



AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, December 6, 2022

6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION

For in-person attendees, additional public health protocols will be in place. If you are feeling sick, please do not attend in person.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/84189893148>. 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 by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 841 8989 3148. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

Please be mindful that the meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

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. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

1. Recognition of Lori Droste, Councilmember, District 8

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Urgency Ordinance for Leasing the Real Property at 1720 San Pablo Avenue**
From: City Manager
Recommendation: Adopt an Urgency Ordinance to enter into a lease for the real property located at 1720 San Pablo Avenue, Berkeley, CA for a term of 5 years.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000
- 2. Amend Contract No. 32100161 with Dorothy Day House to extend Horizon Village Shelter and Safe RV Parking Program operations**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100161 with Dorothy Day House (DDH) to add \$612,559 to cover costs to extend the Safe RV Parking Program (SPARK) through December 31, 2022 and costs to operate the Horizon Village Shelter (HVS) from October 1, 2022 through June 30, 2023 (including the Berkeley Inn from December 7, 2022 through June 30, 2022), for a total contact amount not to exceed \$2,270,177.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000
- 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 6, 2022**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$2,581,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

4. Classification and Salary: ADA Program Coordinator

From: City Manager

Recommendation: Adopt a Resolution revising the represented classification Disability Services Specialist to ADA Program Coordinator with a monthly salary range of \$9,231.73 - \$11,162.67.

Financial Implications: See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

5. Donation: Memorial Bench at Cesar Chavez Park in memory of Linda Loh

From: City Manager

Recommendation: Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park in memory of Linda Loh.

Financial Implications: Marina Fund - \$3,400 (Donation)

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Council Consent Items

6. Office of Racial Equity: Re-Entry Employment and Guaranteed Income Programs *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*

From: Councilmember Taplin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Robinson (Co-Sponsor)
Recommendation:

1. Refer to the City Manager to Strengthen Adult Criminal Justice Re-Entry Employment Programs in Berkeley by studying re-entry programs, supports, and systems already available for Berkeley residents, strengthening linkages, and identifying gaps. Report findings back to the Health, Life Enrichment, Equity & Community Committee during 2023.

2. Refer \$50,000 to the Budget Process to engage a consultant to recommend a Universal Income Pilot for Berkeley. Recommendation to include evaluation of: - Potential funding sources; -Appropriate and recommended models for Berkeley; - Target population(s) to be supported by Pilot; -Program delivery models; -Evaluation; -Any and all other elements/factors to establish an effective Universal Income Pilot for Berkeley.

Considerations for target populations may include local Equity Indicators measuring racial justice and social equity outcomes such as poverty and financial health, educational disparities, environmental and mental health, housing quality, infrastructure, and public safety.

3. Refer to the City Manager to establish evaluation processes and metrics for all social services programs recommended through the Reimaging Public Safety Process, including but not limited to violence prevention services, adult reentry programs, and mental health crisis response, and report evaluation outcome to the City Council.

Policy Committee Recommendation: To forward the item to Council with a positive recommendation that the City Council approve the item with the Author's substitute recommendations (as detailed in the report).

Financial Implications: See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Old Business

7. **Update on BPD efforts related to the Improving Hate Crimes Reporting and Response Referral** *(Continued from November 15, 2022)*
From: City Manager
Contact: Jennifer Louis, Police, (510) 981-5900

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

8. **Renewal of the Elmwood Avenue BID for Calendar Year 2023**
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, "the District", "the Elmwood BID" or "the BID") for 2022-23 and, if no majority protest exists, levy annual assessments in the District for calendar year 2023 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
9. **Adoption of the 2022 California Fire Code with Local Amendments – Second Reading**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt the second reading of Ordinance No. 7,845-N.S. repealing and reenacting the Berkeley Fire Code, including amendments to the California Fire Code as outlined in the proposed ordinance, plus Appendix Chapters D, E, F, L (as amended by BMC 19.48.020, Amendments to the California Fire Code) and O published by the International Code Council not included in the California Building Standards Code, as Berkeley Municipal Code Chapter 19.48.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

Action Calendar – Old Business

10. Citywide Affordable Housing Requirements

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance to amend the Berkeley Municipal Code Chapter 23.328, updating the citywide Affordable Housing Requirements (AHR) in the Zoning Ordinance and repealing existing administration and zoning code sections that refer to affordable housing requirements, BMC Section 22.20.065, and Section 23.312.040(A)(6), to become effective on April 1, 2023.
2. Adopt a Resolution establishing regulations for a voucher program and establishing an in-lieu fee pursuant to BMC Section 23.328.020(A)(2) (Attachment 2) upon the effective date of contemporaneously adopted amendments to BMC Section 23.328, and rescind Resolution No. 68,074-N.S. related to fees, exemptions, and administration of inclusionary affordable housing and in-lieu programs upon the effective date of contemporaneously adopted amendments to BMC Section 23.328.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400, Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Information Reports

11. FY 2022 Fourth Quarter Investment Report: Ended June 30, 2022

From: City Manager

Contact: Henry Oyekanmi, Finance, (510) 981-7300

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council 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 the City Council, 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 to the City Clerk Department at 2180 Milvia Street. 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 City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>
and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@cityofberkeley.info

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.
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.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 23, 2022.***

A handwritten signature in black ink that reads "Mark Numainville".

Mark Numainville, City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through [Records Online](#).*

### **Homelessness/Encampments**

1. Pamela Michaud
2. Mike Kim (3)



3. Justin Shapiro
4. Peter Radu (2)
5. Ron Restani

### **Property Crime Is On The Rise**

6. Jordan Sax

### **CalPERS Funding for City of Berkeley**

7. Geoff Lomax

### **Harriet Tubman Terrace Apartments**

8. Daxinxoso Oyamasela
9. M. Mendonca

### **People's Park**

10. Susanna Lamaina
11. Wynd Kaufmyn
12. Jacob Picheny

### **North Berkeley BART Development**

13. Sue Martin
14. Virginia Browning
15. Vicki

### **Staffing Shortage at City of Berkeley**

16. David Lerman

### **EV Scooter Hazards - Being Ridden On Sidewalk**

17. Kathleen Krier

### **E-Bike Rebate**

18. Edwin Bish

### **Berkeley Police Department Culture**

19. Diana Bohn

### **Measure L**

20. Krista Denton
21. Robert Reiter

### **Letter of Commendation for an Ecology Employee**

22. Mary McBride

### **Eviction Moratorium**

23. Carol Curtis

## **Most Future-Ready Cities**

24. Vivian Warkentin

### **Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.



Office of the City Manager

CONSENT CALENDAR  
December 6, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Peter Radu, Assistant to the City Manager  
 Subject: Urgency Ordinance for Leasing the Real Property at 1720 San Pablo Avenue

RECOMMENDATION

Adopt an Urgency Ordinance to enter into a lease for the real property located at 1720 San Pablo Avenue, Berkeley, CA for a term of 5 years.

FISCAL IMPACTS OF RECOMMENDATION

For year 1 of the lease, total costs for this lease are not to exceed a total of \$883,200. Each year in the five-year term thereafter, the per-room rental cost and per-room damage fund escalate by 3% year-over-year such that costs in year 2 of the lease total \$908,796; in year 3, \$935,160; in year 4, \$962,315; and in year 5, \$990,284. In years 1 and 2, staff propose paying the lease costs in full with Measure P funding previously appropriated (in an amount of \$1,011,900 annually) with the adoption of the FY23-24 Biennial Budget for the continuation of the Grayson shelter (the Berkeley Inn program will continue the Grayson shelter when the latter program closes on December 31, 2022).

CURRENT SITUATION AND ITS EFFECTS

To help alleviate the crisis of unsheltered and encampment homelessness in Berkeley, the City partnered with Dorothy Day House in April, 2021 to launch the 50-bed Horizon Transitional Village Program at 742 Grayson St in Southwest Berkeley. Since its opening in July 2021, the program has served 130 residents of the City's most dangerous and impactful encampments. The owners of the Grayson site are actively working with the City to obtain necessary approvals for the development of the parcel, so the lease and program at Grayson Street were always envisioned as short-term. On September 29, 2022, Council extended the lease through December 31, 2022, so the need to relocate the program is imminent. After an exhaustive search of City facilities, none were found to be suitable, safe, or available for year-round use as a shelter for vulnerable unsheltered residents. This required turning to the private market for potential lease opportunities.

The Berkeley Inn, a 27-room motel located at 1720 San Pablo Avenue, has previously been utilized by City social service programs to temporarily house vulnerable residents.

Most recently, in January and February of 2022, Neighborhood Services staff partnered informally with the owners of the Berkeley Inn to implement the City's annual Winter Shelter contract with Alameda County in the form of 28-day motel vouchers, meaning that staff began developing a working relationship with the owners of the property and a familiarity with the property and location.

Leasing the Berkeley Inn would result in the overall loss of shelter bed capacity in Berkeley. However, City staff have actively collaborated for months with Dorothy Day House to find alternative permanent or interim destinations for everyone currently residing at Horizon, such that even with fewer beds we anticipate returning no one to the streets. With this in mind, recommend Council approve this lease for the following reasons:

1. In staff's experience, noncongregate shelter rooms, such as those that would be provided at the Berkeley Inn, are more desirable and thus more likely to be accepted by persons experiencing unsheltered homelessness. As the Horizon program has been (and the Berkeley Inn will continue to be) the primary referral destination for the Homeless Response Team, a higher uptake rate means that, when an encampment must be closed for health and safety reasons, it is likely that fewer people will simply relocate from one location on the street to another. Staff's recent partnership with the Berkeley Inn corroborate this point: as of November 8, 2022, the Homeless Response Team—which never closes encampments without shelter offers for everyone living there—saw an overall shelter uptake rate of 40% (primarily to Grayson St); when the Berkeley Inn was used as the referral destination to resolve the dangerous encampments along Harrison St in February 2022, the shelter uptake rate increased to 85%. Therefore, while the Berkeley Inn provides fewer beds overall, those beds are actually more likely to be utilized, all things equal, than a congregate setting.
2. With the adoption of its 2021-2022 budget and release of the third round of Homeless Housing, Assistance and Prevention (HHAP 3) funding, the State of California, noting the experience of the successful Project Roomkey COVID-19 response, signaled its intent to move the State away from congregate shelter: "Any new interim sheltering funded by [HHAP] round 3 funds must be low barrier, comply with Housing First, and prioritize interventions other than congregate shelters."<sup>1</sup> HHAP 3 and future State HHAP funding are the primary sources of new County-administered local homeless funding for Berkeley, meaning a shift towards non-congregate shelter provides the City (which does not receive a direct HHAP allocation) a strategic opportunity to place itself favorably to draw down new homeless funding. This will be especially important as the Measure P transfer tax is set to sunset in 2027.

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<sup>1</sup> See: [https://bcsh.ca.gov/calich/documents/hhap\\_nofa\\_rd3.pdf](https://bcsh.ca.gov/calich/documents/hhap_nofa_rd3.pdf), p. 16 of 23.

The proposed lease provides the City with full and exclusive use of the motel and its facilities (parking lot, staff office and kitchen area, and utilities room including washers and dryers) and covers baseline utilities, internet, and trash disposal costs, at a flat per-room per-month cost of \$2,450, plus \$2,200 per room annually for repairs and maintenance. These costs will escalate year-over-year by 3% for each year of the 5-year term. The City has also agreed to help offset the annual premium costs of the Berkeley Inn's property and general liability insurance coverage, as a change in use from a tourist hotel to residential shelter program caused their current carrier to drop them from coverage and require a new policy. These insurance related costs are not subject to the annual 3% escalator. Altogether, this generates an all-in year 1 cost of \$883,200, escalating to \$990,284 by year 5. The first two years of these lease costs are covered by a Measure P appropriation, passed by Council with the adoption of the FY23-24 Biennial Budget, of roughly \$1M annually to continue the Grayson shelter through FY24. Thereafter, the City has the ability to terminate the lease if funding should become an issue: after the first 24 months, either party reserves the right to terminate the lease for any reason with 180 days' notice.

#### BACKGROUND

On April 27, 2021, the Council adopted Urgency Ordinance No. 7,759–N.S. to authorize the lease of 742 Grayson St for the purposes of operating interim shelter for persons experiencing homelessness. Also on April 27, 2021, Council adopted Resolution No. 69,808–N.S., which authorized a contract with Dorothy Day House to operate the Horizon Transitional Village Program, a 50-bed interim shelter, at this site. In March, 2022, the lease for the Grayson St property became month-to-month, and it will terminate on September 30, 2022. As the property owners are actively working with the City through the approval process to develop the parcel, there is no possibility for extending the term of this lease. On June 28, 2022, Council adopted the FY23-24 Biennial Budget, including \$1,011,900 annually in Measure P funds to continue the Grayson shelter at a new location. On September 29, 2022, Council adopted Urgency Ordinance No. 7,836–N.S., extending the term of the lease at 742 Grayson St through December 31, 2022.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental impacts associated with this lease. Providing noncongregate interim housing for persons experiencing homelessness in Berkeley will help reduce the overall negative impact of encampments on Berkeley's environment and waterways, including fire and vector hazards, the accumulation of trash/debris, and unmitigated human and animal waste.

#### RATIONALE FOR RECOMMENDATION

If adopted, this lease agreement will provide the space for the continuation of 27 of the 50 beds currently operated by Dorothy Day House at 742 Grayson St. That lease will terminate on Dec 31, 2022, leaving no alternatives. While this recommendation does result in the overall loss of bed capacity, it replaces an existing congregate shelter with

a non-congregate shelter. Non-congregate shelter has strategic advantages, insofar as it is generally more desirable among unsheltered persons than congregate shelter, thus likely resulting in a higher uptake rate and lower vacancy rate; in addition, staff believe that new noncongregate shelters are more amenable to drawing down State and County homeless funding sources than congregate programs, potentially alleviating fiscal impacts to the City in future years.

Adopting the agreement by Urgency Ordinance is appropriate in light of the current shelter crisis and imminent loss of the 742 Grayson St site. By adopting this agreement through an Urgency Ordinance on November 29, 2022, it will be possible to execute a lease with an effective date of December 7, 2022, thus giving the City and Dorothy Day House a sufficient time to move all the people and materials currently at Grayson during an otherwise very busy time of year.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff explored the feasibility of continuing the Horizon shelter at a City-owned facility, but none were vacant and safe/suitable for year-round sleeping accommodations.

#### CONTACT PERSON

Peter Radu, Assistant to the City Manager, 510 981-7045

#### Attachments:

1: Ordinance

Exhibit A: Lease Agreement

## ORDINANCE NO. X,XXX N.S.

AUTHORIZING THE CITY MANAGER OR HER DESIGNEE TO EXECUTE A LEASE AND ANY NECESSARY AMENDMENTS WITH GANGA HOLDINGS, LLC, FOR REAL PROPERTY LOCATED AT 1720 SAN PABLO AVENUE, BERKELEY, CA.

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. The City Council finds as follows:

- a. The City of Berkeley is facing an ongoing crisis of street homelessness: while overall homelessness declined in Berkeley by 5% from 2019 to 2022, unsheltered homelessness stayed roughly the same during this period, declining only 1%.
- b. To help address this crisis, on April 27, 2021, the City Council authorized the lease of 742 Grayson St and a contract with Dorothy Day House to operate the 50-bed Horizon Transitional Village Program; and
- c. Since July 2021, the Horizon Transitional Village Program has served 130 residents of Berkeley's most impactful and dangerous encampments; and
- d. On December 31, 2022, the City's lease for 742 Grayson Street will terminate, necessitating a new location to continue the Horizon program; and
- e. On June 28, 2022, with the adoption of the FY23-24 Biennial Budget, the City Council authorized \$1,011,900 annually through FY24 for the continuation of the Grayson shelter, signaling its intent to continue this program beyond the current location at Grayson; and
- f. City staff have previously partnered with the owners of the Berkeley Inn to serve high-needs residents of dangerous Berkeley encampments, demonstrating that the use of this property for non-congregate shelter is viable and feasible; and
- g. Providing low-barrier, noncongregate interim housing options will be critical to end the unsheltered status of those currently living in dangerous Berkeley encampments; and
- h. The property owner, Ganga Holdings, LLC, has offered to lease the entire property (providing guest 27 rooms) at 1720 San Pablo Avenue to the City for purposes of establishing a homeless shelter for five years.

Section 2. The City Manager or her designee is hereby authorized to enter into a lease and necessary amendments starting December 7, 2022 with Ganga Holdings, LLC for real property located at 1720 San Pablo Avenue on substantially the same terms as set forth in Exhibit A. The rent will be \$2,450 per room per night, including \$2,200 per room in damage funds annually, escalating 3% year-over-year for each year of the term. Lease costs will be paid for by Measure P funding previously appropriated for this purpose by the City Council.

Section 3. This Ordinance is adopted as an urgency ordinance pursuant to the Charter of the City of Berkeley, Article XIV, Section 93 and shall be effective immediately. The City Council finds and determines that the adoption of this Ordinance as an urgency ordinance is necessary for the immediate preservation of the public peace, health and safety of the residents of the City of Berkeley.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way within fifteen calendar days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



CITY OF BERKELEY

**EMERGENCY OCCUPANCY AGREEMENT**

|                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------|
| <u>OCCUPANCY AGREEMENT COVERING PREMISES</u><br><u>LOCATED AT:</u><br>Berkeley Inn<br>1720 San Pablo Avenue, Berkeley, CA |
| <u>OWNER'S FED. TAX. I.D., NO. OR SOCIAL SECURITY NO.:</u><br>94-3257757                                                  |
| <u>TENANT:</u><br>City of Berkeley                                                                                        |

**File No:**

**Preamble**

**THIS OCCUPANCY AGREEMENT ("OCCUPANCY AGREEMENT"), is MADE AND ENTERED INTO THIS 7th DAY OF December, 2022 BY AND BETWEEN GANGA HOLDINGS, LLC, a California limited liability company (hereinafter, the "Owner"), without distinction as to number or gender, and the City of Berkeley (hereinafter called the "City.") This Occupancy Agreement is entered into for the purposes of providing interim housing for persons experiencing homelessness in Berkeley, California.**

Owner is the record owner of or authorized party to grant such rights concerning certain real property defined as the Premises herein situated in the County of Alameda, State of California and has the authority to grant the rights to the City contained in this Occupancy Agreement. The Owner and its manager(s), members, agents, successors and assigns are referred to individually as an "Owner Party" and collectively as "**Owner Parties.**" The City and its employees, agents, contractors, invitees, licensees, successors and assigns are referred to as the "**City Parties.**" The "**Operator**" and the "**Program Guests**", as defined below, and their respective agents, invitees and licensees of any of them, are also "**City Parties**" for purposes of this Occupancy Agreement.

**WITNESSETH**

**Description**

1. The Owner hereby authorizes the City and the City hereby hires from the Owner those certain premises with appurtenances situated on improved real property at 1720 San Pablo Avenue, Berkeley, CA (APN \_\_\_\_\_) ("Property") in the City of Berkeley, County of Alameda, State of California, and more particularly described as follows:

All twenty-seven (27) guest rooms within the Berkeley Inn hotel ("**Hotel**") located at (each individually a "**Room**" and collectively, the "**Rooms**"), and including all parking spaces contiguous to the Hotel building, and unlimited use of the building's common facilities as shown on **Exhibit A** (collectively, the "**Premises**"). The Premises do not include rights of access to or use of the roof.

