. Ephesians 1708 Harmon St.	CHDC/ Ephesians ECOGIC	Has requested predevelopment funds from the City. Projects a future development funding request of \$10.6M. This is very preliminary number and would likely be higher.
3. 1740 San Pablo Avenue	BRIDGE Housing	HTF Pipeline project may request additional funds due to changes in the financing plan, including not receiving as many Project-Based Section 8 Vouchers as requested. Projects a future development funding request of \$4M.
4. People's Park Permanent Supportive Housing	UC Berkeley / Resources for Community Development	Currently in predevelopment; HHCS has not received a funding request. Projects a future development funding request of \$11M. This is very preliminary number and would likely be higher.
5. Lorin Station / Rosewood Manor Rehabilitation	South Berkeley Neighborhood Development Corp.	City approved \$2.5M for emergency rehabilitation of 49 units (14 @ Lorin, 35 @ Rosewood) to begin Spring/Summer 2021. Owner considering a more comprehensive rehabilitation which would likely require local subsidy.
6. 1001-1011 University Ave.	City	City owned site for redevelopment
7. West Berkeley Services Center	City	City owned site for redevelopment; pending zoning study and Council identification of priorities
8. Oregon Park Apartments	Oregon Park Apartments	Privately owned apartment building housing low-income seniors; has outstanding housing code violations
9. YMCA Conversion	YMCA	YMCA is exploring converting part of its facility to housing
10. 3404 King Street		Rehabilitation needs.
11. Russell Street Residence	Berkeley Food and Housing Project	Board and Care facility; Owner is marketing rented site for \$7M.
12. Various projects in the HTF portfolio	Various	Some properties have rehabilitation needs that exceed available cash flow.

D. Options for Consideration

As noted above, there is a greater amount of City funding needs identified than currently available. Estimates of City subsidy required were based on an assumption of \$200,000 City funding per affordable housing unit.⁹ Potential options to fulfill the City-BART MOU milestone of identifying funding sufficient for at least 35% affordable housing at the BART sites, as well as other City housing priorities are outlined below.

A. Recommended Option:

For the BART sites:

1. *Commit Funding for City-BART MOU Required Minimum of 35% Affordable Over Specified Time Period.* As noted above, because of the uncertainty of the timing of completion of the affordable housing projects at the BART sites, an alternate approach would be for the City to commit and hold a significant amount of its current Measure O funding and pledge other future expected affordable housing funding to the BART projects in the event that the City is unable to identify new funding sources. For example, the City could pledge \$40 million in existing Measure O resources and commit to funding at least \$13 million from a new revenue source to be identified no later than 2024. In order to address the uncertainty of an unidentified source of new funding, the City could pledge the next \$13 million in future Affordable Housing Mitigation Fee (AHMF) revenues received for the BART sites. While the timing of AHMF revenue is uncertain, Berkeley received \$11.3 million in AHMF revenue between 2015 and 2019 (an average of \$2.3M/year), which would cover the remaining need, if necessary.
- *Advantage(s):* In addition to potentially increasing the City's HTF portfolio significantly, this approach would satisfy BART's funding threshold. It would leave at least \$21 million (or more) of Measure O funds available for other housing priorities. Because of the need to phase projects over time, the total amount of City subsidy is not needed all at once; initial phases could move forward. This approach also incorporates the City Council referral to the City Manager to develop a policy to earmark the Affordable Housing Mitigation fees collected from projects in the Adeline Corridor Planning Area to be placed in a fund dedicated for affordable housing at the Ashby BART site. It also gives the City time to pursue a new funding source without delaying the BART projects. An initial commitment of \$40 million would be sufficient to fully fund the first one to two phases of affordable housing at each site. This would allow the City,

⁹ The total project subsidy per unit would be much greater, including state and federal sources. For a more detailed explanation of this assumption see pp.7-11 of Street Level Advisors Memorandum from January 21, 2021 (Link provided at the end of this staff report).

BART and their future development partners to initiate affordable housing projects. Under the terms of the BART MOU, the City would have a greater than typical role in selecting the developer and shaping the project in exchange for this commitment.

