

# Funding to Preserve Unsubsidized Affordable Housing

Funding to preserve unsubsidized affordable housing refers to public investments to acquire market-rate housing that is currently affordable to lower- or moderate-income residents (sometimes referred to as “naturally occurring affordable housing”) and preserve it as permanently affordable, deed-restricted housing. This funding can be essential to preventing the displacement of tenants as market forces, gentrification and rising property values put pressure on existing unsubsidized affordable housing.

## Legal Context

### What Does State Law Require?

There are no requirements under state law for funding the acquisition and preservation of unsubsidized affordable housing, but there are local, regional and state funding programs. For example, the state-funded Housing Preservation Loan Pilot administered by the Bay Area Housing Finance Authority (BAHFA) is a loan fund designed to assist nonprofit developers and community land trusts with the acquisition and preservation of unsubsidized multifamily housing that is located in areas with high-frequency transit service and considered affordable to low- and moderate-income renters.

### How Can Jurisdictions Implement Programs That Go Beyond State Law?

Local jurisdictions can fund unsubsidized affordable housing acquisition and preservation through a dedicated local source, such as Housing Trust Fund dollars. Local funding can include short-term loans for property acquisition, long-term soft debt that functions as permanent subsidy and/or grants that do not need to be repaid.

## At-A-Glance

### POTENTIAL FUNDING SOURCES

(see information below about which funding sources count as “locally generated” for the purposes of TOC Policy compliance)

- CDBG funds
- HOME Investment Partnerships Program
- Housing Trust Fund

### COST

High

### ADMINISTRATIVE BURDEN

 High

Staff capacity needed to identify funding and design the program, as well as to administer funds, monitor affordability and oversee operations for the project.

### EXTRA CONSIDERATIONS

 Highly effective

### WHICH P?

Preservation

### POTENTIAL PARTNERS

- Community-based organizations
- Affordable housing developers
- Community land trusts
- Cooperative housing entities
- Community development corporations
- Other housing funders

### OPTION FOR TOC POLICY COMPLIANCE?

Yes!



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## Program Design, Implementation and Evaluation Considerations

The callout box below labeled “TOC Policy Requirements” describes the policy features necessary for a jurisdiction to receive credit toward TOC Policy compliance. All other policy features discussed in this document represent details found in existing policies on the subject and a jurisdiction may want to consider them when adopting or implementing a policy, but nothing is required for TOC Policy compliance unless noted as a requirement in the “TOC Policy Requirements” callout box or the [TOC Policy Administrative Guidance](#).

### Elements of the Program

- Dedicated funding source
- Clearly defined loan or grant terms
- Defined terms of eligibility for borrower
- Defined eligibility and priority criteria to identify sites
- Affordability restrictions and income certification requirements

### Program Design Considerations

Jurisdictions may want to consider the following:

**PRIORITY CRITERIA:** Defining criteria such as estimated rehabilitation cost, displacement potential, proximity to transit, property size and property age to identify priority preservation opportunities and target investment.

**ELIGIBLE BUILDINGS:** Determining which buildings are eligible for local preservation funds, such as buildings meeting a threshold for unit count; only unsubsidized buildings; or those with expiring deed restrictions.

**FUNDING SOURCES:** Funding for housing preservation through a dedicated source, multiple sources or only a portion of a larger source. Some jurisdictions allocate trust fund dollars for preservation or fund preservation at a larger scale through voter-approved bonds. For example, Oakland’s Measure KK infrastructure bond included an earmark for housing preservation.

**FUNDING PARTNERSHIPS:** Combining local funds with funding from other agencies and partners to leverage impact. Funding can also be

administered by a third party that specializes in preservation to help combine funding sources, provide bridge loans to meet tight acquisition deadlines, ensure capacity, partner with community-based groups and monitor compliance.

**FUNDING USES:** Funding acquisition, rehabilitation, maintenance and operations. Some jurisdictions also allow preservation funds to be used for emergency rent increase mitigation.

**STRUCTURE OF FUNDS:** Structuring funds as short-term loans for property acquisition, long-term soft debt that functions as a permanent subsidy or grants that do not need to be repaid. Funding could be a residual receipts loan, where the loan recipient only needs to repay the principal and interest if there is residual cash flow. Deferred repayment is a loan option that facilitates permanent affordability, as borrowers do not owe interest or principal if the project maintains affordability.