The Premises are operated as a hotel accommodation. The City has inspected the Premises and deems them appropriate for its intended uses, and acknowledges that Owner will deliver the Premises to the City in their "AS IS, WHERE IS AND WITH ALL FAULTS" condition and also acknowledges that Owner has no obligation to prepare the Premises for occupancy in any manner. Subject to casualty events, condemnation, or emergency conditions stated below, and subject to Owner's needs to access the Premises for repair work or periodic inspection, as described below, Owner grants to the City exclusive access to and use of the Premises on a

continual basis (i.e., twenty-four (24) hours per day, seven (7) days per week) for purposes of providing interim housing for persons experiencing homelessness under a specialized housing program ("**Program**") administered by the City (each such occupant or invitee through that Program is referred to herein as a "**Program Guest**"), either directly or through a Program operator under the City's control ("**Operator**"). The City will not (i) allow any nuisance conditions to exist on the Premises, and (ii) shall use diligent efforts to promptly eliminate any Program Guest from accessing the Premises if such Program Guest has engaged in activity that causes material damages to the Premises.

Owner acknowledges that during the Term, Owner shall not rent or allow occupancy of any Room or facilities in the Premises to any person other than City, and City agrees that it will use the Premises exclusively for the implementation of the Program and the housing of Program Guests (together with any administrative or management function required on site at the Premises for the Program). Under no circumstances shall the City engage in any conduct that would jeopardize (i) Owner's existing permits for the Hotel; or (ii) its ability to surrender the Premises at the end of the Term vacant, and in the condition required by this Occupancy Agreement. Owner shall have no obligation to manage any Program Guest or monitor or control any of the operations on the Premises; all such operations and control shall be the sole responsibility of the City. Owner represents that Owner has not received a notice of violation of any permit condition with respect to the Premises, and, to Owner's knowledge, that the Premises comply with all laws.

The City acknowledges that there is a storage room in which the Owner stores tools, parts and supplies to make repairs to improvements and equipment, and that Owner is reserving its use of such storage room for that purpose in order to more efficiently undertake any repairs required at the Premises. The City shall not permit others to gain access to such storage room which shall remain locked when not in use by Owner or its agents.

**Term; Early Termination; Option**

2. The term of this Occupancy Agreement shall commence on December 7, 2022 ("**Commencement Date**"), with the City taking physical occupancy on December 7, 2022. The City acknowledges and accepts that there is pending work on a retaining wall that affects some of the parking on site and accepts the temporary loss of that parking, provided the work is diligently pursued to completion by Owner. The term of this Occupancy Agreement ("**Term**") and the City's rights to possession of the Premises shall end on the earlier of: (i) five (5) years after the Commencement Date (expected to be December 6, 2027) unless the parties negotiate an extension under the "Option" described below; (ii) on the effective date of termination under any election of a party to terminate the Occupancy Agreement upon an "Event of Default" (defined below); (iii) on the effective date of any termination by the City for convenience (in the City's sole discretion) that is based on a notice of termination given at any time after December 7, 2023, if the City elects to so terminate the Term ("**City's Termination Right**"); (iv) on the effective date of any termination by Owner for convenience (in the Owner's sole discretion) that is based on a notice of termination that takes effect at any time after December 7, 2024, if Owner elects to so terminate the Term ("**Owner's Termination Right**"); and (v) on the effective date of termination that takes effect under the exercise of the "Casualty Termination Right" under Section 10, below, or pursuant to the "Special Termination Right", as specified in **Exhibit C** of this Occupancy Agreement.

Any exercise of City's Termination Right or of Owner's Termination Right referenced in the prior paragraph, sections (iii) and (iv), shall be made by written notice, which shall become effective and end the Term on the day that is One Hundred Eighty (180) days after such termination notice is provided to the counterparty. Thus, an election by the City to terminate the Term under the City's Termination Right that is given 190 days before November 30, 2023 will be effective as of November 30, 2023, but one given 120 days before that date will mean that the Term will end on January 29, 2024. Similarly, an election by the Owner to terminate the Term

under the Owner's Termination Right that is given 190 days before November 30, 2024 will be effective as November 30, 2024, but one given 120 days before that date will mean that the Term will end on January 29, 2025. During any such period through the end of the Term the parties are bound by all of the terms of this Occupancy Agreement.

If mutually agreeable to City and Owner, the parties may extend the Term for an additional five (5) years ("**Option**"), so long (i) this Occupancy Agreement has not terminated and there is no pending default by the party invoking the Option, (ii) notice of the intention to extend the Term is given by written notice to the counterparty at least four (4) months prior to the then pending expiration date for the Term, and (iii) the terms and conditions of such an extension, including the amount of Monthly Rent, will be negotiated and must be agreed to and reduced to writing and signed by both parties to be effective.

**Rent and Invoicing**

3. Monthly Rent payments ("**Monthly Rent**") shall be paid by the City in advance and without deduction or offset (except as allowed in Section 6), on the first day of each month during the Term, regardless of whether each Room is occupied for the full month or not, as follows:

| <b>TIME PERIOD</b>          | <b>MONTHLY RENT RATE PER ROOM</b> |
|-----------------------------|-----------------------------------|
| <b>12/7/2022-11/30/2023</b> | <b>\$2,450.00*</b>                |
| <b>12/1/2023-11/30/2024</b> | <b>\$2,523.50</b>                 |
| <b>12/1/2024-11/30/2025</b> | <b>\$2,599.21</b>                 |
| <b>12/1/2025-11/30/2026</b> | <b>\$2,677.18</b>                 |
| <b>12/1/2026-12/6/2027</b>  | <b>\$2,757.50*</b>                |

**\*PRORATED FOR THE PARTIAL MONTH**

Monthly Rent and all other payment obligations under this Occupancy Agreement are referred to collectively as "**Rent.**" All payments of Rent are due and payable thirty (30) days after Owner has provided a demand for payment. For payments other than Monthly Rent, Owner shall submit an invoice with reasonably sufficient detail to permit the City to reference and confirm the obligation to pay under the Occupancy Agreement. Rent shall be paid to Owner at the address specified in Section 4 or to such other address as the Owner may designate by a notice in writing.

Rent payments shall be paid from any source of legally available funds of the City, and so long as the Premises is available for the City's use, the City covenants to take such action as may be necessary to include all Rent payments due under this Occupancy Agreement in its budgets and to maintain such items to the extent unpaid for that fiscal year in its budgets, and to make the necessary appropriations and supplemental appropriations to the extent necessary, for all such Rent payments; which covenants of the City shall be deemed to be, and shall be, ministerial duties imposed by law, and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants made by the City in this Occupancy Agreement.

**Notices**

4. All notices and correspondence herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and when addressed as shown below, and one of the following applies: 1) two business days (i.e. not a Saturday, Sunday or a national or state holiday where the courts are closed) after it is deposited in the United States Mail, with certified first class postage prepaid; 2) on the day it is received if delivered by personal service, or if sent via a reputable commercial overnight delivery service (i.e. UPS, FedEx or similar) with receiver's signature required; and (3) on the next business day after it is by email to the address shown below and receipt has been electronically confirmed:

**To the Owner:** Ganga Holdings, LLC  
Attention: Pete Patel  
860 Eddy St  
San Francisco, CA 94109  
Phone No.: (415) 902-5718  
Email: [hotelgm101@gmail.com](mailto:hotelgm101@gmail.com)

**To the City:** City Manager's Office  
City of Berkeley  
2180 Milvia St, 5<sup>th</sup> Floor  
Berkeley, CA 94704  
Attn: Peter Radu  
Phone No. (510) 981-7045  
Email: [pradu@cityofberkeley.info](mailto:pradu@cityofberkeley.info)

ALL NOTICES AND CORRESPONDENCE MUST REFERENCE PREMISES ADDRESS.

Rent warrants shall be made payable to:

Ganga Holdings, LLC  
ATTN: Kiran Patel

and mailed to:

860 Eddy St  
San Francisco, CA 94109

The address to which notices and correspondence shall be mailed to either party may be changed on not less than five (5) days prior notice, by giving written notice to the other party as required above.

**Parking**

5. Subject to the provisions of Section 2, parking spaces shown on Exhibit A, are to be available for City's use and that of its Program Guests during the Term; however, the Owner is not obligated to enforce any parking use. The City's obligations to hold harmless, defend and indemnify the Owner and Owner Parties extends to any use made by it or its Program Guests (or their invitees or licensees) in the Premises or the parking areas. Owner shall ensure that no Owner Party nor any of its agents use these parking spaces unless separately authorized by the City. The on-site parking spaces shall be provided at no additional charge.

**Services,  
Utilities, and  
Supplies**

6. Owner, at Owner's sole cost and expense, shall contract for and facilitate the delivery to the Premises of the following public utilities and public services: electricity and gas for heating, ventilating, air-conditioning as the City needs for its operations at the Hotel, plus sewer, trash disposal (of up to 3 yards per week), and internet services (as it currently operates at the Hotel). In addition, Owner shall provide and maintain security cameras, and hot and cold water service for the reasonable needs of the Hotel.

The City and Owner shall mutually determine baseline usage for these utilities and services, based on 100% occupancy of the Hotel, and the City shall be responsible for reimbursing the Owner for any usage costs that exceed 110% of the baseline costs for the utilities and services, per billing cycle used by the utility or service provider.

If Owner breaches its obligation to pay for and facilitate the delivery of the foregoing services, utilities or equipment, upon not less than one (1) business days' notice, City may furnish the same and deduct the cost, plus City's administrative expenses of 10%, of furnishing those services, utilities or equipment from the Rent.

**Repair and  
Maintenance**

7. During the Term, the Owner shall maintain the Premises substantially in its existing condition as of the Commencement Date and in tenantable condition, subject, however, to Casualty (defined in Section 10) and condemnation. Owner's obligation to pursue repairs is limited to the obligations set out in this Section 7; such obligations arise upon prior notice of disrepair from the City ("**Repair Notice**"). Upon any Repair Notice, Owner shall immediately respond to a Repair Notice if there is an emergency involving life safety issues; otherwise Owner shall respond with the required maintenance or repair with reasonable diligence, consistent with common property management practices. For Casualty and other events beyond the Owner's control, notice of the damage shall be promptly provided by the City and the obligations to repair and pay for any such repairs shall be governed by this Section 7, Schedule 7 and Section 10, below.

(a) Owner warrants and represents the common facilities of the Premises and at least one (1) Room shall be readily accessible to and usable by individuals with disabilities in compliance with Title III of the Americans with Disabilities Act of 1990 and California Title 24 ("Disability Laws"), as amended from time to time and regulations issued pursuant thereto and in effect from time to time. Any and all costs incurred to cause the Premises to comply with the Disability Laws shall be borne by Owner unless caused by alterations to the Premises pursued by the City. See also Schedule 7.

(b) The City shall promptly notify Owner of damage to the Premises, and/or Owner's fixtures, furnishings and equipment ("**FF&E**") and mattresses ("**Mattresses**") provided by Owner on the Commencement Date or replaced by Owner. Owner's actual out-of-pocket costs of repairing or replacing any damage to (i) the Property, (ii) the FF&E, and/or (iii) Mattresses and (iv) any required deep cleaning including pest control and heat treatments for any Room are herein collectively referred to as the ("**Repair Costs**"). The City's obligation to reimburse the Owner for such Repair Costs in any "Year", as defined below, is limited to the amount of the Yearly Damage Deposit applicable to the Year in which the Repair Costs are incurred, plus any additional Repair Costs in that Year caused by the gross negligence or willful misconduct of a City Party. In so calculating the applicable Repair Costs for such Year, the parties agree to offset from such Repair Costs any net amount recovered by Owner as insurance proceeds for such loss or damages pursuant to the insurance coverage required by this Occupancy Agreement. The sum of all such Repair Costs, less any applicable net insurance proceeds received, less any available balance of that Year's Yearly Damage Deposit as of the date of such loss or damage is herein referred to as "**Excess Costs**." The City shall be responsible to Owner for all Excess Costs incurred by Owner and must pay such Excess Costs within sixty (60) days of demand from Owner.

For the avoidance of doubt, Repair Costs are to first be satisfied from the aggregate "**Yearly Damage Deposit**" (see right column, below), which shall be equal to the "Damage Deposit per

Room" set forth below for each applicable "Year" (defined below) of the Term multiplied by 27 Rooms (e.g. for the first Year the Yearly Damage Deposit is \$2,200 x 27 Rooms = \$59,400.00). City shall pay any Excess Costs within 60 days of City's receipt of Owner's reasonable proof of payment for actual costs of good, services and labor.

The Yearly Damage Deposit may be used to address damage or destruction from a "Casualty" (defined in Section 10, below) if it was caused by the negligence, gross negligence, or the willful misconduct of a City Party. In such Casualty events, the cost allocations (including rights to insurance proceeds) shall be governed by Section 10 and Exhibit C.

Each 12-month time period noted below shall be referred to as a "Year."

| TIME PERIOD          | "YEARLY DAMAGE DEPOSIT" PER ROOM |
|----------------------|----------------------------------|
| 12/7/2022-11/30/2023 | \$2,200.00                       |
| 12/1/2023-11/30/2024 | \$2,266.00                       |
| 12/1/2024-11/30/2025 | \$2,333.98                       |
| 12/1/2025-11/30/2026 | \$2,404.00                       |
| 12/1/2026-12/6/2027  | \$2,476.12                       |

(c) The City shall pay the first Year's Yearly Damage Deposit to the Owner within fifteen (15) days of the Commencement Date and receipt of demand for payment. If the Yearly Damage Deposit is not exhausted during the course of each such Year, Owner may retain the balance. If the Term continues beyond the first Year, then on the first anniversary of the Commencement Date, and after receipt of demand for payment, the City will remit that Year's Yearly Damage Deposit to the Owner. The City will follow this for each succeeding anniversary of the Commencement Date during the Term to ensure the Yearly Damage Deposit has been paid to Owner at the start of each Year in the Term. If either Owner or City exercises the Option to extend the Term, the parties shall attempt to resolve the amount and disposition of the Yearly Damage Deposit during any such extended Term.

(d) If any Room(s) are made uninhabitable due to the negligence or willful misconduct of an Occupant, the City shall not be entitled to Rent abatement for the affected Room(s) during the duration of rehabilitation.

The City further agrees that the City will ensure that every Program Guest agrees in writing – and as a condition of such person's occupancy - to refrain from engaging in damage to the Property, the FF&E or the Mattresses. See Schedule 7.

**Assignment**

8. The City shall have the right to assign this Occupancy Agreement with Owner's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. No such assignment shall relieve the City of any liability or responsibility under this Occupancy Agreement, unless the assignee agrees in writing to assume all of City's obligations under this Occupancy Agreement and is equally capable of performing them.

**Quiet Possession**

9. Subject to the terms of this Occupancy Agreement, the Owner agrees that the City, while keeping and performing the covenants herein contained, shall at all times during the existence of this Occupancy Agreement, peaceably and quietly have, hold, and enjoy the Premises without suit, trouble, or hindrance from the Owner or any person claiming a superior title under the Owner. City acknowledges that the Owner may access the Premises on not less than twenty-four (24) hours prior written notice to the City (except in case of an emergency, or where Owner is

undertaking repair of a Casualty event and it is part of a continuum of work days, in which case no notice is required) in order to (i) perform required repairs, (ii) address any failure of the utilities or services required under Section 6, or (iii) inspect the Premises. Owner's inspection of the Premises shall be limited as follows: (i) absent cause, an inspection to determine compliance with the Occupancy Agreement will not be more often than once per month; (ii) to complete an appraisal or due diligence analysis for any financing, sale or other bona fide valuation need; (iii) to show the Premises to a prospective lender or purchaser; (iv) access to a Program Guest's Room shall only occur if damage is being inspected or repaired, or the cause of a Casualty is being assessed, and then only with a person assigned by the City to accompany the Owner or its agent in completing such inspection. Absent an emergency, in which case access shall be provided immediately, any access by Owner shall only occur during regular 9 a.m. to 5 p.m. business hours. The City will reasonably cooperate in coordinating this access.

## Casualty and Destruction

10. If the Premises are damaged by fire, accident or other casualty (collectively, "**Casualty**"), and if the cost to repair such damage exceeds more than 20% of the Rent due for the remainder of the Term, or such damage is not fully covered by insurance proceeds made available to Owner, Owner may elect to terminate this Occupancy Agreement ("**Casualty Termination Right**"). Such election shall be made within twenty (20) days of the date of Casualty. Calculating the "remainder of the Term" shall be based on the shortest available Term if either party exercises an available Termination Right, If the Casualty does not provide Owner with such an election to terminate this Occupancy Agreement, or Owner does not timely elect to terminate, whether under a Casualty Termination Right, or a "Special Termination Right" under the provisions of Exhibit C, then Owner shall diligently pursue the repair and restoration of the Premises in a commercially diligent manner. Pending such repairs, Rent shall abate proportional to the number of Rooms that are untenantable during the repair efforts unless the Casualty was due to the gross negligence or willful misconduct of a City Party.

If a Casualty occurs and the Occupancy is not terminated, Owner shall tell the City the estimated number of days required to repair such Casualty within thirty (30) days of its occurrence ("**Owner's Notice**"), as the repair period may be determined in Owner's reasonable judgment. If the Owner's Notice specifies that more than fifty percent (50%) of the remainder of the Term, or more than two hundred ten (210) days, will be required to complete the repairs, whichever is less, City may at its option terminate this Occupancy Agreement by written notice to Owner within thirty (30) days of Owner's Notice ("**City's Notice**"). The "remaining Term" shall only include that portion of the Term that is not at the time of the Casualty susceptible to any early termination rights under this Occupancy Agreement. If the Premises are totally destroyed by a Casualty, this Occupancy Agreement shall terminate.

If the Premises are to be repaired after a Casualty, Owner shall diligently prosecute to completion the repair of said Premises, and the parties shall cooperate in obtaining all available insurance coverage to pay for such repairs and make these available to the Owner for such purposes including the recovery of any Rents. Except for circumstances wherein an act of the City or Program Guest(s) unduly delay the completion, if Owner does not complete the repairs within 120% of the time noted in the Owner's Notice, the City shall have the option to terminate this Occupancy Agreement by giving written notice to Owner at any time prior to Owner's completion of such repairs.

During any period where a Room is untenantable, as a result of Casualty that was not caused by the negligence or willful misconduct of a City Party, then (i) to the extent any Room is not available for City's use, the rent for any affected Room shall be abated each month by dividing the number of days the Room is unable to be occupied by thirty (30) days, and (ii) if portions of the Premises located outside of the Rooms are damaged or destroyed and not available for City's use, the rent for each Room shall be abated during the time that those portions of the Premises are not available for City's use by multiplying the rent for each Room by a fraction, the numerator of which is the square footage of the Premises that has been damaged or destroyed and the

denominator of which is the square footage of the entire Premises. It is understood and agreed that the City or its agent has the right to enter the destroyed or partially destroyed Premises provided any such entry is not prohibited by law or emergency services, and in all events any such entry is at the sole risk of City. At the City's request, the Owner shall immediately identify an appropriate route through the Hotel building to access the Premises. If the Owner cannot identify an appropriate access route, it is agreed that the City may use any and all means of access at its discretion in order to enter the Premises.

**Subrogation  
Waived**

11. To the extent authorized by any fire and extended coverage insurance policy issued to Owner or City (or the Operator) related to the Premises or operations on it, each such insured will diligently pursue with its insurer a good faith effort to have such insurer waive its rights of subrogation against the party causing the loss or damage. If a premium is required to obtain such waiver, the party seeking and benefitting from such waiver may elect to pay the premium or other cost to ensure the waiver occurs, but otherwise the insured party is under no obligation to procure the waiver of subrogation. Each party agrees to release its counterparty from liability for any loss or damage to the extent it is covered by said insurance.