- *Challenge(s):* Berkeley's AHMF revenue could fall or be significantly delayed by a broader housing market downturn so that the City would not have the necessary funding for a project by 2033. It is important to note that this would not prevent the project from being built, it might delay this final phase by a few years while the City waited to receive the funding. Alternatively, the City would need to identify another source of funding which was available to be committed to projects by no later than 2028 in order to maintain the pace of development assumed.
2. *Investigate a Bond Measure For the BART Sites, Adeline Corridor and/or City as a whole.* The City could investigate a new bond measure to fund housing at the BART sites and/or infrastructure in the Adeline Corridor or the City as a whole, in combination with the option above.
 - *Advantages:* A bond measure could make more funds available to achieve the equity and affordability envisioned by the community for the BART sites, as well as make funds available for other City housing priorities.
 - *Challenges:* Given the current economic situation and the City's budget, it is not certain whether a bond measure would be feasible or passed by voters.

For Other City Housing Priorities:

3. *Issue One or More NOFAs Using PLHA, HTF, HOME Funds and Any Remaining Balance of Measure O Funds not Dedicated to BART Commitment.*

In 2020, the City was awarded funds from the state's Permanent Local Housing Allocation program. Since program funds come from document recording fees, and the real estate market has undergone changes during the pandemic, it is uncertain whether the \$1.3 million per year projected in 2019 will continue. On July 14, 2020, the City Council adopted a 5-year plan which was submitted to the state for this application. It committed to using the funds for homeless programs in year 1 and 2. In year 3 to 5, the plan specified providing project-based rent subsidies for 10 units for homeless households with 20% of the funds, and the balance (approximately \$1 million per year in years 3-5) for affordable housing rehabilitation. While the PLHA funds may not be used to support new construction of affordable housing developments, they may be used in conjunction with other funds available through the Housing Trust Fund to support the overall program design of a project.

Staff recommends issuing one or more NOFAs using the PLHA, HOME, HTF funds, Measure U-1, and any remaining balance of Measure O funds available for affordable housing development projects using the Housing Trust Fund Guidelines and operating subsidy guidance established by staff to ensure projects meet the program expenditure requirements. Staff recommends that the Housing Advisory Commission review these proposals as part of the process.

B. Other Options:

As noted, the options described below are not recommended because they tie up City affordable housing funds before they are needed for the BART sites, and could preclude other projects that would provide affordable housing sooner.

1. *Commit Funding for City-BART MOU Required Minimum of 35% Affordable Immediately.* As noted above, a planning-level estimate for the amount of City subsidy needed for 35% affordable housing at both BART sites is approximately \$53 million.¹⁰ Reserving \$53 million of the \$59 million available Measure O funds would leave only \$6 million of Measure O funds for other affordable housing projects elsewhere in the City; and \$8.9 million in other housing funds, including HTF, Measure U1 and PLHA funds.
 - *Advantage(s):* In addition to potentially increasing the City's HTF portfolio significantly, this approach would satisfy BART's funding threshold. Under the terms of the BART MOU, the City would have a greater than typical role in selecting the developer and shaping the project in exchange for this commitment.
 - *Challenge(s):* Because of the time and phasing required for even this level of affordability, this would require the City to hold back a substantial amount of potential housing for 11 or more years or more while many possible projects elsewhere in the City (some identified under Background, below) could not be funded.
2. *Commit All Measure O and Measure U1/HTF funds to BART Sites.* Alternatively, the City could commit all available Measure O funds (estimated at \$59M) and the Measure U1 general funds that the Council designated for the HTF program (\$2.5M) to the BART sites in order to increase the affordability level that can be achieved. The PLHA funds listed above have been designated for a rental subsidy program and rehabilitation projects and are not available to use for the BART project. Staff also do not recommend using the current HTF balance for

¹⁰ The estimate of \$53 million is based on a conceptual site design assuming 850 units at Ashby and 775 at North Berkeley on developable areas modeled at seven stories (the lowest possible maximum height required by Assembly Bill 2923) assuming \$200,000/unit of City subsidy.

this; HTF funds are needed to leverage federal HOME funds (typically about \$1M/year), and the City risks not being able to use HOME funds within the time constraints without local funds to use with them.