**FUNDING AMOUNTS:** Considering the financial needs and opportunities for preservation projects in the community and ensuring that the program is funded at a level to support one or multiple projects. For example, San Francisco’s Small Sites Program sets maximums between \$275,000 and \$500,000 per unit, depending on bedroom count, while a BAHFA program sets a maximum at \$250,000 per unit. These programs assume a borrower also secures amortizing debt or other leveraged funds. Jurisdictions can also set an annual goal for the number of units preserved by the program.

**LOAN TERMS:** A typical loan is 55 years for rentals. Interest rates generally vary from 0% to 3%. The loans may allow for deferred repayment of interest and/or principal if the project maintains affordability.

**BORROWER ELIGIBILITY:** Limiting funding to mission-driven organizations - such as nonprofit affordable housing developers, community land trusts or joint venture partnerships with mission-driven entities - with requirements for demonstrated capacity and experience. To help ensure that eligibility requirements do not create unintended barriers that exclude mission-driven organizations in the community, consideration of experience can be based on the organization's direct experience, the knowledge or the organization's staff members or the expertise of a consultant in a joint partnership with the organization on the project.

**TENANT ENGAGEMENT:** Requiring borrowers to provide a resident engagement plan and to notify all tenants of the acquisition. Jurisdictions can also support community ownership and wealth building by prioritizing a portion of the funding program for community-controlled projects that center resident ownership, governance and/or management.

**DEVELOPER FEES:** Setting reasonable limits on developer fees. Developer fees are a crucial source of funding that mission-driven affordable housing providers use to support their ongoing operations and capacity building, but they should not be excessively high.

**AFFORDABILITY RESTRICTIONS:** Setting in place requirements for the income levels of project residents, the affordability of rents and resident engagement by the project developer in exchange for funding commitments. Typically, the maximum income level allowed is an average of 80% of area median income (AMI) across all households. When buildings are acquired, existing residents should be allowed to stay regardless of their income. However,

when units become vacant, new residents should be income-qualified, making 120% AMI or lower to achieve an 80% AMI average.

**DEEPER LEVELS OF AFFORDABILITY:** Encouraging borrowers to target an average AMI less than 80% if they are still able to achieve long-term financial feasibility for the project. Subsidies from higher rents for tenants making up to 120% AMI can be critical for sustaining lower rents for extremely and very low-income tenants.

**MANAGING RENT BURDEN AND OVERPAYMENT:** Some current residents in a preservation project may be rent-burdened, meaning they pay over 30% of their gross income in rent. Depending on the financing of the building, and rental income from other units in the building, there are a few strategies to relieve the rent burden. If the finances of the building allow, rent-burdened tenants can be offered a reduced rent. If that is not financially feasible, rent-burdened tenants' rents can be frozen at their current rate until they are no longer rent-burdened. Upon re-rental of any units, rents for those households should be set at no more than 30% of gross household income.

**TENANT PROTECTIONS:** Requiring owners to retain current residents and to provide them with relocation assistance during building rehabilitation as well as first right of return when rehabilitation is complete.


**RENT STABILIZATION:** Requiring owners to comply with existing local rent stabilization ordinances when imposing rent increases after acquisition. For units not subject to or exempt from rent stabilization requirements, the jurisdiction can set limits on annual rent increases. For example, rent increases could be limited to the annual rate of inflation or 4%, whichever is less.

## Program Implementation, Administration and Enforcement

If funding allows, local jurisdictions may want to hire or designate a Preservation Coordinator to lead housing acquisition and preservation efforts.

Jurisdictions can monitor at-risk properties by reviewing real estate listings, engaging residents and property owners and working with community-based organizations. Staff can then contact owners of the highest risk properties to determine their intentions and explore potential preservation opportunities. In working with these owners, jurisdictions can identify potential purchasers who will maintain project affordability and connect them with local funds for acquisition and preservation.