**Prevailing  
Wage  
Provision**

12. For those projects defined as "public works" pursuant to Labor Code §1720.2, the following shall apply during the Term:

- A. Owner/contractor shall comply with prevailing wage requirements and be subject to restrictions and penalties in accordance with §1770 et seq. of the Labor Code which requires prevailing wages be paid to appropriate work classifications in all bid specifications and subcontracts.
- B. The Owner/contractor shall furnish all subcontractors/employees a copy of the Department of Industrial Relations prevailing wage rates which Owner will post at the job site. All prevailing wage rates shall be obtained by the Owner/contractor from:

Department of Industrial Relations  
Division of Labor Statistics and Research  
455 Golden Gate Avenue, 8th Floor  
San Francisco, California 94102  
Phone: (415) 703-4774  
Fax: (415) 703-4771

For further information on prevailing wage: [http://www.dir.ca.gov/dlsr/statistics\\_research.html](http://www.dir.ca.gov/dlsr/statistics_research.html)

- C. Owner/contractor shall comply with the payroll record keeping and availability requirement of §1776 of the Labor Code.
- D. Owner/contractor shall make travel and subsistence payments to workers needed for performance of work in accordance with the Labor Code.
- E. Prior to commencement of work, Owner/contractor shall contact the Division of Apprenticeship Standards and comply with §1777.5, §1777.6, and §1777.7 of the Labor Code and Applicable Regulations

**Fair  
Employment  
Practices**

13. During the Term of this Occupancy Agreement, the Owner shall not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. Owner shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.



Owner shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.8), and the regulations or standards adopted by the awarding City to implement such article.

**Holding Over**

14. In the event the City remains in possession of the Premises with the express written consent of the Owner after the termination or the expiration of the Term, or any extension or renewal thereof, this Occupancy Agreement shall be automatically extended on a month to month basis, subject to a thirty day (30) day notice of termination by the Owner or the City and otherwise on the terms and conditions herein specified, so far as applicable, with Monthly Rent to be at two hundred percent (200%) of the Monthly Rent in effect immediately prior to such holdover period. If no such consent is provided by Owner, then there shall be no holding over and City will be liable to Owner for any consequential or special damages caused by the unlawful holding over.

**Surrender of Possession**

15. Upon termination or expiration of this Occupancy Agreement, the City will peacefully surrender to the Owner the Premises entirely vacant and in good order and repair, except for reasonable use and wear thereof and damage by earthquake, fire, public calamity, the elements, acts of God, or circumstances for which Owner is responsible pursuant to this Occupancy Agreement. Notwithstanding the foregoing, City's obligation to restore the Premises shall also be limited in accordance with Section 19.

**Time of Essence, Binding upon Successors**

16. Time is of the essence of this Occupancy Agreement. Without affecting the provisions governing assignment and subleasing, the terms and provisions of this Occupancy Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns to the respective parties hereto.

**No Oral Agreements**

17. It is mutually understood and agreed that each party shall be deemed a drafter of the provisions of this Occupancy Agreement in equal measure, and that no alterations or variations of the terms of this Occupancy Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

**Hazardous Substance**

18. City agrees that it will comply with all applicable laws in occupying and using the Premises. This obligation includes complying with all laws existing during the Term pertaining to the presence, use, storage, transportation, and disposal of any "hazardous substance" or "hazardous materials" (as those terms are defined in Exhibit B, attached to this Occupancy Agreement; "**Hazardous Materials**") in on or about the Premises. City shall promptly advise Owner of the discovery of any such Hazardous Materials in or about the Premises where the presence, use, storage or disposal of the Hazardous Materials constitute an event requiring reporting to any governmental agency charged with protecting the environment or public health, or reflects a violation of the Environmental Laws, as these are defined in Exhibit B. In the event a government order is issued naming the City or the City incurs any liability during or after the Term in connection with Hazardous Materials that were present on the Premises before the Commencement Date, or which was caused by the Owner or its agent during the Term, Owner shall hold harmless, indemnify, and defend the City in connection therewith and shall be solely responsible as between City and Owner for all efforts and expenses arising from such preexisting contamination.

Owner represents and warrants that, to the knowledge of the Owner's manager: (a) the Premises do not contain asbestos; (b) the Premises do not contain any substance that is deemed Hazardous Materials, other than normal quantities of such Hazardous Materials as may typically be found in commercial construction or cleaning products used and disposed of in accordance with applicable laws; (c) there has been no release of Hazardous Materials on the Premises in violation of applicable law; (d) there are no underground storage tanks for petroleum products or

Hazardous Materials, active or abandoned, located on or under the Premises; (e) Owner has received no notice of violation, administrative complaint, judicial complaint, or other formal or informal notice alleging any violation of any Environmental Laws or informing Owner that the Premises are subject to investigation, inquiry, or proceeding regarding Hazardous Materials or the potential violation of any Environmental Law; and (f) there are no environmental liens on the Premises.

**Improvements and Alterations; Restoration of Premises**

19. Throughout the Term, the City shall make no improvements or alterations to the Premises if these require permits or that affect any roof membrane, any structural elements or involve more than \$2,500 in costs without the express written permission of the Owner, which shall not be unreasonably withheld, conditioned, or delayed. City shall pay for the costs of any such works of improvement and ensure that no liens or other charges are imposed on the Premises. Upon termination of the Occupancy Agreement, any equipment installed on the Premises by the City shall remain the City's property and the City shall remove such property from the Premises and repair any damages caused by such removal before the end of the Term. Upon expiration or termination of the Term, the Premises shall be returned to Owner vacant and in the same condition that existed on the Commencement Date, reasonable wear and tear excepted. On expiration of the Occupancy Agreement, the Premises shall revert to its status as a tourist hotel.

**Indemnification and Insurance**

21. The City agrees to indemnify and hold harmless the Owner, its members, manager(s), agents, successors and assigns ("**Indemnitees**") in the event of any third party claim, demand, cause of action, judgments, obligations, liabilities, expenses and costs (including, e.g., court costs and reasonable attorney's fees) and all other reasonable expenses (collectively "**Claims**") which Owner may suffer as a proximate result of the negligence or other wrongful act or violation of law by a City Party (or by any person or persons acting under the direct control and authority of the City, the Operator, or the agents or employees or either of them), in connection with the City's occupancy of the Premises under and during the Term of this Occupancy Agreement, and agrees to repair or pay for any damage proximately caused by reason of the City's use of the Premises during the Term of this Occupancy Agreement, in accordance with the terms the City committed to in Sections 7, 10, Schedule 7 and Exhibit C, as well as when due to the City's default or an Event of Default, except (i) to the extent such damages are the result of Owner's negligence or willful misconduct or it is the result of negligence or willful misconduct of any person(s) acting under the direct control and authority of Owner. The City's defense and indemnity obligations under this Section shall not be limited by the policy limits of any policy of insurance.

Owner agrees to indemnify and hold harmless the City in the event of any third party Claims that the City may suffer as direct and proximate result of the negligence or other wrongful act or violation of law by the Owner, its employees, or any person or persons acting under the direct control and authority of the Owner and further excluding that portion of the Claim caused by the negligence or willful misconduct of a City Party. Owner's defense and indemnity obligations under this Section shall not be limited by the policy limits of any policy of insurance.

Without limiting either party's defense and indemnity obligations under this Section, each party shall be entitled to participate in the defense of any third party claim that is reasonably likely to give rise to an indemnification claim under this Section.

The parties shall maintain in force at all times such policies of insurance as specified in Exhibit C, and shall abide by all of the terms and conditions of Exhibit C, which are incorporated by reference as if set forth in full herein. The provisions of this Section 21 shall continue in full force and effect despite any expiration or termination of the Occupancy Agreement.

**Taxes** 22. Owner is solely responsible for all tax liabilities, including property taxes. However, the City represents and warrants that under no circumstances shall any room occupied by the City or Program Guests be subject to the City's Transient Occupancy Tax.

**Exclusive Use** 23. Owner shall not rent or allow occupancy of any vacant Rooms or facilities in the Hotel during the Term of the City's occupancy of the Premises.

**Occupancy of Premises** 24. Owner and City understand that they shall not receive rent, fees, or any other form of payments or consideration, or gifts from Program Guests of Rooms in exchange for access to or use of the Premises. Owner and City also understand that neither has entered into any contract with the occupants of the Rooms related to the use of the Premises within the meaning of California Civil Code section 1925. The occupants of the Rooms are not persons who hire any dwelling unit from Owner or City within the meaning of California Civil Code section 1940 and are not subject to the benefits of the California Civil Code or any other state statutes, rules, or regulations or local government rules, regulations or ordinances that confer tenancy rights on the occupants.

**Remedies** 25. (a) It is an "Event of Default" – and a breach by the City - under this Occupancy Agreement if the following occurs: (i) Monthly Rent is not timely paid and such failure is not cured within five (5) days of notice from Owner; (ii) Rent other than Monthly Rent is not timely paid and such failure is not cured within fifteen (15) days of notice from Owner; (iii) City is in breach of its obligation to maintain the insurance coverages required of it, or fails to ensure that the Operator maintains its required insurance coverages; (iv) the City fails to perform any other obligation under this Occupancy Agreement (other those enumerated below), and fails to cure such default within thirty (30) days of notice from Owner; (v) the City abandons the Premises; (vi) the City fails to timely surrender the Premises, or (vii) City permits nuisance conditions to exist on the Premises.

(b) It is an "Event of Default" – and breach by the Owner- under this Occupancy Agreement if the following occurs: (i) Owner fails to timely pay an obligation to City within thirty (30) days of notice from City of such delinquency; (ii) Owner fails to perform an obligation that is required of Owner under this Occupancy Agreement and it fails to cure such default within thirty (30) days of notice from City of such default; and (iii) the Owner is in breach of its obligation to maintain the insurance coverages required of it.

(c) Except to the extent budget has been authorized by the City for Rents due under this Occupancy Agreement, there shall be no right under any circumstances to accelerate the payment of Rent or otherwise declare any payments of Rent not then in default to be immediately due and payable, Owner reserves and shall have all of the remedies reserved to a landlord for a breach of a lease, including:

(1) Owner may: (i) terminate this Occupancy Agreement upon service of lawful notice, and City shall then surrender the Premises to Owner; or (ii) enter and take possession of the Premises, in accordance with any applicable laws governing such repossession, and remove City, with or without having terminated this Occupancy Agreement. The provisions of this Section 25 (c)(1) shall operate as a notice to quit, any other notice to quit or of Owner's intention to re-enter the Premises being expressly waived. If necessary, Owner may proceed to recover possession of the Premises under applicable laws, or by such other legal proceedings, including re-entry and possession. Owner's exercise of any of its remedies or its receipt of City's keys to the Premises shall not be considered an acceptance or surrender of the Premises by City. A surrender must be agreed to in writing and signed by both parties. City shall pay to Owner all costs, losses or damages howsoever arising or occurring payable at the same time and in the same manner as is provided herein in the case of payment of Rent. Any surplus received by the Owner from re-leasing the Premises shall be the absolute property of Owner and City shall have

no right thereto, nor shall the City be entitled to any credit in the event of a surplus in the rentals received by Owner.

(2) Owner shall have the right to continue the Occupancy Agreement in effect after City's breach and recover Rent as it becomes due, and Owner, in addition to all other rights and remedies, shall have the rights and the remedy described in California Civil Code § 1951.4 (which provides that the Owner may continue the Occupancy Agreement in effect after City's breach and abandonment and recover Rent as it becomes due, if the City has right to sublet or assign, subject only to reasonable limitations). Acts of maintenance or preservation, efforts to relet the Premises, or the appointment of a receiver upon Owner's initiative to protect its interest under this Occupancy Agreement shall not of themselves constitute a termination of City's right to possession. City consents to Owner repossessing the Premises and re leasing it for the account of City, in which event the City's obligation will accrue from year to year in accordance with this Occupancy Agreement and City will continue to receive the value of the use of the Premises from year to year in the form of credits against its obligation to pay Rent. The obligations of City shall remain the same as prior to such default, to pay Rent whether City re-enters or not. City agrees to and shall remain liable for the payment of all Rent and the performance of all conditions contained herein and shall reimburse Owner for any deficiency arising out of the re leasing of the Premises, or, in the event Owner is unable to re lease the Premises, then for the full amount of all Rent to the end of the Term, but said Rent and/or deficiency shall be payable only at the same time and in the same manner as provided above for the payment of Rent hereunder, notwithstanding such repossession by Owner or any suit, brought by Owner for the purpose of effecting such repossession of the Premises or the exercise of any other remedy by Owner.

(d) Unless specifically reserved in this Occupancy Agreement, or the damage is caused by the gross negligence or willful misconduct of a party or any agent of such party, each party waives any claims for consequential or special damages arising from this Occupancy Agreement or the use of the Premises. Subject to the preceding sentence, if a party breaches any term or provision of this Occupancy Agreement, the counterparty shall have the right to pursue all available remedies at law or equity, including recovery of damages and specific performance of this Occupancy Agreement. The parties hereto agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach of any of the provisions of this Occupancy Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, each party shall waive the defense that a remedy at law would be adequate. Except as expressly provided elsewhere in this Occupancy Agreement, each party's rights and remedies under this Occupancy Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.

**Conflict of Interest**

26. By executing this Occupancy Agreement, Owner certifies that it does not know of any fact which constitutes a violation of California Government Code Section 1090, Berkeley City Charter Section 36 and B.M.C. Chapter 3.64, and further agrees promptly to notify the City if it becomes aware of any such fact during the Term of this Occupancy Agreement.

**Right of First Offer**

27. If Owner elects to complete a "Market Transaction" (as defined below) during the Term, then the City will have a right to make the first offer ("ROFO") to purchase the Property. Any such ROFO, if it arises can only be exercised by the City during the Term, and then only if there has been no Event of Default. No rights under this Section 27 are assignable, except that if the City otherwise is capable of exercising the ROFO it may assign such rights to a nonprofit with which the City is partnering to provide housing for people experiencing homelessness, if (and only if) all of the following apply to the non-profit and its exercise of the ROFO ("**Valid Assignee**"): (i) at or before the Offer is made, the City notifies Owner that it has a nonprofit corporation that qualifies for the assignment and it provides reasonable proof of this, (ii) the City's nominated nonprofit makes an Offer and is capable of completing the purchase on the terms of the ROFO set out in

the Offer and provides reasonable evidence of this, and (iii) the City expressly assigns all such ROFO rights, and remains bound to perform the balance of its obligations under the Occupancy Agreement through the Closing Date. Any Valid Assignee shall have the same rights and obligations that the City has under the ROFO once it has made a good faith Offer. For the avoidance of doubt, once the non-profit has made an Offer, any remedies shall be solely those of the non-profit, and those shall be subject to any limitations set out in this Occupancy Agreement for the City.

A failure to exercise the ROFO in accordance with these provisions when the ROFO arises, or a breach of the ROFO provisions by City or a Valid Assignee, or the City's or the Valid Assignee's breach of the "Purchase Agreement" (defined below) will terminate any further rights of the City or any such Valid Assignee under this Section 27.

The ROFO only operates if the Owner intends to enter into a "Market Transaction" which shall mean that the Owner intends to sell the Property in an arms'-length market transaction to a third party. It specifically excludes the following transactions: (i) any transfers associated with a loan transaction; (ii) changes in the membership of the Owner; (iii) any gift transaction; (iv) any transfer to facilitate estate planning by any principal of Owner (or transfer to a family member within the third degree of consanguinity or spouse of the same), and (v) any involuntary transfer. If a ROFO arises, and the City or a Valid Assignee duly exercises it, the City must continue to perform all of its obligations under this Occupancy Agreement until the closing on the purchase of the Property under the ROFO. If City or a Valid Assignee under this Section 27 causes an Event of Default under this Occupancy Agreement or is in breach under the Purchase Agreement, Owner may elect to terminate this Occupancy Agreement and the Purchase Agreement and exercise all other remedies it has.

Where the Owner intends to engage in a Market Transaction, Owner must notify the City of such an intent to market the Premises for sale, and the City (or its Valid Assignee) will have a right to make the first offer on the Premises, which shall be carried out in accordance with the procedure set forth in the *AIR-CRE* form, attached hereto as **Exhibit D**. If the City exercises such right and elects to purchase the Property, or the Valid Assignee does, the resulting purchase agreement ("**Purchase Agreement**") shall cause the Occupancy Agreement to terminate as of the closing on the Purchase Agreement ("**Closing Date**").

If the City or the Valid Assignee fails to exercise the ROFO, or either fails to complete the Purchase Agreement, then the City and the Valid Assignee shall provide Owner with a quitclaim deed to the Property when requested by Owner to show that the Property is free of any claims by the City or the Valid Assignee except for any obligations pending during the remaining term of this Occupancy Agreement.

### **CITY OF BERKELEY PROVISIONS**

28. City Non-Discrimination Ordinance. Owner hereby agrees to comply with the provisions of the Berkeley Municipal Code ("**B.M.C.**"), including without limitation Chapter 13.26, as amended from time to time. In the performance of its obligations under this Occupancy Agreement, Owner agrees as follows during the Term:

a. Owner shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

b. Owner shall permit City access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the reasonable opinion of City, are necessary to monitor compliance with this non-discrimination provision. In addition, Owner shall fill out, in a timely fashion, forms supplied by City to monitor this non-discrimination provision.

29. Non-Discrimination Against Persons With Disabilities.

a. If Owner provides any aid, service or benefit to others on the City's behalf, Owner shall, in the provision of such aid, service or benefit, observe and comply with all applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Owner shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination against individuals with disabilities or ensuring that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the City, if applicable.

b. If Owner is or becomes a "public accommodation" as defined in Title III of the Americans with Disabilities Act of 1990, Owner shall observe and comply with all applicable provisions of the Act and any amendments thereto, and all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations offered by the Owner. All of Owner's activities must be in accordance with these laws, ordinances, codes, and regulations, and Owner shall be solely responsible for complying therewith.

30. Conflict of Interest Prohibited.

a. In accordance with California Government Code Section 1090, Berkeley City Charter Section 36 and B.M.C. Chapter 3.64, neither Owner nor any employee, officer, director, partner or member of Owner, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a committee or commission member of City, who has directly or indirectly influenced the making of this Occupancy Agreement.

b. In accordance with California Government Code Section 1090 and the Political Reform Act, (Government Code Section 87100 et seq.,) no person who is a director, officer, partner, trustee, employee or consultant of Owner, or immediate family member of any of the preceding, shall make or participate in a decision made by City or any of its boards, commissions or committees, if it is reasonable foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or City, except to the extent permitted by 2 California Code of Regulations, Section 18700(c)(2).

Interpretation of this Section shall be governed by the definitions and provisions use in the Political Reform Act, Government Code section 87100 et seq., its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, as amended from time to time.

31. Nuclear Free Berkeley. Owner agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

32. Oppressive States.

a. In accordance with Resolution No. 59,853-N.S., Owner certifies that it has no contractual relations with, and agrees during the Term of this Occupancy Agreement to forego contractual relations to provide personal services to, the following entities:

i. The governing regime in any Oppressive State.

ii. Any business or corporation organized under the authority of the governing regime of any Oppressive State.

iii. Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of this Occupancy Agreement) for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

b. For purposes of this Occupancy Agreement, the Tibet Autonomous Region and the provinces of Abo, Kham, and U-Tsang shall be deemed Oppressive States.

c. Owner's failure to comply with this Section 31 shall constitute a default of this Occupancy Agreement and Owner may terminate this Occupancy Agreement on five days' written notice to Owner. In the event that City terminates this Occupancy Agreement due to a default under this provision, City may deem Owner a non-responsible bidder for five (5) years from the date this Occupancy Agreement is terminated.

33. Berkeley Sanctuary City Ordinance. Owner hereby agrees to comply with the provisions of the Sanctuary City Contracting Ordinance, B.M.C. Chapter 13.105. In accordance with this Chapter, Owner agrees not to provide the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security with any Data Broker or Extreme Vetting Services as defined herein:

a. "Data Broker" means either of the following: (1) The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies; (2) the aggregation of data that was collected for another purpose from that for which it is ultimately used.

b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include: (1) The City's computer-network health and performance tools; (2) Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

**IN WITNESS WHEREOF, this Occupancy Agreement has been executed by the parties hereto as of the dates written below.**

CITY:

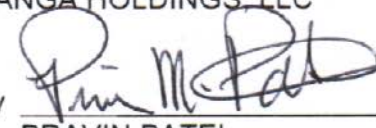
CITY OF BERKELEY

By \_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

OWNER:

GANGA HOLDINGS, LLC

By   
PRAVIN PATEL,  
Manager

Date 11/22/2022

**Approved as to Form**  
\_\_\_\_\_  
CITY ATTORNEY  
By \_\_\_\_\_

Date \_\_\_\_\_



**SCHEDULE 7**  
**REPAIRS, FUNDING, AND RISK MANAGEMENT OBLIGATIONS**

The parties intend by these provisions to provide certain standards for reducing (and allocating) risks and costs between them, including the costs of repairs arising from the use of the Premises and the need for repairs or reconstruction of the Premises during the Term.