- *Advantages:* Reserving a higher level of funding increases the percentage of affordable housing that can be attained. The City could still make available PLHA, HTF, and HOME funds for multifamily housing rehabilitation. Under the terms of the BART MOU, the City would have a greater than typical role in selecting the developer and shaping the project in exchange for this commitment.
 - *Challenges:* Because of the time and phasing required for even this level of affordability, this option would require the City to hold back a substantial amount of potential housing for five to 17 years or more while many possible projects elsewhere in the City could not be funded. The City's federal HOME funds typically include expenditure deadlines which could make using them at the BART site infeasible; these funds are difficult to administer without local funds and it is possible they would be at risk of needing to be returned if no local funds were available.
3. *Reserve \$50M for the Ashby BART station area and/or Adeline Corridor, as recommended by the Planning Commission and referred by Council to the HAC and Measure O Commission, and either reserve the balance of funds for the North Berkeley station area and/or investigate a bond measure for that site.*
- *Advantages:* May prioritize development in the Ashby BART area and enable other development in the Adeline Corridor if funds permit. As noted in Table 5 below, there are two proposed affordable housing projects (co-sponsored by the Ephesians Church of God in Christ and St. Paul's AME) that will be in the Adeline Corridor (assuming anticipated amendments to the parcels' General Plan and zoning are approved).
 - *Challenges: If all funds are reserved:* Because of the time and phasing required for even this level of affordability, this would require the City to hold back a substantial amount of potential housing for five to 17 years or more while many possible projects (some identified under Background, below) could not be funded.
4. *Investigate a Bond Measure For the BART Sites, Adeline Corridor and/or City as a whole instead of reserving funding for the BART sites at this time.* The City could wait to allocate funding for the BART sites and investigate a new bond measure to fund housing at the BART sites and/or infrastructure in the Adeline Corridor or the City as a whole.

- *Advantages:* A bond measure could make more funds available to achieve the equity and affordability envisioned by the community for the BART sites, as well as make funds available for other City housing priorities.
- *Challenges:* Given the current economic situation and the City's budget, it is not certain whether a bond measure would be feasible or passed by voters, so this option on its own, does not fulfill the set-aside commitment the City made to advance the BART sites with at least 35% affordable housing. Putting a bond measure on the ballot without dedicating funds now would probably delay the start of development by two or more years. Deciding not to allocate funding prior to BART's anticipated developer solicitation next winter might be interpreted as a lack of commitment to prioritizing affordable housing at the BART stations, and could cause developers to be uncertain about the City's support for these projects. Further, the City would not be able to take a greater than usual role in the developer(s) selection and approval process (as stipulated in the MOU) and/or BART may revise its 10-Year Workplan and prioritize working with other jurisdictions on TOD projects.

BACKGROUND

As detailed in the companion report from the Department of Planning & Development, the City Council and BART Board unanimously adopted a Memorandum of Understanding (MOU) in December 2019 and January 2020. The MOU established a timeline for a City decision to "set-aside sufficient funding to assure BART, in its sole discretion, that at least 35% of the housing units proposed to be constructed at the BART properties would be deed-restricted to low, very low and/or extremely low affordable housing" (City and BART MOU, Section IV.A). Due to delays caused by the pandemic, BART and the City mutually agreed to extend the deadline for this decision from December 2020 to April 2021. According to the MOU, BART and the City are to confer to determine whether the City will have greater than normal level of involvement in the developer selection process following this decision.

At this point in the planning process, there are still many "unknowns" that will need to be revisited in the future to inform the final number and type of affordable units that will be proposed at the Ashby and North Berkeley BART stations. Despite these outstanding questions, it is possible to estimate orders of magnitude of the amount of public subsidy needed to achieve various amounts of affordable housing, in order to inform preliminary decisions and next steps to securing needed funding.

Figure 1. Planning Process for Berkeley Transit-Oriented Development



On December 8, 2020, in their action on the Adeline Corridor Plan, the City Council referred the following Planning Commission recommendation to the HAC and Measure O Commission: *“Set-aside at least an initial allocation of \$50 million of local funds for affordable housing (e.g. Measure O, Measure U1, Measure P, Housing Trust Fund) for the Adeline Corridor, and in particular, for the Ashby BART subarea.”* The Council also referred to the City Manager “to develop a policy for the Affordable Housing Mitigation Fees collected from projects in the Adeline Corridor Planning Area to be placed in a fund dedicated for affordable housing at the Ashby BART site.”

The City has reserved and committed funds through the Housing Trust Fund and Small Sites Programs to nine projects. Staff continue to work with these projects in the predevelopment and construction phases (**Table 4**).