When issuing funding, it is important that jurisdictions do so through an over-the-counter or rolling process. Time-limited windows within which projects can be open for funding may not always align with acquisition opportunities. When issuing acquisition funding, jurisdictions can require plans for ongoing rehabilitation and maintenance costs. These costs can be funded by additional rehabilitation funding from the jurisdiction or via capitalized operating and replacement reserves, with minimum annual deposits over a specified period of time, typically ranging from 15 to 30 years. Financial feasibility can be measured by a minimum debt-service coverage ratio (DSCR), typically ranging from 1.1 to 1.3.

 **TOC Policy Requirements:** The jurisdiction must have a program with secured and locally-generated<sup>1</sup> funding that provides ongoing allocations to the program at or above the level identified in [Appendix B of MTC's Administrative Guidance](#). The amount

contributed can vary by year as long as the total for the relevant four-year One Bay Area Grant (OBAG) cycle meets the specified target for the jurisdiction.

Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use for affordable housing can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

Jurisdictions that have an existing balance in a housing funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).

Jurisdictions that have committed affordable housing funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met: a) The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an unsubsidized affordable housing preservation project that will be completed during the OBAG 4 cycle sometime between 2026 and

1 MTC Administrative Guidance: Transit-Oriented Communities Policy (pg. 31) outlines restrictions and guidelines that apply when considering whether a funding source counts as “locally generated.”

2030), and/or b) The funds are expended after January 1, 2025.

The program must establish a standard set of financing terms, including affordability requirements. For rental properties, the average rent for all units at each preserved property at the time of acquisition must be affordable to households earning no more than 80% of AMI. After acquisition, new residents must be income qualified and earn less than 120% of AMI, and the building must maintain an average income of no more than 80% of AMI. Existing residents of acquired buildings shall not be displaced, even if the household's income exceeds the AMI thresholds noted above. All ownership units preserved as affordable housing (e.g., a single-family home acquired by a community land trust) must be sold to lower- and moderate-income households earning 120% of AMI or less.

Units acquired through the program must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing and at least 45 years for ownership housing.

## Program Evaluation

Programs that provide funding to preserve unsubsidized affordable housing can be evaluated by analyzing how much funding is disbursed, how many at-risk properties and units are acquired and preserved, how many households live in these acquired properties and household demographics to ensure underserved communities are being served.

## Complementary Policies

**TENANT OPPORTUNITY TO PURCHASE/ COMMUNITY OPPORTUNITY TO PURCHASE:** TOPA/COPA policies provide tenants or community organizations the first right to purchase a building when it is put up for sale, allowing them to acquire and maintain the property as affordable housing.

**PUBLIC/COMMUNITY LAND TRUSTS:** Public/Community Land Trusts can acquire affordable housing, create community ownership and ensure long-term affordability.

**FUNDING TO SUPPORT PRESERVATION CAPACITY:** This funding can provide initial support as a developer builds their capacity and starts on their first project.

*This document is intended to provide general information and does not constitute legal advice. Additional facts, facts specific to a particular situation, or future developments may affect the subjects discussed in this document. Seek the advice of your jurisdiction's legal counsel before acting or relying upon this information. For specific questions regarding TOC compliance, please reach out to [TOCpolicy@bayareametro.gov](mailto:TOCpolicy@bayareametro.gov).*

## Other Resources

### EXAMPLES\*

[City and County of San Francisco - Small Sites Program Guidelines](#)

[Metropolitan Transportation Commission - Bay Area Preservation Pilot Fund \(BAPP\)](#)

[Bay Area Housing Finance Authority - Housing Preservation Loan Pilot](#)

[City of Oakland - Acquisition and Conversion of Affordable Housing \(ACAH\)](#)

[City of Redwood City - Affordable Housing Preservation Program](#)

### OTHER RESOURCES

[California Housing Partnership - Best Practices in Local Government Preservation Strategies](#)

[Enterprise Community Partners - Preservation NEXT Toolkit](#)

[Enterprise Community Partners - Preservation NEXT Financial Modeling Tools](#)

[Enterprise Community Partners - Preserving Affordability, Preventing Displacement](#)

[California Housing Partnership - Over 220,000 Unsubsidized Affordable Homes at Risk](#)

[California Housing Partnership - Preservation of Affordable Homes Near Transit](#)

[Metropolitan Transportation Commission - Preservation Policy 1: Funding to Preserve Unsubsidized Affordable Housing](#)

*\*Note that examples have not been vetted for full TOC Compliance.*