**A. ADA Accessibility And Disability Access Disclosure Under Section 1938 of the California Civil Code.** City acknowledges and agrees that it is familiar with the condition of the Premises and all improvements thereon and, except with respect to pending work on a retaining wall that affects some of the parking on site, is leasing the Premises in its "AS-IS" condition, and, except with respect to said retaining wall, Owner shall have no obligation whatsoever to perform any work, supply any materials, incur any expenses or make any installations in order to prepare the Premises for City's occupancy. Moreover, Owner has not granted any allowances of any kind for the condition of the Premises. Except as expressly provided in this Occupancy Agreement, Owner makes no representation or warranty of any kind or nature, express, implied or otherwise, regarding the condition or usefulness of the Premises by or for City, its compliance with applicable Legal Requirements, or the suitability of the Premises for any particular use or purpose.

In accordance with Section 1938 of the California Civil Code, Owner has notified City that the Premises has undergone an inspection by a Certified Access Specialist to determine if the Premises meet all applicable construction related accessibility standards pursuant to Section 55.53 of the California Civil Code. Owner makes the following statement in compliance with the requirements of Section 1938(e) of the California Civil Code:

*"A Certified Access Specialist ("CASp") can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state Laws. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the subject premises."*

If City desires to obtain such CASp inspection, the CASp party, the scope of the inspection and date such inspection shall be performed shall be subject to the prior written approval of Owner, which will not be unreasonably withheld. Owner shall have the right to have a representative present during such inspection. The cost of such inspection shall be paid by City without reimbursement or other payment from Owner. Any work with respect to the Premises required to be completed as described in the CASp report shall be performed and paid for by City. Nothing contained in this Schedule 7 (including, without limitation, the notice to City above), shall alter the Parties' respective obligations under the other express provisions of this Occupancy Agreement.

**B. Life Safety Systems.** At its cost, Owner shall provide the existing life safety systems on the Premises, together with any upgrades required by applicable law. City agrees that its Program manager will, at least on a weekly basis, (i) test all smoke/CO detectors throughout the Hotel, and (ii) report to Owner on any smoke detectors that fail the test. Separately, the City will promptly notify the Owner of any defects that it becomes aware of in the life safety systems on the Premises.

C. **Yearly Damage Deposit.** As provided in Section 7 of the Occupancy Agreement, on the Commencement Date and on each anniversary of the Commencement Date (thus, at the start of each Year of occupancy), the City will provide an annual amount as a "damage deposit" for the ensuing Operating Year to cover anticipated costs of repairing the Premises following a Casualty caused by a City Party.

Any unused portion of the Yearly Damage Deposit will be retained by Owner as Rent; provided, however, if the Owner exercises an Owner Termination Right, a Casualty Termination Right, or a Special Termination Right, or the City exercises a termination due to Owner's Event of Default, then as of the date the Term ends, any unused portion of the Yearly Damage Deposit shall be (i) applied to the need for repairs to the extent that City fails to surrender the Property in the condition required by the Occupancy Agreement; and (ii) the balance is to be paid over to the City within thirty (30) days of such surrender, or the completion of such repairs, whichever is later.

D. **Program Management.** The City has advised Owner that each Program Guest is bound by an agreement with the City ("**Residency Agreement**") to use the Premises for residential purposes only and to exercise care in pursuing that occupancy and use.

1. It is a material part of the Occupancy Agreement that the City observe and enforce the following requirements under the Residency Agreement: (i) it will ensure that the Program Guest will test the smoke/CO detector in that person's assigned Room and report on whether it functions (this shall not relieve the City from its own testing obligations); and (ii) the City will ensure that each Residency Agreement will be duly reviewed and signed by the Program Guest, and that it will contain the following warnings and provisions in capital letters and 14 point font (and it shall note that doing these things will be grounds for eviction from the Premises):

*[CITY/PROGRAM COMPANY] WANTS TO ENSURE THAT THE HOUSING OFFERED IS KEPT IN A SAFE AND USABLE CONDITION.*

*YOU AGREE TO HELP ENSURE THAT YOU DO YOUR PART TO REACH THIS GOAL.*

*IF YOU OR ANY GUEST OF YOURS ENGAGES IN ANY OF THE FOLLOWING CONDUCT, IT WILL CONSTITUTE **WILLFUL MISCONDUCT** AND WILL BE IMMEDIATE GROUNDS FOR TERMINATING YOUR RIGHT TO ENTER THE PROPERTY: (A) ANY INTENTIONAL DAMAGE TO THE ROOM OR ANY PART OF THE BUILDING OR EXTERIOR PREMISES (i.e., PURSUING A COURSE OF ACTION WITH THE LIKELY RESULT THAT IT WILL SO DAMAGE THE PREMISES); (B) SMOKING IN THE ROOM OR ANYWHERE IN THE BUILDING; (C) ANY TAMPERING OR DAMAGE TO THE SMOKE DETECTORS IN THE ROOM OR THE BUILDING; (D) ALLOWING ANYTHING TO ENTER THE TOILET OR BE FLUSHED DOWN THE TOILET OTHER THAN HUMAN WASTE AND REGULAR TOILET PAPER, (THIS IS **WITHOUT EXCEPTION** - SO, ALL OF THE FOLLOWING ARE PROHIBITED: SYRINGES, "WIPES" OF ANY KIND [INCLUDING THOSE THAT CLAIM TO BE "DISPOSABLE"], TAMPONS, PAPER TOWELS, HAIR BALLS, DENTAL FLOSS, STRING, ETC. ARE ALL STRICTLY PROHIBITED); (E) TAMPERING WITH ANY PLUMBING OR ELECTRICAL DEVICES (THAT IS, ANYTHING OTHER THAN TURNING FAUCETS ON OR OFF, OR PLUGGING IN APPLIANCES, ETC.); (F) ALLOWING ANY SINK TO OVERFLOW; (F) THE USE OF ANY OF THE FOLLOWING: ANY OPEN FLAME, ANY HOT PLATES AND ANY SPACE HEATERS; (G) TAMPERING WITH ANY ELECTRICAL WIRING; (H) BRINGING ANY HAZARDOUS MATERIALS ONTO THE PREMISES UNLESS IT IS A CONSUMER PRODUCT THAT IS KEPT IN ITS AUTHORIZED CONTAINER AND USED SOLELY FOR THE PURPOSE IT WAS DESIGNED FOR; AND (I) BRINGING PROPANE, GASOLINE OR ANY OTHER FLAMMABLE PRODUCT ONTO THE PREMISES, EXCEPT FOR FUEL IN A VEHICLE'S FUEL TANK.*

2. *IF YOU ARE RESPONSIBLE FOR ANY LOSS OR DAMAGES TO THE ROOM OR ANY PART OF THE PROPERTY, DUE TO YOUR NEGLIGENCE OR WILLFUL MISCONDUCT, THEN [THE CITY] CAN TERMINATE YOUR USE OF THE ROOM OR THE PREMISES IMMEDIATELY AND YOU WILL LOSE ALL PRIVILEGES AND BENEFITS OF THIS PROGRAM PROVIDED TO YOU BY THE CITY.*

3. For all purposes under this Occupancy Agreement, City acknowledges that if any City Party engages in any of the conduct identified as "willful misconduct" in the enumerated actions set out in capital letters of subsection 1., above, it shall be binding on City as an act of "willful misconduct" for all purposes under this Occupancy Agreement.

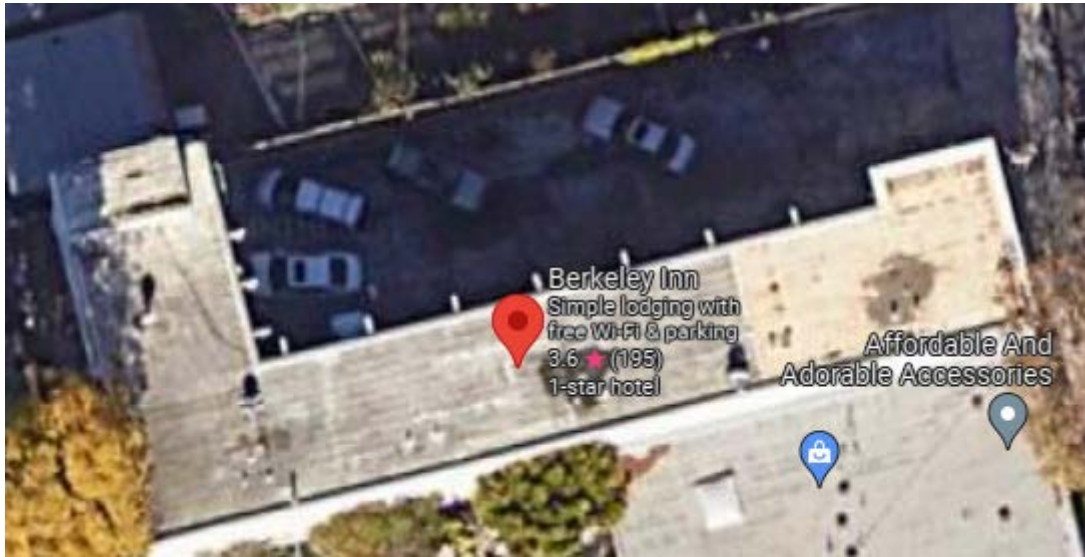
- Eviction for Misconduct. The City and its Operator shall ensure that Owner is promptly notified of any events or occurrences constituting a violation of the above requirements under the Residency Agreement (regardless of any ostensible "cure" period). All of the above must be grounds for immediate eviction under the Residency Agreement, and where any of the prescribed events occurs, the City will take all reasonable and lawful measures to cause such Program Guest to be evicted from the Premises within TEN (10) days of the occurrence, and ensure that he or she is precluded from reentering the Premises for the balance of the Term. Until such eviction is accomplished, the City will be responsible for any further losses caused by that Program Guest.
- Other Evictions/Risk Allocation. Moreover, if the Program Guest has more than one such damage incident, that is the result of mere negligence (i.e., the first such occurrence was not caused by an act or omission constituting gross negligence or willful misconduct, including, as defined in the Residency Agreement), and the aggregate damage inclusive of prior Casualties attributable to such Program Guest is greater than \$5,000, then, if the City does not oust the Program Guest, the City will be responsible for any further damages caused by that Program Guest's negligence (after the Yearly Damage Deposit has been exhausted). Where any Program Guest causes a loss of more than \$5,000.00 (in a single instance or in the aggregate), regardless of the degree of negligence or misconduct, and the City does not remove such person from the Premises immediately after such a threshold of harm has been reached, then the City shall be responsible for any further Claim, loss or damage caused by such Program Guest's acts or omissions (whether due to simple or gross negligence or due to willful misconduct); provided that, if the City is so obligated to pay for such further losses, the City can apply any balance remaining in the Yearly Damage Deposit for that Year (defined in Section 7, above) to cover the resulting costs.
  - Thus, if a Program Guest has caused two instances where repairs were needed and these cost more than \$5,000 in losses, and the City does not remove such person from the Premises, and then a further loss of \$10,000 occurs due to that person's acts or omissions, the City will pay for such additional \$10,000 loss; however, it can use any remaining balance in the Yearly Damage Deposit to pay for those costs. For example, if there are three thousand dollars (\$3,000) remaining in the Yearly Damage Deposit account for that Year, then the parties will apply the \$3,000 to pay for such repairs, and the City will provide further payment of the \$7,000.00 balance to cover the additional costs of repairs.
  - See additional provisions in Exhibit C.

D. Laundry FF&E. Only staff supervised by the Operator may have access to the laundry room area. If any damage is caused to the laundry equipment during the Term by any City Party, and such damages ultimately aggregate to more than \$2,000.00 (Two Thousand Dollars), Owner may, in its discretion remove the existing laundry equipment and install a coin operated laundry serviced by a vendor.

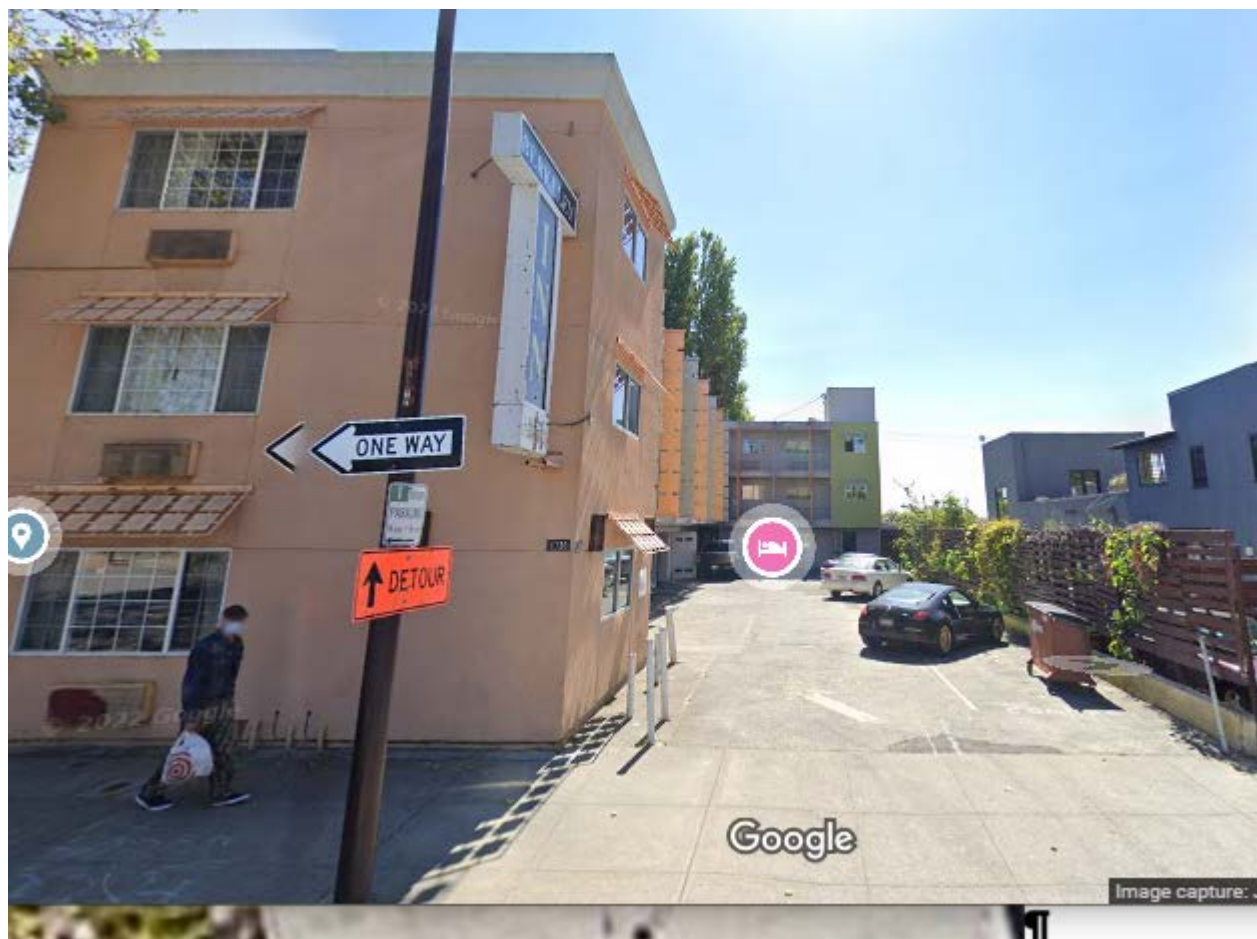
E. Insurance. See Exhibit C.

**Exhibit A  
Aerial Site Plan**

This is an aerial site plan including all parking spaces contiguous to the subject hotel building.



This is a street view showing parking spaces contiguous to the subject hotel building.



## Exhibit B

### Hazardous Substances and Environmental Laws

**“Hazardous Substances”** means any hazardous or toxic substance, material or waste, or any pollutant or contaminant, or any substance that is or becomes regulated by any local governmental authority, the state in which the Premises are located or the United States Government, including without limitation: (a) those substances included within the definitions of “hazardous substances,” “hazardous materials,” “toxic substances,” or “solid waste” in CERCLA or RCRA; (b) those substances defined as “hazardous wastes” in section 25117 of the California Health & Safety Code, or as “hazardous substances” in section 25316 of the California Health & Safety Code, and in the regulations promulgated pursuant to said laws; (c) those substances listed in the United States Department of Transportation Table (49 C.F.R. 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 C.F.R. part 302 and amendments thereto); (d) any material, waste or substance which is (i) petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), (ii) petroleum products, (iii) asbestos, (iv) polychlorinated biphenyls, (v) designated as a “hazardous substance” pursuant to section 311 of the Clean Water Act, 33 U.S.C. 1251 et seq. (33 U.S.C. §1321) or listed or designated as a “hazardous substance” pursuant to section 307 of the Clean Water Act (33 U.S.C. §1317), (vi) flammable explosives, or (vii) radioactive materials, (viii) urea formaldehyde, (ix) radon gas, (x) medical waste, and (xi) chemicals that may cause cancer or reproductive toxicity; (e) defined as a “hazardous waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. § 6903), (f) defined as a “hazardous substance” pursuant to section 101 of the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601, et seq.); and (g) such other substances, materials, and wastes which are or become classified as hazardous or toxic under any of the Environmental Government Regulations or any other applicable local, state or federal law, or otherwise are or become regulated under any Environmental Law(s).

**“Environmental Law(s)”** means any federal, state, or local laws, ordinances, rules, regulations, requirements, orders, directives, guidelines, or permit conditions, in existence as of the Commencement Date or as later enacted, promulgated, issued, modified or adopted, regulating or relating to Hazardous Substances, and all applicable judicial, administrative, and regulatory decrees, judgments, and orders, and common law, including those relating to industrial hygiene, public safety, human health, or protection of the environment, or the reporting, licensing, permitting, use, presence, transfer, treatment, analysis, generation, manufacture, storage, discharge, Release, disposal, transportation, Investigation or Remediation of Hazardous Substances. Environmental Government Regulations include the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. section 9601, et seq.) (“CERCLA”); the Resource Conservation and Recovery Act, as amended, (42 U.S.C. section 6901 et seq.) (“RCRA”); the federal Water Pollution Control Act, as amended, (33 U.S.C. section 1251 et seq.); the Toxic Substances Control Act, as amended, (15 U.S.C. section 2601 et seq.); the Hazardous Substances Account Act (Chapter 6.8 of the California Health and Safety Code section 25300 et seq.); Chapter 6.5 commencing with section 25200 (Hazardous Waste Control) and Chapter 6.7 commencing with section 25280 (Underground Storage of Hazardous Substances) of the California Health and Safety Code; and the California Water Code, sections 13300 et seq.

## EXHIBIT C

### Minimum Insurance Requirements

Unless separately defined below, capitalized terms shall have the meaning given to them in the main body of the Occupancy Agreement. To the extent of any conflict between these provisions and those in the main body of the Occupancy Agreement, these shall prevail. In addition, the City will provide all of the coverages contained in its "Memorandum of Coverages" attached hereto as Schedule 2 to the extent that such coverages are broader than and more protective of Owner (otherwise the broader coverages of this Exhibit C and the provisions of the main body of the Occupancy Agreement will prevail).

a. For the Term of this Occupancy Agreement, City shall self-insure or maintain, at its own expense, comprehensive general liability insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) combined single and aggregate limits for both bodily injury and property damage, personal injury, completed operations and products liability. City shall insure all of the City's personal property located on or in the Premises against all risks. All such liability insurance shall name the Owner and its members and manager and its agents and employees as additional insureds and shall contain a severability of interests clause, specifying that, with respect to the coverage limits, such liability insurance applies to each person named as additional insureds as though a separate policy were issued to each, thus providing primary coverage with respect to the claims arising from the operations on the Premises.