Table 4. Currently Reserved City Affordable Housing Funding

Project	Sponsor	Units	Total City Funds Reserved	Projected Sources of Funds	Status
1. 1638 Stuart Street (Small Sites Program)	Bay Area Community Land Trust	8	\$1,653,663	General Fund (U1)	In contract/ Construction
2. 1740 San Pablo Avenue	BRIDGE Housing	53	\$7,500,000	Measure O (1 st issuance)	In contract/ Acquisition
3. 2321-2323 10th Street	Northern California Land Trust	8	\$1,620,640	General Funds (U1)	In contract/ Acquisition
4. 2527 San Pablo Avenue	Satellite Affordable Housing Associates (SAHA)	62	\$11,500,000	HTF, Measure O (1st), LHTF if successful	Reserved

Table 4. Currently Reserved City Affordable Housing Funding (Cont'd)					
Project	Sponsor	Units	Total City Funds Reserved	Projected Sources of Funds	Status
5. BFHP Hope Center (2012 Berkeley Way)	Berkeley Food & Housing Project (BFHP)/ BRIDGE Housing	44	\$16,964,507	HTF, General Funds (U1), Measure O (1st)	In contract/ Construction
6. BFHP Hope Center PSH (2012 Berkeley Way)	BFHP/ BRIDGE	53	\$7,727,630	Measure O (1st)	In contract/ Construction
7. BRIDGE Berkeley Way (2012 Berkeley Way)	BRIDGE	89	\$2,774,925	Measure O (1st)	In contract/ Construction
8. Jordan Court (1601 Oxford)	SAHA	35	\$6,026,927	HTF (mitigation fees and HOME), Measure O (1st)	In contract/ Construction
9. Maudelle Miller Shirek Community (2001 Ashby)	Resources for Community Development	86	\$17,000,000	Measure O (2 nd issuance)	Reserved/ Acquisition
10. BUSD-Sponsored Educator Housing	Berkeley Unified School District/TBD	TBD	TBD. NOFA estimated at \$22 M	Measure O (2nd)	Pending Council approval of NOFA.*

*Note: The BUSD proposal will be reviewed by staff, MOBOC, and Council before any funding is reserved for the actual project.

Referenced Report Link:

- 2/1/21 Measure O Bond Oversight Committee, Item 5 Staff Report, Attachment 1: Estimated Need for Housing Subsidy for the Ashby and North Berkeley BART Stations – Memorandum prepared by Street Level Advisors (January 21, 2021):
 - https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/2021-02-01_MOBOC%20Agenda%20Packet.pdf



2021

February 22, 2021

Mark Foley
PRESIDENT

Rebecca Saltzman
VICE-PRESIDENT

Robert Powers
GENERAL MANAGER

Housing Advisory Commission & Measure O Bond Oversight Committee
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

RE: Berkeley BART Station Transit-Oriented Development – Affordable Housing Funds

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Dear Commissioners and Committee Members,

As you know, BART entered in a Memorandum of Understanding (MOU) with the City of Berkeley in March 2020 to advance mixed-income development of BART-owned property at the Ashby and North Berkeley BART stations. Since that time, BART has been working in partnership with the City on an ambitious community planning process.

The MOU states that *“To demonstrate its commitment to advancing development at BART property...the City will...set aside funding sufficient to assure BART, in its sole discretion, that at least 35% of the housing units proposed to be constructed at the BART Properties would be deed-restricted to low, very low, and/or extremely low affordable housing.”* The purpose of this letter is to provide clarity to the Measure O Bond Oversight Committee and the Housing Advisory Commission on the level of funding BART would expect could be considered “sufficient.”

BART Transit-Oriented Development Goals

BART’s overarching goals for transit-oriented development (TOD), described at www.bart.gov/TOD, include creating complete communities with a strong sense of place; sustainable communities where people can live, work, and play while reducing auto dependence, congestion and greenhouse gases; affordable housing, with a goal for 35% of all housing on BART land to be affordable; and increased ridership. BART owns roughly 250 acres of land across 22 jurisdictions, and with our limited staff time, we are typically only able to advance 1-2 stations into the developer selection process each year. There is strong interest in most jurisdictions to advance TOD. Thus, BART must evaluate its investment of time and resources relative to the potential benefits of a TOD project towards these goals. BART supports a deeply equitable transit-oriented development at both the Ashby and North Berkeley stations, and believes timely development of housing at these stations is critical to address our urgent global climate and housing/homeless crises. To that end, BART hopes that our longstanding efforts with the City to advance such development are met with a strong commitment to offering local funds for the affordable housing component.