City shall cause its Operator to provide the following insurance coverages: (a) comprehensive general liability insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) combined single and aggregate limits for both bodily injury and property damage, personal injury, completed operations and products liability; (b) "all risks" form of property insurance for all of the Operator's personal property on the Premises; (c) If any licensed professional performs services as the Operator, a professional liability insurance policy in the minimum amount of \$1,000,000 to cover any claims arising out of Operator's performance of services under this Occupancy Agreement; (d) Worker's Compensation Insurance at levels required by statute; and (e) if Operator uses any vehicles in its operations in or about the Property, automobile liability coverage for bodily injury and property damage of not less than \$100,000 per person bodily injury per accident and \$50,000 in property damage per accident. The Workers' compensation policy shall include Employer Liability Insurance with limits not less than \$1,000,000 each accident, and shall provide that the insurance carrier shall not cancel, terminate, or otherwise modify the terms and conditions of said insurance except upon thirty (30) days prior written notice to Owner and shall provide for a waiver of any right of subrogation against Owner, to the extent permitted by law

City has provided a Memorandum of Coverage to signify its proposed coverage of these coverage obligations. A copy is attached to this Exhibit C as **Schedule 1**. The City agrees to maintain these coverages at its cost throughout the Term.

Subject to the provisions of this Exhibit C, Owner shall maintain at all times during the performance of this Occupancy Agreement the insurance coverages (for property damage to the Property and for liability insurance) as identified in the quote relating to property damage and liability insurance attached hereto as **Schedule 1**. To the extent permitted under Owner's Policies, Owner's liability insurance shall name the City, its officers, agents, volunteers and employees as additional insureds but shall be subordinate to the primary coverage provided by the City.

Owner shall not be in breach of this Occupancy Agreement if it is unable to procure ongoing or replacement coverage(s) for the policies or coverages noted on Schedule 1 (whether property damage or liability coverage; individually, an "**Owner's Policy**", and collectively, "**Owner's Policies**"), so long as Owner has made commercially reasonable efforts to find replacement coverage for an Owner's Policy



and is unable to find equivalent coverage, or is unable to find it at a premium cost that does not exceed the prior Year's coverage costs for such insurance by more than 50% and City will not cover the excess premium costs over such 50% maximum (referred to as a "**Coverage Failure**"). If Owner suffers a Coverage Failure, it may elect to terminate this Occupancy Agreement on thirty (30) days' notice ("**Special Termination Right**"), and if there is a loss of coverage under the Owner Policies before the City surrenders possession, City shall be responsible for any Claim, loss or damage suffered or incurred by Owner until such surrender occurs. If Owner exercises its Special Termination Right then City shall timely surrender the Premises to Owner as required within such thirty (30) days, unless the next sentence applies. The City shall have an option to extend the surrender date by ninety (90) days (so that the surrender date is one hundred and twenty (120) days after notice of the Special Termination Right ("**Extension Election**")) if (i) it has not otherwise caused an Event of Default, (ii) the Coverage Failure is only with respect to Owner's property damage coverage, and (iii) the City makes its Extension Election within ten (10) days of Owner's notice of exercising its Special Termination Right. If an Extension Election occurs, the City shall hold harmless, defend and indemnify the Owner and the Indemnitees from all Claims arising from the City's continued use of or operations on the Property until the Premises are duly surrendered by the City. Time is of the essence in making such Extension Election.

All insurance policies shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to the City's Contract Administrator or the Owner, as applicable (unless otherwise noted on Schedule 1); and 2) be evidenced by the original Certificate of Insurance, specifying the required coverage and the insurance carrier's standard additional insured form endorsement. If any of the stipulated coverages are to change, such change is to be approved as to form and sufficiency by the City's Contract Administrator and Owner, as applicable, with such approval to be reasonably exercised. A failure by City or Owner to procure and maintain the required coverage(s) is an Event of Default unless the failure is a Coverage Failure. The original insurance certificates and all extensions to the insurance certificates should be sent to the addresses identified below.

b. If the commercial general liability insurance referred to above or shown in Schedule 1 is written on a Claims Made Form then, following termination of this Occupancy Agreement, the applicable party required to provide coverages must purchase and ensure there is coverage that will survive for a period of not less than five years after the end of the Term. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Occupancy Agreement.

c. If a party to the Occupancy Agreement (including any Operator) employs any person to be in or around the Premises, it shall carry workers' compensation and employer's liability insurance and shall provide a certificate of insurance to its counterparty. The workers' compensation insurance shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said insurance except upon thirty (30) days written notice to the City's Contract Administrator or Owner (as applicable); 2) provide for a waiver of any right of subrogation against the counterparty, to the extent permitted by law; and 3) shall be approved as to form and sufficiency by the Contract Administrator and the Owner, as applicable.

Where there is a Casualty event, and coverage may be available under an Owner's Policy, it is within the Owner's discretion to tender a claim under such policies, except to the extent the City can direct that decision under this subsection (d). If, in any given Year there is a liability claim, or a Casualty event that involves a loss or damage (to Owner or a third party) that is covered under an Owner's Policy (a "**Covered Claim**"), then Owner shall (i) provide notice to the City of the nature of the Covered Claim and the date of occurrence ("**Claim Notice**"), and (ii) tender the Covered Claim under the applicable Owner's Policy if (i) the amount of the Covered Claim for an occurrence is more than \$150,000.00 (One Hundred and Fifty Thousand Dollars), (ii) if the amount of the Covered Claim is less than \$150,000.00, but more

than one Covered Claim has occurred during the applicable Year and the aggregate of all such Covered Claims in that Year (regardless of whether they were tendered) exceeds \$250,000.00, and (iii) the City directs the Owner to pursue submission of the Covered Claim within ten (10) days of the Claim Notice. If Owner submits such Covered Claim and, as a result, there is a Coverage Failure, Owner may elect to terminate this Occupancy Agreement as a Special Termination Right.

e. City agrees that it will pay for up to \$30,000 per Year towards (i) the premium costs of Owner's Policies and (ii) any deductibles imposed during that Year under those Owner's Policies for a Covered Claim. Such contribution will first be applied towards any premium costs for the applicable Year, with any remainder of the \$30,000 to be payable to the extent of any deductibles incurred during such Year for a Covered Claim. Owner shall provide a reasonable accounting of such costs and City will reimburse Owner for these costs within sixty (60) days of such invoice from Owner.

f. If there is a Casualty or Claim that exceeds the coverage limits required of Owner under the Occupancy Agreement (e.g., \$5 million in property coverage and \$1 million in liability coverage), the City agrees to hold harmless, defend and indemnify the Owner and the Indemnitees from and against any loss or Claims arising from the Casualty or Claim that exceed the required coverage limits.

g. Owner shall forward all insurance documents to:

Department Name: City Manager

Department Address: 2180 Milvia Street, Berkeley, CA 94704

The City shall forward all insurance documents to the Owner at its address for notices.

**SCHEDULE 1**

[ATTACH QUOTES APPROVED BY CITY]

SCHEDULE 2

[ATTACH MEMORANDUM OF COVERAGES BY CITY]

EXHIBIT D

AIR/CRE Right of First Offer to Purchase



RIGHT OF FIRST OFFER TO PURCHASE
STANDARD LEASE ADDENDUM

Dated: \_\_\_\_\_

By and Between

Lessor: \_\_\_\_\_

Lessee: \_\_\_\_\_

Property Address: \_\_\_\_\_

(street address, city, state, zip)

Paragraph \_\_\_\_\_

- a. Subject to the provisions of Para. 27 of the Occupancy Agreement...
b. If, at any time during the First Offer Period, Lessor decides...
c. If Lessor should send a First Offer Notice to Lessee...
d. If Lessee does not deliver to Lessor its Offer...
e. If Lessee delivers the required Offer in a timely fashion...
f. If the Occupancy Agreement, or Lessee's right to possession...
g. Lessee's ROFO is intended to apply only to voluntary transfers...

AIR CRE, 500 North Brand Blvd, Suite 900, Glendale, CA 91203, Tel 213-687-8777, Email contracts@aircre.com
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INITIALS

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INITIALS

OTP-1.00, Revised 01-03-2017





Office of the City Manager

CONSENT CALENDAR  
December 6, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Peter Radu, Assistant to the City Manager  
 Subject: Amend Contract No. 32100161 with Dorothy Day House to extend Horizon Village Shelter and Safe RV Parking Program operations

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100161 with Dorothy Day House (DDH) to add \$612,559 to cover costs to extend the Safe RV Parking Program (SPARK) through December 31, 2022 and costs to operate the Horizon Village Shelter (HVS) from October 1, 2022 through June 30, 2023 (including the Berkeley Inn from December 7, 2022 through June 30, 2022), for a total contact amount not to exceed \$2,270,177.

FISCAL IMPACTS OF RECOMMENDATION

If approved, this recommendation will result in a net appropriation of \$586,732. The total amount that needs to be added to the Dorothy Day House contract No. 32100161 to extend operations is \$612,559; this includes \$128,700, which was approved as part of the FY23-24 budget adoption but has not yet been added to the Dorothy Day House contract for Horizon/SPARK. Below is a summary of new funding needed to cover current operations at HVS and SPARK and future HVS operations at the Berkeley Inn through FY23. The funding table also includes costs, incurred by the City, to extend the lease at 742 Grayson through December 31, 2022. The amount needed accounts for overall HVS/SPARK cost savings through September 30, 2022. If approved, contract payments will be paid from Measure P general funds.

|                   | <b>Horizon Village Shelter and Safe RV Parking Extension Costs<br/>10/1/22-12/31/22</b> | <b>Berkeley Inn Costs</b> | <b>Total Funds Needed</b> | <b>FY23-24 Budget Adoption</b> | <b>Delta – needed from Council</b> |
|-------------------|-----------------------------------------------------------------------------------------|---------------------------|---------------------------|--------------------------------|------------------------------------|
| Dorothy Day House | \$181,018 <sup>1</sup>                                                                  | \$431,541 <sup>2</sup>    | \$612,559*                | \$128,700                      | \$483,859                          |

<sup>1</sup> The total cost of these extended services is \$349,341. The remainder (\$168,323) was covered using FY21-23 contract savings.

<sup>2</sup> DDH costs from 1/1/23-6/30/23.

|                                             |                  |                        |                    |                    |                    |
|---------------------------------------------|------------------|------------------------|--------------------|--------------------|--------------------|
| Berkeley Inn Lease costs                    |                  | \$883,200 <sup>3</sup> | \$883,200          | \$883,200          | \$0                |
| City costs to extend lease through 12/31/22 | \$102,873        |                        | \$102,873          |                    | \$102,873          |
| <b>TOTALS</b>                               | <b>\$283,891</b> | <b>\$1,314,741</b>     | <b>\$1,598,632</b> | <b>\$1,011,900</b> | <b>\$586,732**</b> |

\* *This is the amount that needs to be added to the Dorothy Day House contract.*

\*\* *This is the net amount that needs to be approved by Council.*

**CURRENT SITUATION AND ITS EFFECTS**

To help alleviate the crisis of unsheltered and encampment homelessness in Berkeley, the City partnered with DDH in April, 2021 to launch the 50-bed HVS Program at 742 Grayson St in Southwest Berkeley. Since its opening in July 2021, the program has served 130 residents of the City’s most dangerous and impactful encampments. The City’s lease was expected to end on September 30, 2022, however, it was extended through December 31, 2022. The City asked DDH to extend its operations at HVS and to reinitiate operations at SPARK, after a brief service suspension, through December 31, 2023. The proposed Urgency Lease Ordinance to support relocation of the program to the Berkeley Inn is also on the Council’s December 6, 2022 agenda. If approved, DDH will begin relocating the HVS to the Berkeley Inn located at 1720 San Pablo Ave in December. The budget includes funding to transition the shelter from 742 Grayson St. to 1720 San Pablo Ave.

The total lease and DDH services contract will cost \$1,314,741. This covers six months of DDH program services (January through June 2023) and 12 months of lease costs (December 7, 2022 through December 6, 2023). DDH’s services costs beyond June 30, 2023 will be requested as part of the City’s annual Measure P budget process.

Primary referrals to Horizon come from the Homeless Response Team, assisting people in encampments with numerous health and safety violations into shelter. In the Homeless Response Team’s anecdotal experiencing talking to numerous residents on the streets every day, many who have moved into a bed at Horizon were unwilling to avail themselves of other congregate shelter opportunities. Over the course of the past year, Dorothy Day House has developed relationships with the residents who will be transitioning from Grayson to the Berkeley Inn, should Council approve that lease. Allowing for the continuation of this provider-client relationship by offering the Berkeley Inn service provision contract to Dorothy Day House provides critical continuity and stability for these vulnerable residents during what is otherwise a difficult period of relocation and change.

**BACKGROUND**

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<sup>3</sup> Berkeley Inn lease costs from 12/7/22-12/6/23.

On April 27, 2021, the Council adopted Urgency Ordinance No. 7,759–N.S. to authorize the lease of 742 Grayson St for the purposes of operating interim shelter for persons experiencing homelessness. On April 27, 2021, Council adopted Resolution No. 69,808–N.S., which authorized a contract with Dorothy Day House to operate the HVS a 50-bed interim shelter, at this site. On October 26, 2021, the Council authorized Resolution No, 70,075-N.S. to add \$548,096 for a new Safe RV Parking Program at the site. In March, 2022, the lease for the Grayson St property became month-to-month. The lease was expected to terminate on September 30, 2022 but on September 29, 2022, Council approved a lease extension through December 31, 2022. As the property owners are actively working with the City through the approval process to develop the parcel, there is no possibility for extending the term of this lease. On June 28, 2022, Council adopted the FY23-24 Biennial Budget, including \$1,011,900 annually in Measure P funds to continue the Grayson shelter at a new location. After applying the cost savings from Dorothy Day House’s original contract, DDH needs an additional \$181,018 to cover service costs for this period. Additionally, the City incurred costs for rent, zero waste, toilet and hygiene, and security services totaling \$102,873.

#### ENVIRONMENTAL SUSTAINABILITY

Helping unhoused people currently living in Berkeley’s encampments transition into interim non-congregate housing placement will minimize the detrimental environmental impacts associated with encampment homelessness over the long run, including vector and fire hazards, accumulation of trash and waste, and impacts on sensitive waterways.

#### RATIONALE FOR RECOMMENDATION

Dorothy Day House has been contracting with the City since April 2021 to operate the HVS, successfully serving 130 of the most vulnerable people living in Berkeley’s most dangerous encampments, as identified by the Homeless Response Team.

#### ALTERNATIVE ACTIONS CONSIDERED

None. The initial cohort of residents at the Berkeley Inn will transition from 742 Grayson Street when that program ends. Dorothy Day House has been working with these HVS participants for months. Ensuring the continuity of the primary service provider will minimize the impact of a potentially difficult transition for many of the HVS residents; therefore, circulating an RFP for this contract would be disruptive and contrary to the best interest of the people it will serve.

#### CONTACT PERSON

Peter Radu, Assistant to the City Manager, 510-981-7045.

Attachments:  
1: Resolution

RESOLUTION NO. XX,XXX N.S.

AUTHORIZING A CONTRACT EXTENSION WITH DOROTHY DAY HOUSE TO EXTEND AND FUND CITY OF BERKELEY SAFE RV PARKING (SPARK) PROGRAM THROUGH DECEMBER 31, 2022 AND HORIZON VILLAGE SHELTER (HVS) OPERATIONS THROUGH JUNE 30, 2023.

WHEREAS, the City of Berkeley is experiencing an ongoing crisis of street homelessness, with over 800 people sleeping in parks, on sidewalks, and in other places not meant for habitation on any given night according to the 2022 Federal Point-in-Time Count; and

WHEREAS, to help address this shortage, the City Council in April 2021 authorized a lease and program contract with Dorothy Day House to launch the 50-bed Horizon Transitional Village Program; and

WHEREAS, since July 2021, Dorothy Day House has served over 125 residents of Berkeley's most dangerous encampments from a health and safety perspective; and

WHEREAS, the owners of 742 Grayson are working with the City for parcel development approvals, with the City's lease for the site will be terminating on December 31, 2022; and

WHEREAS, the City Council, with the adoption of the FY23-24 Biennial Budget, approved \$1,011,900 in annual Measure P funding for the continuation of the Horizon shelter, signaling its intent to continue the program beyond Sept, 2022; and

WHEREAS, the City of Berkeley asked DDH to extend its operations at HVS and to reinstate operations at SPARK, after a brief service suspension, through December 31, 2023; and

WHEREAS, the City of Berkeley asked DDH to relocate the HVS and continue the program in the form of non-congregate shelter by master leasing the Berkeley Inn, transitioning those currently living at Horizon to the Berkeley Inn starting on December 7, 2022 and continuing services through June 30, 2023; and

WHEREAS, Dorothy Day House received \$128,700 of the \$1,011,900 to continue Horizon shelter operations through June 30, 2023 and the Berkeley Inn will receive \$883,200 for expenses between December 7, 2022 and December 6, 2023; and

WHEREAS, the City of Berkeley and Dorothy Day House require an additional net appropriation of \$586,732 to complete this work.



December 6, 2022

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to extend Contract #32100161 with Dorothy Day House through June 30, 2023 to operate a non-congregate interim housing program at the Berkeley Inn.

BE IT FURTHER RESOLVED that the City Manager is authorized to amend Contract # 32100161 with Dorothy Day House by adding \$612,559 to the contract, for a not-to-exceed total contract amount of \$2,270,177. Contract payments will be paid from Measure P general funds.

BE IT FURTHER RESOLVED, that the City Manager is authorized to provide an advance payment totaling \$396,788 to cover the Safe RV Parking expenses through December 31, 2022 and HVS expenses through March 31, 2023.





Office of the City Manager

CONSENT CALENDAR  
December 6, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 6, 2022

RECOMMENDATION

Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is **\$2,581,000**.

| <u>PROJECT</u>                                                 | <u>Fund</u>              | <u>Source</u>                                                | <u>Amount</u>      |
|----------------------------------------------------------------|--------------------------|--------------------------------------------------------------|--------------------|
| On-Call Hazardous Vegetation Reduction Services                | 011<br>138<br>608<br>164 | General Fund<br>Parks Tax<br>Marina Operations<br>Measure FF | \$1,200,000        |
| Wildcat Canyon Road Slide Repairs & Drainage Improvements.     | 134<br>616               | Measure BB –<br>Local Street and<br>Road                     | \$1,131,000        |
| Health Assessment, Innovation, and Improvement Plan Consultant | 011                      | General Fund                                                 | \$250,000          |
| <b>Total:</b>                                                  |                          |                                                              | <b>\$2,581,000</b> |

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on December 6  
, 2022

CONSENT CALENDAR  
December 6, 2022

### CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

### BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

### RATIONALE FOR RECOMMENDATION

Need for the services.

### ALTERNATIVE ACTIONS CONSIDERED

None.

### CONTACT PERSON

Darryl Sweet, General Services Manager, Finance, 510-981-7329

### Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 6, 2022
  - a. On-Call Hazardous Vegetation Reduction Services
  - b. Wildcat Canyon Road Slide Repairs & Drainage Improvements
  - c. Health Assessment, Innovation, and Improvement Plan Consultant

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

DATE SUBMITTED: December 6, 2022

| SPECIFICATI<br>ON NO. | DESCRIPTION OF<br>GOODS /<br>SERVICES BEING<br>PURCHASED | APPROX.<br>RELEASE<br>DATE | APPROX.<br>BID<br>OPENING<br>DATE | INTENDED USE                                                                                                                                         | ESTIMATED COST                                                                      | BUDGET CODE<br>TO BE<br>CHARGED                                                                                                                                                                                                                                                                                                                                            | DEPT. /<br>DIVISION | CONTACT<br>NAME &<br>PHONE |
|-----------------------|----------------------------------------------------------|----------------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------------------|
| 23-11560-C            | On-Call Hazardous<br>Vegetation<br>Reduction Services    | 12/7/2022                  | 12/15/2022                        | On-Call Hazardous Vegetation Reduction<br>Services for sites that require annual vegetation<br>reduction work.<br>(Possibly two separate contracts.) | \$400,000 per year<br><br>FY23-FY26<br>3-year term<br><br>Total NTE:<br>\$1,200,000 | On-Call contract-<br>funding will be<br>available per<br>fiscal year from<br>various funding<br>sources.<br><br>General Fund<br>011-52-542-567-<br>1001-000-461-<br>623110<br><br>Parks Tax<br>138-52-542-567-<br>1001-000-461-<br>623110<br><br>Marina Fund<br>608-52-544-594-<br>1001-000-472-<br>623110<br><br>Measure FF<br>164-52-542-567-<br>1001-000-461-<br>612990 | PRW/Parks           | Bruce Pratt<br>981-6632    |
| <b>DEPT. TOTAL</b>    |                                                          |                            |                                   |                                                                                                                                                      | <b>\$1,200,000</b>                                                                  |                                                                                                                                                                                                                                                                                                                                                                            |                     |                            |

| SPECIFICATI<br>ON NO. | DESCRIPTION OF<br>GOODS /<br>SERVICES BEING<br>PURCHASED            | APPROX.<br>RELEASE<br>DATE | APPROX.<br>BID<br>OPENING<br>DATE | INTENDED USE                                                                                                                 | ESTIMATED COST                                | BUDGET CODE<br>TO BE<br>CHARGED                                                                                                | DEPT. /<br>DIVISION | CONTACT<br>NAME &<br>PHONE                               |
|-----------------------|---------------------------------------------------------------------|----------------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------------------------------------------------|
| 23-11561-C            | Wildcat Canyon<br>Road Slide Repairs<br>& Drainage<br>Improvements. | 2/15/2023                  | 3/15/2023                         | Install storm drain lines, catch basins, slope<br>stabilization, and Asphalt Concrete pavement,<br>adjusting utility covers. | \$456,000<br><br>\$675,000<br><br>\$1,131,000 | 134-54-623-673-<br>0000-000-431-<br>665110-<br>(PWENST2302)<br><br>616-54-623-675-<br>0000-000-473-<br>665120-<br>(PWENST2302) | PW/ Eng             | Srinivas Muktevi<br>981-6402<br><br>Joe Enke<br>981-6411 |
| <b>DEPT. TOTAL</b>    |                                                                     |                            |                                   |                                                                                                                              | <b>\$1,131,000</b>                            |                                                                                                                                |                     |                                                          |

DATE SUBMITTED: December 6, 2022

| SPECIFICATI<br>ON NO. | DESCRIPTION OF<br>GOODS /<br>SERVICES BEING<br>PURCHASED       | APPROX.<br>RELEASE<br>DATE | APPROX.<br>BID<br>OPENING<br>DATE | INTENDED USE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | ESTIMATED COST        | BUDGET CODE<br>TO BE<br>CHARGED                                               | DEPT. /<br>DIVISION | CONTACT<br>NAME &<br>PHONE |
|-----------------------|----------------------------------------------------------------|----------------------------|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-------------------------------------------------------------------------------|---------------------|----------------------------|
| 23-11562-C            | Health Assessment, Innovation, and Improvement Plan Consultant | 12/7/2022                  | 1/10/2023                         | HHCS is looking for a consultant to: <ol style="list-style-type: none"> <li>1. Conduct a landscape scan for partnership opportunities to reduce chronic racial disparities and improve Berkeley's public health strategy. These partnerships will foster innovations in healthcare delivery, improve resiliency, and integrate health services and systems within a Health Equity and Innovation District.</li> <li>2. Conduct a community-wide health assessment (CHA) involving multiple key stakeholders including those identified through the landscape scan,</li> <li>3. Develop a Community Health Improvement Plan (CHIP) that describes how the community will work together to improve health outcomes. This CHIP will also include the creation of a place-based Health Equity and Innovation District where investment and innovative resources will be prioritized, and</li> <li>4. Design a Health Innovation and Equity District pilot program to work towards remedying severe health inequities identified in the CHA in Berkeley's neighborhoods that have the worse health outcomes.</li> </ol> | <b>\$250,000</b>      | HHOGFD2302-NONPERSONN-OPERATING-CONTRACT; 011-51-501-501-0000-000-451-612990- | HHCS/ OD-PHOU       | Lisa Hernandez<br>981-5308 |
| <b>Dept TOTAL</b>     |                                                                |                            |                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>\$250,000.00</b>   |                                                                               |                     |                            |
| <b>TOTAL</b>          |                                                                |                            |                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>\$2,581,000.00</b> |                                                                               |                     |                            |







Office of the City Manager

CONSENT CALENDAR  
December 6, 2022

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Aram Kouyoumdian, Director of Human Resources  
Subject: Classification and Salary: ADA Program Coordinator

RECOMMENDATION

Adopt a Resolution revising the represented classification Disability Services Specialist to ADA Program Coordinator with a monthly salary range of \$9,231.73 - \$11,162.67.

FISCAL IMPACTS OF RECOMMENDATION

The revised classification and new salary range result in an increased salary impact to the General Fund as the position is 100% funded by the General Fund. The Disability Services Specialist classification has a monthly salary range of \$8,345.45 - \$9,965.28, and the new ADA Program Coordinator position has a monthly salary range of \$9,231.73 - \$11,162.67. This results in monthly salary range increase of \$886.28 – \$1,197.36 and annual projected salary increase of \$10,635.42 - \$14,368.88. Including benefits the annual impact to the General Fund is projected to be an increase of \$18,021.71 - \$24,347.73. In FY 2023, the increase in costs will covered by salary savings from the vacancy.

CURRENT SITUATION AND ITS EFFECTS

The Public Works Department is the largest department in the City with approximately 328 Full Time Employees and is comprised of eight divisions: Office of the Director, Administrative and Fiscal Services, Engineering, Zero Waste, Transportation, Facilities Management, Streets and Utilities, and Equipment Maintenance. The Disability Services Specialist currently reports to the Deputy Director Public Works.

This job description was created in 1992 and last updated in 1999. It has been determined that the classification is outdated with how the position is currently used. The position is responsible for developing, administering and implementing program elements as well as for maintaining current knowledge of changes to regulations and best practices that may impact the program and ensuring the City’s compliance as required by federal, state, and local laws. The complexity, breadth of the error, and technical expertise required of the position are greater than what is currently provided in the current job description. Due to the nature of the varied assignments, this classification has a specialized knowledge base and duties.

A classification study was conducted to ensure the City remains competitive in the labor market during the current economic environment. The analysis focused on decision making, scope and complexity, contact with others required by the job, supervision received and exercised, and knowledge, skills and abilities.

Bryce Consulting provided a base salary recommendation based on several factors which included internal equity with similarly situated classifications, Emergency Services Coordinator, Transportation Services Coordinator, and Homeless Services Coordinator, organizational level, budget, analysis, program development and implementation. As a result of the base salary recommendation, staff is recommending a monthly salary range of \$9,231.73 - \$11,162.67.

**BACKGROUND**

Bryce Consulting was retained by the City of Berkeley to review one position currently classified as Disability Services Specialist within the Public Works Department for classification purposes. A desk audit was requested by the incumbent as the incumbent believed the title, job description, and compensation for the classification were not consistent with the duties nor industry standards. It should be noted the incumbent has since resigned, however the information gathered from this process will be used as guidance should recruitment commence for this position.

The Personnel Board discussed and voted unanimously to send this classification to the City Council for approval at its September 6, 2022 meeting (Vote: Ayes: Bartlow, Dixon, Lacey, Wenk, Karpinski, Gilbert, Noes: None Abstains: None).

**ENVIRONMENTAL SUSTAINABILITY**

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

**RATIONALE FOR RECOMMENDATION**

It has been the policy of the City to create the necessary classification and salary schedule to accommodate new duties and responsibilities, reflect programmatic changes, maintain competitive salaries and, when applicable, comply with regulatory requirements.

**ALTERNATIVE ACTIONS CONSIDERED**

None.

**CONTACT PERSON**

Aram Kouyoumdian, Human Resources, (510) 981-6807.

**Attachments:**

- 1. Resolution
  - Exhibit A: Classification Specification- ADA Program Coordinator
- 2. Organizational Chart

RESOLUTION NO.2. -N.S.

CLASSIFICATION: ADA PROGRAM COORDINATOR

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, the Human Resources Department has completed a classification review and recommended ADA Program Coordinator.

WHEREAS, the Personnel Board recommended on September 6, 2022 to revise the Disability Services Specialist classification and salary range exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) and represented by SEIU, Local 1021, effective December 6, 2022

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Classification for ADA Program Coordinator is established, with a salary range of \$9,231.73 - \$11,162.67 and classification specification as shown on Exhibit A, effective December 6, 2022.

Exhibit A: ADA Program Coordinator, Classification Specification

## **ADA PROGRAM COORDINATOR**

### **DEFINITION:**

Under general supervision, provides a variety of technical and professional analytical and subject matter expertise in the development and implementation of the City's ADA program which includes ensuring the City's compliance with federally mandated requirements, receiving and investigating grievance, reviewing projects plans for accessibility, training city staff, and serving as a resources to City departments, the business community and the public.

### **CLASS CHARACTERISTICS:**

This is a single level class that recognizes positions that have significant responsibility for the development, monitoring and implementation of a substantial program related to City operations.

### **EXAMPLES OF DUTIES:**

The following list of duties is intended only to describe the various types of work that may be performed and the level of technical complexity of the assignment(s) and is not intended to be an all-inclusive list of duties. The omission of a specific duty statement does not exclude it from the position if the work is consistent with the concept of the classification, or is similar or closely related to another duty statement.

1. Recommends and assists in the implementation of ADA program goals and objectives; establishes schedules and methods for the City's ADA program; implements policies and procedures; Develops and implements a comprehensive ADA program by compiling, evaluating and determining program related activities, methods and approaches that meet the City's needs and ensures compliance with regulatory requirements;
2. Evaluates operations and activities of assigned responsibilities; recommends improvements and modifications; prepares various reports on operations and activities;
3. Participates in program budget preparation and administration; prepares cost estimates for budget recommendations; submits justifications for program activities; monitors and controls expenditures;

4. Researches, compiles and prepares reports and documentation on program activities; analyzes program and develops corrective action, maintains records of findings and corrective actions.
5. Develops and presents informational materials to Council, Commissions, other departments, the community, outside agencies regarding program element and activities;
6. Acts as a liaison to other departments, the public, outside agencies, organizations and companies regarding accessibility related issues and concerns;
7. Initiates and coordinates ADA compliance related training to all City employees and subcontractors;
8. Receives and responds to complaints, concerns and grievances and investigates and prepares reports of findings and action in response;
9. Serves as Secretary to the Commission on Disability; apprises commissioners of laws, policies, and administrative procedures affecting Commission recommendations; provides information to the Commission about fiscal impact proposals, including overall department and city-wide fiscal capacity and priorities; assists in the preparation of meeting agendas, researches and completes staff and commission reports; prepares and coordinates the dissemination of Commission packets, meeting notices, prepares minutes and other communications;
10. Coordinates follow-up reports to staff or council and prepares materials for commission meetings; represents commission recommendations at City Council meetings, with other commissions at City department meetings, as necessary;
11. May plan, prioritize, assign, supervise and review the work of administrative support staff related to program activities;
12. Serves as Access and Function Needs Specialist ensuring appropriate communication to the disabled community as it relates to emergency preparedness and response;
13. Supports and oversees the implementation of the City of Berkeley ADA Transition Plan; compiles information regarding disability compliance measures; information for budgets and project recommendations for removal of barriers; reviews plans for removal of architectural equipment, policy, and procedural barriers to accessibility; works with department managers to determine modifications, revisions and additions needed to provide accessible programs;
14. Coordinates with Building and Safety, Planning and Development, Parks and Waterfront, and Public Works to maximize accessibility opportunities in public and private facilities, including the development and review of City design standards and procedures; monitors City projects progress, as needed, including review and approval of projects affecting the pedestrian walkway building alterations, and new construction; conducts on-site inspections;
15. Provides technical assistance to design professionals, including City engineers and architect developers, and the public about codes and best design practices for accessibility for persons with disabilities;
16. Performs related work as required.

**KNOWLEDGE AND ABILITIES:**

Note: The level and scope of the knowledge and skills listed below are related to job duties as defined under Class Characteristics and in the Examples of Duties.

Knowledge of:

1. State and federal laws, rules and regulations pertaining to civil rights, laws and regulations barring discrimination against disabled persons, especially Section 504 of the Rehabilitation Act of 1973 and the Americans With Disabilities Act and their implementing regulations;
2. Major legal cases and practical, cost-effective compliance measures in the area of 504 and ADA compliance as they apply to city, county, and state governments; familiarity with compliance and due process procedures under both 504 and ADA;
3. Architectural and building standards as set forth in the Uniform Federal Accessibility Standards (UFAS), Title 24 of the California Health and Safety Code, and the Americans With Disabilities Act;
4. Disability and disabilities, disability-related issues and resources;
5. Principles and practices of program and policy planning, development, administration and evaluation; research methods, systems, and procedures analysis;
6. Principles and practices of budget monitoring;
7. Technical report writing procedures;
8. Modern office procedures, methods and computer equipment;
9. Principles of customer service;
10. Principles and practices of education and public speaking, including the planning, preparation and evaluation of educational materials and outreach tools.

Ability to:

1. Plan, coordinate, direct, review and evaluate the City's ADA compliance practices;
2. Analyze ADA compliance problems, evaluate alternatives and adopt effective course of action;
3. Deal tactfully and effectively with a wide variety of board and commission members, government officials, civic groups, unions, the public and City staff;
4. Assist in the development and monitoring of an assigned program budget;
5. Develop and recommend policies and procedures related to assigned program activities;
6. Interpret and apply laws, regulations, policies and procedures;
7. Plan, direct and review the work of staff on a project or day-to-day basis;
8. Represent the City in meetings with unions, members of the public and government bodies to promote program goals;
9. Provide clear, focused educational and information presentations;
10. Prepare clear, concise and accurate written studies, proposals and reports;
11. Operate and use modern office equipment including computers and applicable software;
12. Establish and maintain effective working relationships with those contacted in the course of work;
13. Communicate clearly and concisely, both orally and in writing.

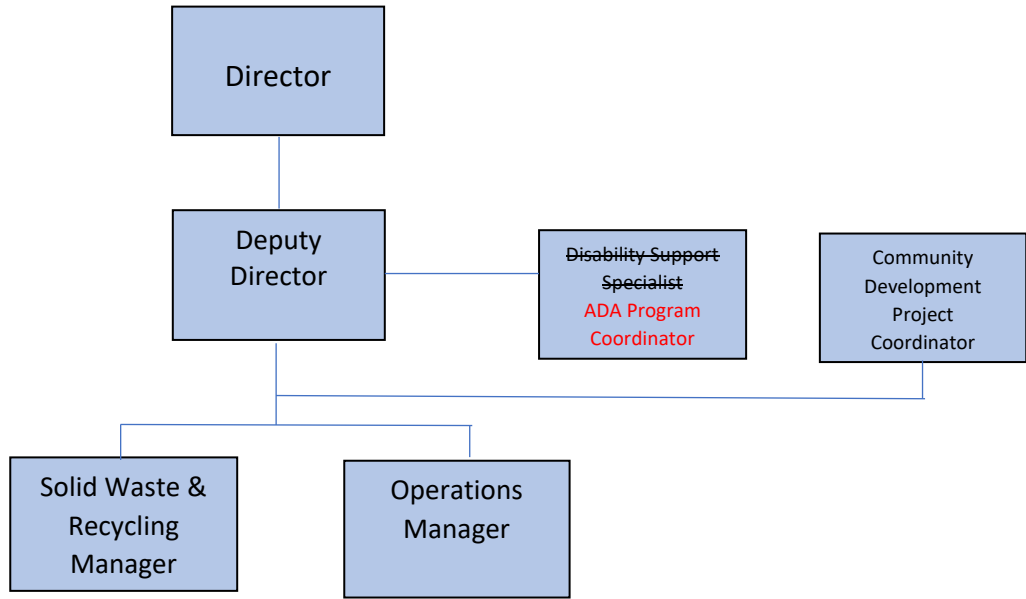
**MINIMUM QUALIFICATIONS:**

**A TYPICAL WAY OF GAINING THE KNOWLEDGE AND SKILLS OUTLINED ABOVE IS:**

Equivalent to graduation from a four-year college with major coursework in business or public administration, psychology, disability studies or social welfare, or a closely related field and three (3) years of professional experience working in programs serving people with a wide range of disabilities, at least two years of which involved civil rights advocacy or compliance.

**OTHER REQUIREMENTS**

Work is generally performed in an office setting. Work involves occasional fieldwork and public meetings which extend beyond the normal workday. Work includes complex telephone and face-to-face public contact situations and pressure generated by frequent interruptions, deadlines, complaints and peak workloads







Office of the City Manager

CONSENT CALENDAR

December 6, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront

Subject: Donation: Memorial Bench at Cesar Chavez Park in memory of Linda Loh

RECOMMENDATION

Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park in memory of Linda Loh.

FISCAL IMPACTS OF RECOMMENDATION

The value of a single bench and memorial plaque is \$3,400, which covers the purchasing and installation costs performed by the City. The cash donation will be deposited into Marina Fund donation revenue budget code 608-52-544-591-0000-000-000-481110 and will be appropriated in FY2023.

CURRENT SITUATION AND ITS EFFECTS

The family of Linda Loh wishes to donate a memorial bench in her memory to be placed at Cesar Chavez Park with a cash donation of \$3,400. Per the City's Park Bench Donation Policy, individuals may donate memorial benches to the City's parks in selected locations, subject to the approval of the Director of the Parks Recreation & Waterfront Department, and pay for all associated costs, subject to Council disclosure and approval of the gift donation. The Director has determined that the proposed donation complies with the City's Bench Donation Policy as described in Resolution No. 64,148-N.S. and has approved the donation, subject to Council approval.

BACKGROUND

Benches are placed throughout the City in accordance with the City's Park Bench Donation Policy approved by Council on July 22, 2008 (Resolution No. 64,148-N.S.). The City's Open Governance Ordinance (OGO) requires City Council disclosure and approval of any gift to the City in excess of \$1,000 (BMC Section 2.06.150, Ord. 7,166-N.S.)

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

The City's vendor for benches, Dumor, Inc., makes its priority to purchase only sustainably-harvested wood derived from stringently-regulated timber source locations,

including California, Oregon, Washington and British Columbia. This policy reduces solid waste volumes in landfills, helps conserve natural resources and limits the environmental effects resulting from the extraction of virgin materials. The benches therefore comply with the City's environmentally preferable purchasing policy, specifically section 3.7 Forest Conservation.