Housing Unit Quantity

To establish an adequate level of funding to ensure 35% of the units will be affordable, first it is important that BART and the City share assumptions

around both the quantity of units to be funded at this stage, and the timing of delivery of these housing units.

AB 2923 (2018) requires property at both stations to be zoned to accommodate 7 story buildings. While the actual development may be built at various higher or lower heights, it seems appropriate for the assumed number of units to be accommodated within the AB 2923 required zoning limits. Therefore, **BART supports the staff report assumption that 850 units of housing could be developed at the Ashby BART station, and 775 units of housing could be developed at the North Berkeley BART station.**

This level of development is also consistent with BART's fundamental need as a taxpayer-funded public transit agency to serve an equal or greater number of customers in the Berkeley area as BART historically has pre-pandemic. In other words, if BART replaces its BART customer parking spaces with new housing, the riders coming from the new housing must be equal or greater than the number of riders served by the lost parking spaces.¹ At North Berkeley, this means that no less than 650 units of housing can be built, if the development does not include any replacement parking for BART customers.

Timing of Development

The other key consideration in deciding how much local funding will need to be allocated now, is the timing within which development would take place. Due to the larger scale of development on a 6 to 8-acre BART property, financing, construction, and completion of BART development can take years. **BART's position is that development of the Berkeley BART stations should take no more than five years from entitlement,** to ensure that the City can utilize the development of the BART stations as a key strategy in meeting its lofty Regional Housing Needs Allocation requirements for the 2023-2031 Housing Element Cycle. This timing also reflects the urgency of the Bay Area's climate, housing and homelessness crises.

BART has heard the call from committee members to think more creatively about financing to ensure both the Ashby and North Berkeley BART stations can be delivered with high levels of affordable housing, and is open to hearing creative ideas from your committees. While the transition in national politics towards a more housing supportive administration may create opportunities as well, it is important to note that federal funds for affordable housing have been diminished throughout history during both Democratic and Republican led administrations. BART has also been meeting with state officials to highlight the unique opportunity in Berkeley to deliver hundreds, or thousands of affordable housing units, and welcomes the support of the City, committee members, commissioners, and others in identifying creative funding sources throughout 2021.

Assuring Delivery of at Least 35% Affordable Housing at Ashby and North Berkeley

Given limited resources, the deep need for more affordable housing throughout the City, and additional upcoming affordable housing opportunities, BART understands that it is not desirable today to commit the full \$53 million required as identified in the staff and consultant report. However, the community has spoken loud and clear about the desire for as much affordable housing as possible on both sites, and it is important that the Committee, Commission, and City Council actions around dedicating funding for affordable housing mirror this call for a large commitment from the community.

As such, BART recommends that the City make a robust commitment to affordable housing funds now to show commitment to equitable TOD at the BART stations, while reserving some Measure O funds for additional projects. BART acknowledges and accepts the estimate prepared by Street Level Advisors, the City's consultant, that 35% affordable housing corresponds to a subsidy need of \$55 million for projects

¹ The intent is to ensure riders who rely on a parking space at the station could be served by a range of other access investments, to be explored through a \$700,000 study that will be discussed with the City in April and May.

phased over a 10-year period. At the same time, BART recognizes the impracticality/challenge of setting aside currently available subsidy today for projects that will take a decade to complete.

Therefore, BART is willing to consider a subsidy set-aside that combines currently available funds and those that are anticipated. BART could accept the following:

- A City pledge of \$40 million in existing Measure O resources, plus
- A pledge of the next \$13 million in future Affordable Housing Mitigation Fee (AHMF) revenues.
- So as to not unduly withhold subsidy from affordable housing elsewhere in Berkeley, BART and the City could establish mutually-agreeable performance milestones for the anticipated affordable housing on BART property. Should these milestones not be met, some or all of the BART set-aside could be released for projects elsewhere.

Next Steps

BART is providing this information to the City of Berkeley at this point to supplement the City's own analysis of the magnitude of affordable housing subsidy needed to fulfill our shared goal of providing at least 35% affordable housing. Much more work is needed to arrive at the exact development program for both North Berkeley and Ashby stations. BART hopes that this letter serves to provide a simple framework for considering the terms of the MOU.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Abigail M.', with a stylized flourish at the end.

Abigail Thorne-Lyman
Transit-Oriented Development Group Manager