CONTACT PERSON

Alexandra Endress, Waterfront Manager, 510-981-6737

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

DONATION: MEMORIAL BENCH AT CESAR CHAVEZ PARK IN MEMORY OF LINDA LOH

WHEREAS, on July 22, 2008, Council adopted the Park Bench Donation Policy (Resolution No. 64,148-N.S.); and

WHEREAS, the City's Open Governance Ordinance (OGO) requires City Council disclosure and approval of any gift to the City in excess of \$1,000 (BMC Section 2.06.150, Ord. 7,166-N.S.); and

WHEREAS, the family of Linda Loh wishes to donate a memorial bench in her memory to be placed at Cesar Chavez Park with a cash donation of \$3,400; and

WHEREAS, per the City's Park Bench Donation Policy, individuals may donate memorial benches to the City's parks in selected locations, subject to the approval of the Director of the Parks Recreation & Waterfront Department, and pay for all associated costs, subject to Council disclosure and approval of the gift donation; and

WHEREAS, the Director has determined that the proposed donation complies with City's Bench Donation Policy as described in Resolution No. 64,148-N.S. and has approved the proposed donation; and

WHEREAS, the cash donation will be deposited into Marina Fund donation revenue budget code 608-52-544-591-0000-000-000-481110 and will be appropriated in FY2023.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park at the Berkeley Marina in memory of Linda Loh is hereby accepted.





CONSENT CALENDAR  
December 6, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Councilmember Harrison (co-sponsor),  
Councilmember Hahn (co-sponsor), Councilmember Robinson (co-sponsor)

Subject: Office of Racial Equity: Re-Entry Employment and Guaranteed Income Programs

### RECOMMENDATION

(1) Refer to the City Manager to Strengthen Adult Criminal Justice Re-Entry Employment Programs in Berkeley by studying re-entry programs, supports, and systems already available for Berkeley residents, strengthening linkages, and identifying gaps. Report findings back to the Health, Life Enrichment, Equity & Community Committee during 2023.

(2) Refer \$50,000 to the Budget Process to engage a consultant to recommend a Universal Income Pilot for Berkeley. Recommendation to include evaluation of:

- Potential funding sources
- Appropriate and recommended models for Berkeley
- Target population(s) to be supported by Pilot
- Program delivery models
- Evaluation
- Any and all other elements/factors to establish an effective Universal Income Pilot for Berkeley.

Considerations for target populations may include local Equity Indicators measuring racial justice and social equity outcomes such as poverty and financial health, educational disparities, environmental and mental health, housing quality, infrastructure, and public safety.

(3) Refer to the City Manager to establish evaluation processes and metrics for all social services programs recommended through the Reimaging Public Safety Process, including but not limited to violence prevention services, adult reentry programs, and mental health crisis response, and report evaluation outcome to the City Council.

### POLICY COMMITTEE RECOMMENDATION

On November 14, 2022, the Health, Life Enrichment, Equity & Community Committee adopted the following action: M/S/C (Bartlett/Kesarwani) to forward the item to Council with a positive recommendation that the City Council approve the item with the Author's substitute recommendations as follows:

(1) Refer to the City Manager to Strengthen Adult Criminal Justice Re-Entry Employment Programs in Berkeley by studying re-entry programs, supports, and systems already available for Berkeley residents, strengthening linkages, and identifying gaps. Report findings back to the Health, Life Committee during 2023.

(2) Refer \$50,000 to the Budget Process to engage a consultant to recommend a Universal Income Pilot for Berkeley. Recommendation to include evaluation of:

- Potential funding sources
- Appropriate and recommended models for Berkeley
- Target population(s) to be supported by Pilot
- Program delivery models
- Evaluation
- Any and all other elements/factors to establish an effective Universal Income Pilot for Berkeley.

Considerations for target populations in may include local Equity Indicators measuring racial justice and social equity outcomes such as poverty and financial health, educational disparities, environmental and mental health, housing quality, infrastructure, and public safety.

(3) Refer to the City Manager to establish evaluation processes and metrics for all social services programs recommended through the Reimagining Public Safety Process, including but not limited to violence prevention services, adult reentry programs, and mental health crisis response, and report evaluation outcome to the City Council.

Vote: All Ayes.

### FINANCIAL IMPLICATIONS

The City Council's omnibus budget referral for Reimagining Public Safety passed on May 5, 2022 included \$1M for staffing the Office of Racial Equity, and \$100,000 for Grant Writing Services. Implementing this recommendation would be contingent on those funds.

Additionally, the National Institute for Criminal Justice Reform recommended \$1,250,000 in funding one year after council approval, from "5% of County Criminal Justice Realignment funds allocated to community services for Berkeley residents."

### CURRENT SITUATION AND ITS EFFECTS

Studying employment and poverty reduction programs in the Office of Racial Equity is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

### **Adult Re-entry and Municipal Employment**

The population of adults on parole or probation has declined over the past two years in Berkeley, reflecting countywide trends. In the most recently available dataset, the Alameda County Probation Department (ACPD)<sup>1</sup> reports 223 adult probationers in

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<sup>1</sup> <https://probation.acgov.org/data.page>

Berkeley in Q3 2021, down from 312 active adult clients in March 2020.<sup>2</sup> In spite of this decline, independent assessments had previously identified needs for further progress.

In 2019, the Alameda County Board of Supervisors approved an updated Adult Reentry Strategic Plan for the county, which includes performance measures for workforce development & employment.<sup>3</sup> This program includes subcontractors with both subsidized and unsubsidized employment. The evidence has shown marginal effectiveness of these programs in reducing recidivism, which warrants consideration of supplemental programs at the municipal level to alleviate poverty and further reduce recidivism.

With the signing of Assembly Bill 109 (the Public Safety Realignment Act) in 2011, responsibility for incarceration and supervision of many low-level inmates and parolees transferred from the California Department of Corrections and Rehabilitation (CDCR) to the county level, with the intent of reducing the incarcerated population. According to a 2020 evaluation of Alameda County's AB 109 implementation by Research Development Associates, "Alameda County's AB 109-funded services and Behavioral Health Care Service programs reduce the likelihood of recidivism and reduce the rate at which individuals recidivate." However, the report also warns that "findings about AB 109-funded service receipt should be read with some caution. A relatively small proportion of individuals received AB 109-funded services...*it appears service expansion could reduce recidivism rates among Alameda County's probation population moving forward.*"<sup>4</sup> [emphasis added]

In June 2020, the City Council passed a budget referral authored by Councilmember Rashi Kesarwani to establish a framework for a new Office of Racial Equity within the Office of the City Manager.<sup>5</sup> This is consistent with best practices in neighboring cities, such as Oakland and San Francisco, which have recently established such an office. The duties of such an office can be manifold, but a primary responsibility should be to support CBOs and programs advancing the Reimagining Public Safety framework, including those that provide cash assistance, workforce development and employment opportunities for the formerly incarcerated to reduce recidivism (either a municipal program similar to Berkeley YouthWorks, or supplementing county services).

On May 5, 2022, the Berkeley City Council passed a budget referral to advance Reimagining Public Safety initiatives, which included \$100,000 for grant writing

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<sup>2</sup> <https://www.bscc.ca.gov/wp-content/uploads/Alameda-FY-20-21-CCP-Update.pdf>

<sup>3</sup> [https://probation.acgov.org/probation-assets/files/Reentryandpublicsafetydocs/AC\\_Adult%20Reentry%20Strategic%20Plan\\_Road%20to%20Reentry\\_2019%20Update.pdf](https://probation.acgov.org/probation-assets/files/Reentryandpublicsafetydocs/AC_Adult%20Reentry%20Strategic%20Plan_Road%20to%20Reentry_2019%20Update.pdf)

<sup>4</sup> [https://probation.acgov.org/probation-assets/files/Reentryandpublicsafetydocs/RDA\\_AB109OverviewAndOutcomes\\_7-20.pdf](https://probation.acgov.org/probation-assets/files/Reentryandpublicsafetydocs/RDA_AB109OverviewAndOutcomes_7-20.pdf)

<sup>5</sup> See Attachment 4.

services, and slightly over \$1 million for staffing a new Office of Racial Equity.<sup>6</sup> These services could assist in researching and soliciting funding for these and other promising programs to improve public safety and advance economic justice.

The National Institute for Criminal Justice Reform (NICJR)'s Report on Reimagining Public Safety in Berkeley provided recommendations on a Guaranteed Income pilot and workforce development, the latter with a focus on "community beautification" services.<sup>7</sup> These recommendations were accepted with modifications by the Reimagining Public Safety Task Force (RPSTF) in their Response and New Recommendations to NICJR's Report:

*Members are very interested in increasing job skills and opportunities. However, programs should be centered on the interests of the target group. The Task Force therefore rejects the idea of a 'beautification' program but fully supports programs that focus on professional development, and serve as a pipeline to employment, especially for those who face additional barriers like a criminal record. Any program should have the goal of being transformative.<sup>8</sup>*

While the emphasis in these reports is on a municipal employment program, the Task Force's focus on professional development is consistent with Chicago's Green ReEntry program managed by the nonprofits Chicago CRED and the Inner-City Muslim Action Network, which provides vocational training for skilled trades, weekend programs, and housing assistance for formerly incarcerated individuals.<sup>9</sup>

NICJR's Report recommended funding workforce development through 5% of County Criminal Justice Realignment funds allocated to community services for Berkeley residents. In contrast to municipal workforce development proposals, Alameda County focuses on public-private partnerships, and the Alameda County Probation Department currently procures employment services with one lead contractor, the nonprofit Building Opportunities for Self Sufficiency (BOSS). This contract provides services including: Employability Assessments, Job Readiness Training, Transitional Work Programs, Subsidized/Unsubsidized Employment, and Job Retention Services.

According to the Community Corrections Partnership Executive Committee (CCPEC)'s Year Seven Status Update on Public Safety Realignment Alameda County, BOSS's employment program saw an increase in clients enrolled in recent years, but job

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<sup>6</sup> [https://berkeleyca.gov/sites/default/files/2022-05-05%20Special%20Item%2001a%20Fulfilling%20the%20Promise%20of%20Berkeley\\_0.pdf](https://berkeleyca.gov/sites/default/files/2022-05/2022-05-05%20Special%20Item%2001a%20Fulfilling%20the%20Promise%20of%20Berkeley_0.pdf)

<sup>7</sup> [https://berkeley-rps.org/wp-content/uploads/2022/03/BerkeleyReport\\_032422FNL.pdf](https://berkeley-rps.org/wp-content/uploads/2022/03/BerkeleyReport_032422FNL.pdf)

<sup>8</sup> RPSTF report final draft is included in appendices: [https://berkeleyca.gov/sites/default/files/2022-05/2022-05-05%20Special%20Item%2001c%20Discussion%20and%20Possible%20Action\\_0.pdf](https://berkeleyca.gov/sites/default/files/2022-05/2022-05-05%20Special%20Item%2001c%20Discussion%20and%20Possible%20Action_0.pdf)

<sup>9</sup> ABC7 Chicago. (2020). Chicago Re-Entry Program Rebuilds Lives with Hands-On Training. ABC News. Retrieved from <https://abc7chicago.com/iman-inner-city-muslim-action-network-job-training-reentry-program/5988288/>



retention languished: “During FY 17/18, there was a significant increase in the number of clients, in all the aforementioned benchmarks, from the previous year. Notwithstanding these increases, the decline in the proportion of clients reaching subsequent benchmarks after being referred, depicts the challenges facing participants to remain stable (in terms of housing, substance use, etc.) in order to proceed through the employment process and reach 180 days of employment.”<sup>10</sup>

While the NICJR Report recommended a program employing “at least 100” individuals, the Office of Racial Equity may consider a smaller initial scope by focusing on the adult re-entry population to expand opportunities where the need is most acute.

### **Guaranteed Income**

The NICJR report recommended \$1,800,000 for a Guaranteed Income Pilot Program, from local, federal, or philanthropic funding sources. The RPSTF accepted the recommendation with conditions:

*Members strongly support this type of program and note that other communities have implemented these programs successfully. More information is needed to understand how families would be selected, and the city should consider whether other groups, like the AAPI or Indigenous community, should be included in this program.*

The California Guaranteed Income Pilot Program was established in the Governor’s Fiscal Year 21-22 Budget to provide grants for guaranteed income pilot programs through the California Department of Social Services (CDSS). The department states that it “will prioritize funding for pilot programs and projects that serve California residents who age out of the extended foster care program at or after 21 years of age or who are pregnant individuals.”<sup>11</sup>

While the City of Berkeley would seek to leverage state and county resources as needed, this proposal would direct the Office of Racial Equity to study a municipal public works program for adult reentry (and/or municipal support for county services), in addition to a “guaranteed income” cash transfer pilot program that may indirectly reduce recidivism without being strictly targeted for the adult reentry population. To the extent that services are operated with City funding, the Office of Racial Equity would also be directed to evaluate outcomes, objective performance metrics and fiscal sustainability of programs under its auspices, as well as associated services provided by third-party contracting entities.

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<sup>10</sup> [https://probation.acgov.org/probation-assets/files/Public%20Safety%20Realignment\\_Y7%20Status%20Update.pdf](https://probation.acgov.org/probation-assets/files/Public%20Safety%20Realignment_Y7%20Status%20Update.pdf)

<sup>11</sup> <https://www.cdss.ca.gov/inforesources/guaranteed-basic-income-projects>

## BACKGROUND

Poverty, crime, and racial inequality are deeply interconnected phenomena throughout US history. In particular, educational disparities and the lack of employment opportunities for the formerly incarcerated increases recidivism, fueling a vicious cycle of repeated offenses, high crime and poverty for Black people and other people of color in the criminal justice system.<sup>12</sup>

Studies have found causal relationships between unemployment<sup>13141516</sup> and crime, and there is recent evidence showing that sharp unemployment shocks during the COVID-19 pandemic may be related to increased gun violence and homicides.<sup>17</sup> Empirical evidence and structural models suggest that unemployment can incentivize criminal behavior by lowering “the opportunity cost of choosing illegitimate work over legitimate work.”<sup>18</sup> The evidence is also clear that a lack of stable employment contributes to recidivism—when formerly incarcerated individuals commit new offenses that bring them back into the criminal justice system. Research has generally found that high-quality jobs with good wages are most effective at reducing recidivism, particularly for those who have served prison sentences for property crimes.<sup>19</sup>

In addition to re-entry programs, cash transfer programs can raise the “opportunity cost” of crime by providing reliable liquidity to households so they can settle their balance sheets without resorting to “illegitimate” sources of cash. Experiments from Kenya to California with cash transfers (colloquially dubbed “basic” or “guaranteed income”) have repeatedly been shown to successfully reduce the social and psychological impacts of poverty, and a new guaranteed income pilot program in Alachua County, Florida is specifically aimed at reducing recidivism.<sup>20</sup>

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<sup>12</sup> Lockwood, S. K., Nally, J. M., Ho, T., & Knutson, K. (2015). Racial disparities and similarities in post-release recidivism and employment among ex-prisoners with a different level of education. *Journal of Prison Education and Reentry*, 2(1), 16-31.

<sup>13</sup> Bianchi, G., & Chen, Y. (2021). Testing effects of hospitality employment on property crime in the United States. *Tourism Economics*, 13548166211001180.

<sup>14</sup> Raphael, S., & Winter-Ebmer, R. (2001). Identifying the effect of unemployment on crime. *The journal of law and economics*, 44(1), 259-283.

<sup>15</sup> Lin, M. J. (2008). Does unemployment increase crime? Evidence from US data 1974–2000. *Journal of Human resources*, 43(2), 413-436.

<sup>16</sup> Nordin, M., & Almén, D. (2017). Long-term unemployment and violent crime. *Empirical Economics*, 52(1), 1-29.

<sup>17</sup> Schleimer, J.P., Pear, V.A., McCort, C.D. et al. Unemployment and Crime in US Cities During the Coronavirus Pandemic. *J Urban Health* 99, 82–91 (2022). <https://doi.org/10.1007/s11524-021-00605-3>

<sup>18</sup> Melick, M. D. (2003). The relationship between crime and unemployment. *The Park Place Economist*, 11(1), 30-36.

<sup>19</sup> Yu, T. (2018). Employment and Recidivism. Evidence Based Policy Society. Retrieved from <https://www.ebpsociety.org/blog/education/297-employment-recidivism>

<sup>20</sup> McDonough, S. (2022). A bold new experiment out of Florida: Guaranteed income for the formerly incarcerated. *Vox*. Retrieved from <https://www.vox.com/22911023/ubi-guaranteed-income-prison-florida>

Cities across the country have seen remarkable success with programs that provide legitimate work and/or cash assistance. The City of Chicago supports capital investment for a Green ReEntry program managed by the nonprofits Chicago CRED and the Inner-City Muslim Action Network, which provides vocational training for skilled trades, weekend programs, and housing assistance for formerly incarcerated individuals.<sup>21</sup> In 2019, former Mayor Michael Tubbs launched the Stockton Economic Empowerment Demonstration (SEED) pilot program. SEED provides \$500 per month for two years to 125 randomly selected residents of Stockton in neighborhoods with below median income. In a one-year follow-up study, recipients reported improved mental health, financial stability, and employment opportunities.<sup>22</sup>

The City of Oakland's Guaranteed Income pilot<sup>23</sup> provides monthly cash payments to a randomly selected pool of low-income residents, and is funded entirely through private philanthropic donations, with collaborative management by the City and nonprofit agencies. Currently in its second phase, the pilot selected 300 applicants by random lottery "in a roughly one square mile area of East Oakland living with incomes below 50% of Area Median Income and at least one child under 18, a target area identified according to the Oakland Equity Index."<sup>24</sup>

The City of Compton raised an initial \$8 million for its Guaranteed Income pilot program, the Compton Pledge, in partnership with the Jain Family Institute, which launched in December 2020. The program launched with 800 low-income Compton households receiving regular payments of varying sizes, with participants able to choose between payment options (e.g. direct deposit, Venmo, prepaid card) on a customized online platform (See Attachment 3). More recently, the City of Long Beach adopted the Long Beach Recovery Act in March 2021, which included funding for the Long Beach Guaranteed Income Pilot, with recommendations later made by a Community Working Group to inform a Request for Proposals (RFP) for a two-year contract (see Attachment 1).

## ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

## CONTACT PERSON

Councilmember Terry Taplin      Council District 2      510-981-7120

<sup>21</sup> ABC7 Chicago. (2020). Chicago Re-Entry Program Rebuilds Lives with Hands-On Training. ABC News. Retrieved from <https://abc7chicago.com/iman-inner-city-muslim-action-network-job-training-reentry-program/5988288/>

<sup>22</sup> West, S. et al. (2020). Preliminary Analysis: SEED's First Year. Stockton Economic Empowerment Demonstration. Retrieved from [https://static1.squarespace.com/static/6039d612b17d055cac14070f/t/603ef1194c474b329f33c329/1614737690661/SEED\\_Preliminary+Analysis-SEEDs+First+Year\\_Final+Report\\_Individual+Pages+-2.pdf](https://static1.squarespace.com/static/6039d612b17d055cac14070f/t/603ef1194c474b329f33c329/1614737690661/SEED_Preliminary+Analysis-SEEDs+First+Year_Final+Report_Individual+Pages+-2.pdf)

<sup>23</sup> <https://oaklandresilientfamilies.org/about>

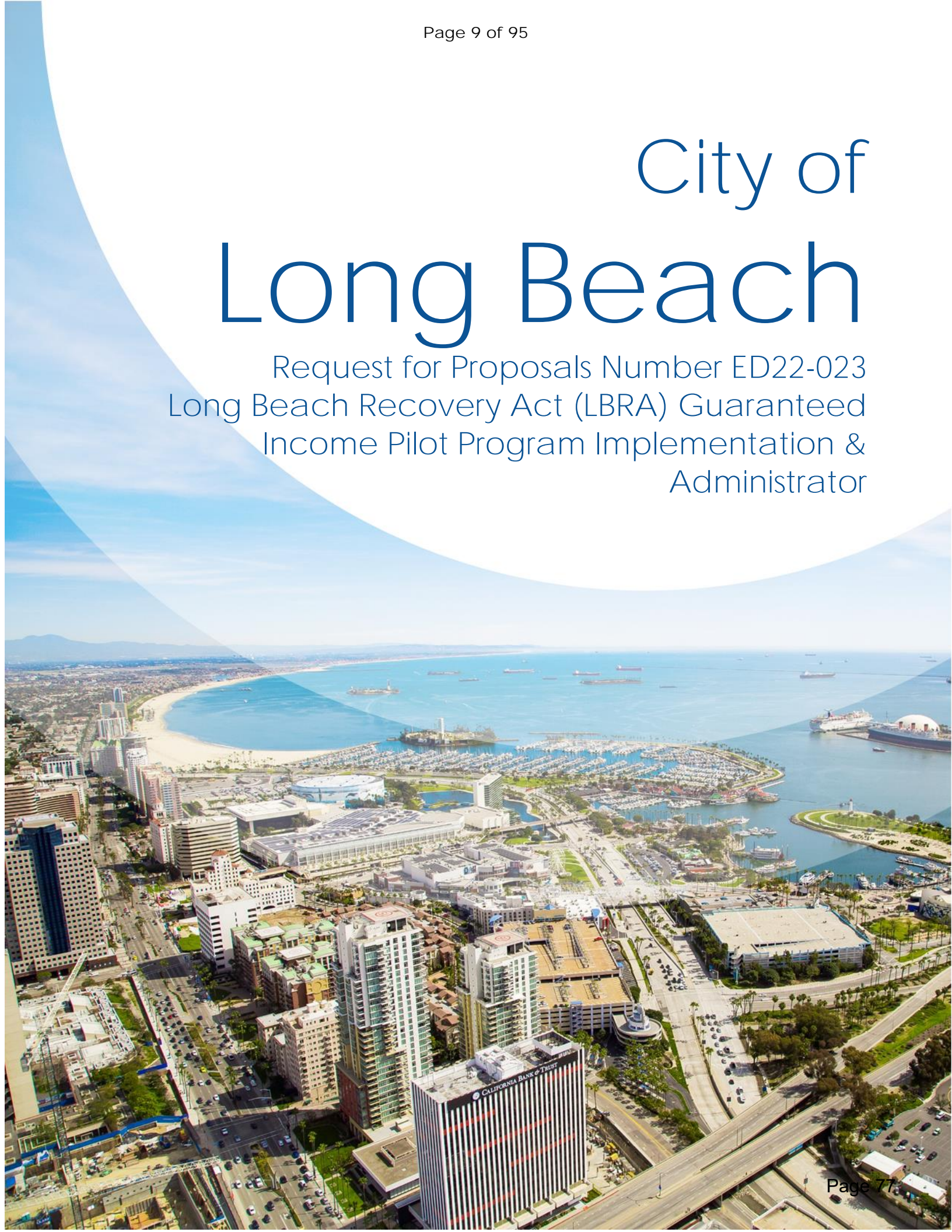
<sup>24</sup> <http://www2.oaklandnet.com/oakca1/groups/cityadministrator/documents/report/oak071073.pdf>

**ATTACHMENTS**

1. City of Long Beach RFP
2. Guaranteed Income Toolkit - Jain Family Institute
3. Compton Pledge - April 2021 Press Release
4. Annotated Agenda - Berkeley City Council - Tuesday, June 9, 2020

# City of Long Beach

Request for Proposals Number ED22-023  
Long Beach Recovery Act (LBRA) Guaranteed  
Income Pilot Program Implementation &  
Administrator



## Overview

### Summary

The City of Long Beach (City), Department of Economic Development, seeks proposals from qualified vendor(s) to implement and administer the Long Beach Guaranteed Income Pilot Program.

The selected vendor shall provide for the full implementation of the Pilot, including pre-pilot planning, launch preparation, implementation and administration, and other services as specified.

### Key Dates

Release Date: February 14, 2022

Questions Due to the City: 11:00am February 22, 2022

Proposals Due: 11:00 p.m. March 7, 2022

*The City reserves the right to modify these dates at any time, with appropriate notice to prospective Contractors.*

### Proposal Information

Instructions for what to include in your proposal and how to submit it are detailed in Section 4.

Proposals must be submitted electronically via the City's PlanetBids portal, available at <https://pbsystem.planetbids.com/portal/15810/portal-home>.

### RFP Official Contact

Tommy Ryan  
[rfppurchasing@longbeach.gov](mailto:rfppurchasing@longbeach.gov)  
562-570-5664

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- 1 The Opportunity
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# 1 The Opportunity

## 1.1 Project Summary

The City is seeking proposals from qualified vendors to implement and administer the Long Beach Guaranteed Income Pilot Program (Pilot). The selected vendor will be responsible for making direct payments to participants over the course of the 12-month Pilot. The City anticipates the direct payments to total approximately \$1.5 million, though the scope of the Pilot may be expanded pending future funding availability.

## 1.2 Background

The COVID-19 pandemic has created an economic recession that has further intensified existing economic inequities. The economic impacts of the COVID-19 recession have been unequal and have impacted specific sectors, business owners, workers, property owners, nonprofit organizations, geographic areas, and racial groups differently. The sudden and unanticipated public health emergency necessitated the immediate restrictions (through State and local Health Orders) and, in many cases, closure of specific businesses and customer activities. Following these Health Orders, unemployment rapidly increased from a pre-pandemic low of 4 percent to a high of 21 percent during the peak summer months of 2020, affecting businesses and workers in sectors most impacted by the health restrictions such as retail, hospitality, and services.

Recognizing the inordinate economic impacts that the pandemic has had on Long Beach residents, workers, and business owners, on December 15, 2020, the City Council requested that staff develop an Economic Recovery Strategy to address the economic impacts of COVID19. Staff have initiated five economic equity studies, conducted more than 30 listening sessions with over 350 community leaders and representatives, and received City Council input at numerous steps in the process of drafting this plan. Incorporating this diverse input and existing City Council-adopted recommendations the Economic Recovery Strategy (Strategy), including proposals for the economic development strategies needed to create equitable economic opportunities for residents, workers, investors, and entrepreneurs in Long Beach for sustained economic recovery.

In March 2021, the City adopted the Long Beach Recovery Act (LBRA), a plan to fund economic and public health initiatives, including the Strategy, as a response to individuals and businesses critically impacted by the COVID-19 pandemic. The LBRA has **dedicated funding to support the City's Economic Recovery which includes funding for the Long Beach Guaranteed Income Pilot (Pilot).**



### *Guaranteed Income*

Guaranteed Income (GI) is an innovative approach to supporting people in a rapidly changing economy by providing a minimum amount of income to supplement the basic costs of living. GI is a cash transfer program that provides regular, unrestricted and unconditional direct payments to individuals or entire households. These payments help offset basic living expenses so that program participants can pay for housing, food, healthcare, and transportation among other living expenses; so that they can work and care for their families without falling into poverty or losing their jobs.

A common overarching theme of GI programs is to lift working people and their families out of poverty over time and start to reduce economic inequalities that exist in communities where people live and work together but some cannot afford the basic cost of living. These supplemental payments can also take the cost burden off of local small business owners, who cannot afford to pay workers more to live in high-cost areas like Long Beach or Southern California. Supplemental GI payments can also provide the added benefit of stimulating the local economy by boosting access to discretionary spending for goods and services in the surrounding community.

### *Community Working Group*

In April 2021, a Community Working Group, composed of eight representatives selected for their extensive background in the Long Beach community was convened to make recommendations for a potential GI program in Long Beach. The Working Group began its review of more than two dozen GI pilot programs from other municipalities that have either launched or are in planning stages for roll out of their own GI programs. Over the course of five bi-weekly meetings, the Working Group members reviewed and discussed in-depth the impact and investment of these program as through detailed analysis of GI program studies, research questions, participant selection criteria, control and treatment groups, outreach and marketing, self-application, and income distribution processes.

After extensive review of Long Beach-specific research, the Working Group identified a number of Key Performance Indicators (KPI) to focus the development of recommendations about the GI pilot program. The following provides a summary of the KPI recommended by the Working Group for City Council consideration:

- COVID-19 Impacts: Data provided by HHS showed the highest concentration of COVID-19 cases occurring in the five Zip Codes of 90804, 90805, 90806, 90810, and 90813.
- Median Household Income: Though the Median Family Income in Long Beach exceeds \$85,000, all household incomes in the targeted Zip Codes fall well below that with income in 90813 being less than half of the citywide median.

- Impact: More than half of all families residing in Long Beach live within the five zip codes most impacted by COVID-19. The Working Group then turned to looking at the number and percentage of families in poverty.
- Poverty: According to the analysis, 80 percent of all Long Beach households living in poverty reside within the five targeted Zip Codes. The highest concentration of poverty is found within 90813 - as close to one out of every four families fall within the United States Department of Health and Human Services Federal Poverty Level Guidelines.

### *Long Beach Guaranteed Income Pilot (Pilot)*

Based on the recommendations of the Working Group and other considerations, such as funding availability, the Pilot program will include the following key elements:

- Direct Payments: The initial allocation funded by the Recovery Act will provide up to 250 participants with \$500 per month for 12 months.
- Participants: Program participants will be Single Headed Households with incomes below the poverty line.
- Geographic Focus: Direct payments should focus on the highest concentrated area of family poverty within the targeted five Zip Codes, which is in 90813. This will allow for the greatest potential for community impact and will provide documentable results that can be included within the national experiment and research currently underway throughout the United States.

According to departmental analysis based on available US Census data there are 58,380 residents of the 90813 zip code with 65% identifying as Hispanic or Latino, 11.5% Black or African-American, 12.5% as Asian, 0.4% as Native Hawaiian and other Pacific Islander, and 0.2% as American Indian or Alaska Native. According to the California Hard-to-Count Index 72% of all residents live within a multi-unit structure, 87.8% live in housing units that are renter-occupied, 46.5% have income below 150 percent of the poverty line, and 41.9% of those aged 25 and older are not high school graduates.

- Support Services: In addition to the direct cash assistance program, participants will receive the offer of additional services including digital technology packages, assistance with accessing childcare, job placement and job training access, and other identified support services to expand upon the initial \$500 investment.
- Reporting: Consistent with other pilot programs, no additional reporting will be required for participants beyond the completion of a monthly survey. In addition to the treatment group there will be a yet-to-be-determined number of participants who will be included in the control group.
- Incentives: The control group will also be incentivized to complete a monthly survey but will not receive the direct cash payments.

Note, if additional matching funds are secured, the Pilot may be expanded to serve additional cohort participants in other high-need Zip Codes.

### 1.3 Goals

The goal of the Pilot is to increase the monthly income of the City's most vulnerable residents with the highest unemployment, highest rates of violence and whom have had the greatest continued impact from COVID-19.

In one year or less, the Pilot will distribute \$1.5 million in direct cash assistance in the form of guaranteed income to 250 families living at or below the poverty line in the 90813 zip-code. Using data collected as part of the Pilot, the City hopes to contribute to the discourse around local, regional and national guaranteed income policy and its efficacy.

Over the course of the Pilot, the program will have achieved the following:

- 1) 250 or more households will have participated within the treatment group;
  - a. Program participants will be Single Headed Households with incomes at or below the poverty line in the 90813 zip-code;
- 2) Each participating household will have received \$500 a month for a period of twelve months;
- 3) Each participating household will have access to multiple payment options;
- 4) Each household will have access to expert financial benefits counseling to ensure that zero impact will be had on any participant's local, county, State or federal public benefits;
- 5) City will have received viable recommendations on how to fund, sustain and expand Guaranteed Income within the City.

### 1.4 Award Terms

This contract will be for a period of two years with the option to renew for three additional one-year periods. The total contract term will not exceed five years.

## 2 Scope of Work

### 2.1 Description of Services

This opportunity is for qualified vendors to implement and administer the Pilot. The selected vendor shall provide for the partial implementation and administration of the Pilot including, but not limited to: creating and operating a digital payment solution to pay Pilot participants, creating and maintaining a Pilot website/portal, providing financial counseling services and identifying potential funding for the expansion and/or sustainment of the program.

As a part of the Pilot, the City will also contract with a Pilot Research and Evaluation Partner to design the Pilot, engage the community, identify pilot participants and evaluate the program. The Research and Evaluation Partner will be selected through a separate process. The selected Implementation & Administration vendor will be required to **collaborate with the City's selected** Pilot Research and Evaluation vendor throughout the Pilot to conform with the Pilot design and to ensure appropriate data collection and information sharing in support of the overall evaluation of the program.

Specific services for the Pilot shall include, but are not limited to, the following:

- Creating and operating a customizable digital (electronic) payment solution capable of supporting multiple payment distribution types for maximum flexibility of participants;
- Providing for the enrollment of selected Pilot participants, as needed, to facilitate receipt of payments;
- Creating and maintaining an overall Pilot website and/or portal to promote the program and serve as a live public dashboard for performance metrics;
  - This website should be **compatible and connected to the City's Recovery website, for use by participants, City staff and the City's Pilot Research and Evaluation vendor;**
  - Should include both Pilot and City branding;
  - Be compatible with mobile communications devices;
  - Website content should be made available in English, Spanish, Khmer and Tagalog, in accordance with the City's Language Access Plan
- Providing case management services, including:
  - Resolution of any issues related to payment distribution;
  - Financial benefits counseling to ensure that zero impact will be had on any **participant's local, county, State or federal public benefit;**
- Providing support for ongoing data collection and information sharing to City staff and the City's selected Pilot Research and Evaluation Partner;
  - Assisting the City in identifying additional financial resources, including grants, fundraising opportunities or other strategies to grow the Pilot.

- Providing documentation and audit trail that meets program requirements that will be clearly defined before Pilot launch, including but not limited to the following:
- Providing all information that the City deems necessary, including but not limited to weekly funding obligation amounts, expenditures, and projections;
- Managing a technology-driven duplication of benefits process that ensures compliance with Federal law;
- Facilitating issuance of 1099 Miscellaneous Tax forms tax process for any payments deemed taxable;
- Transferring data, files, and records to the City to be retained for future audits;
- Having organizational capacity to scale the Pilot if additional funding becomes available. This may include (but is not limited to) the following:
  - the ability to increase the number of participants;
  - the ability to track separate cohorts of participants;
  - the ability to invoice separately based on the funding source;
  - the ability to flexibly modify program elements to meet the requirements of new funding, including record keeping, reporting and audit requirements.

## 2.2 Performance Metrics & Contract Management

### 2.2.1 Performance Metrics

The table below highlights the targets that will be tracked and reviewed collaboratively with the awarded contractor during the contract. This list is an indication of the performance metrics of interest to the City and is not exhaustive or final. As a part of a response to this RFP, Proposers may propose additional or alternative performance metrics to be tracked on a regular basis. The final set of performance metrics and frequency of collection will be negotiated by the successful Proposer and the City prior to the finalization of an agreement between parties and may be adjusted over time as needed.

| METRIC                               | DESCRIPTION                                                                 | TARGET           | DATA SOURCE    |
|--------------------------------------|-----------------------------------------------------------------------------|------------------|----------------|
| 1. Number of participants enrolled   | The total number of Pilot participants that receiving the guaranteed income | 250 <sup>1</sup> | Monthly report |
| 2. Number of payments issued on time | The total number of payments issued on a monthly basis                      | 100%             | Monthly report |

|                                                                                                                                                                                                                                 |                                                                                       |                                                                                                           |                  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------|
| 3. Percentage of payment issues resolved                                                                                                                                                                                        | The percentage of participant payments issues that are resolved                       | 100% of issues resolved on a monthly basis                                                                | Monthly report   |
| 4. Impact on Public Benefits                                                                                                                                                                                                    | Number of participants whose public benefits are decreased as a result of Pilot funds | Zero participants' benefits are impacted                                                                  | Quarterly report |
| 5. Funding Options                                                                                                                                                                                                              | Number of viable funding options presented to the City to expand the program          | Minimally, present funding solutions to increase the number of potential participant households to 1,000+ | Monthly report   |
| <p>1. 250 is the minimum number of participants expected to be served during the Pilot based on current available funding. This metric will be reevaluated should the program be expanded to serve additional participants.</p> |                                                                                       |                                                                                                           |                  |

### 2.2.2 Contract Management

The selected vendor will receive consistent support and communication from a City liaison throughout the process. This liaison will be the main contact for providers and will send out reminders to providers before reporting, invoice, and narrative metrics are due to provide clarification about deadlines and answer any questions. These efforts are to ensure that any issues can be openly shared, solved early and any funds that may not be expended may be redirected.

#### Kick Off Meeting

The selected vendor shall participate in project kickoff meeting to introduce lead project staff, review project scope, review project timelines, review vendor invoicing and reporting requirements, and create regular project meeting and project reporting schedule.

#### Milestones/Approval from City on Key Program Decisions

The selected vendor shall submit the following deliverables to City staff by the designated deadline and receive approval before implementing. Final deadlines shall be negotiated and agreed upon during contract negotiations.

- Recommendations on program design;
- Website/portal design;
- Participant payment enrollment process;

- Payment resolution procedure;
- Sample reports for required data, including number of participants, number of payments issued, number of payment issues resolved, and others to be determined;
- Process for creating an escrow account and a schedule of deposits made by the City to said account to process payments to Pilot participants (if applicable).

### Communications and Reporting

Vendor and City staff shall meet regularly during the start of the engagement to review project status, address project issues, assess opportunities to improve effectiveness and efficiency, and actively work toward the launch of the Pilot.

After the Pilot has launched, the vendor and staff shall meet regularly to review project status and performance, address project issues, assess opportunities to improve effectiveness and efficiency, and review service data and monitor performance.

The vendor shall identify a lead project manager that will be available to speak and answer questions from City staff as needed.

#### 2.2.3 Vendor Invoicing & Payments

The City issues payment based upon services rendered. After a contract is finalized and work is performed, the Contractor should invoice the City. The City will remit payment within 30 calendar days of being billed.

To process payments efficiently, the vendor is encouraged to use an invoice template provided by the City but may also use their own and, at minimum, include the following information on their invoices:

- Invoice
  - Amount applied to administrative costs
  - Amount remitted to participants
  - Monthly Payroll Registers and receipts to coincide with admin costs reported
  - Monthly listing of participants to whom payment was remitted
  - Monthly reporting attesting to participants' eligibility
- Invoice number
- Date of invoice
- Purchase Order (PO) number
- Identify name of department, program, and program lead
- Summarize title of services performed and service period

### 3 How We Choose

#### 3.1 Minimum Qualifications

- Qualification to conduct business in the City
- Not having been debarred by Federal, State or local government
- Verifiable experience in designing, implementing, and administering a cash transfer program within the last 36 months with a minimum of 50 concurrent participants.
- Financial stability and staff capacity to effectively deliver service within the Pilot's 12-month timeframe.
- Ability to keep records according to Federal Single Audit standards, respond to federal audit requests, and regularly self-report on contract performance.

#### 3.2 Evaluation Criteria

Proposals shall be consistently evaluated based upon the following criteria:

| CRITERION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>□ Organizational Capacity &amp; Experience                             <ul style="list-style-type: none"> <li>• Experience serving comparable demographics to those selected for the Pilot.</li> <li>• Organizational capacity to successfully deliver, develop, and implement services.</li> <li>• Organizational capacity to scale the Pilot if additional funding becomes available. This may include (but is not limited to) the following: 1) the ability to increase the number of participants, 2) the ability to track separate cohorts of participants 3) the ability to invoice separately based on the funding source, 4) the ability to flexibly modify program elements to meet the requirements of new funding, including record keeping, reporting and audit requirements.</li> <li>• Demonstrated experience with recommended payment solution and participant portal.</li> <li>• Language access capacity.</li> <li>• Availability, experience, and qualifications of key personnel.</li> <li>• Conformance to the terms of the RFP.</li> </ul> </li> </ul> |
| <ul style="list-style-type: none"> <li>□ Method of Approach                             <ul style="list-style-type: none"> <li>• Quality, user experience, and capacity of guaranteed income cash payments portal</li> <li>• Ability to have a fully operational system ready for final review within 3 weeks of award</li> <li>• Capacity to implement a comprehensive case management, including financial benefits counseling service</li> <li>• Ability to securely process direct cash payments on behalf of City</li> <li>• Ability to develop and present viable strategies to fund the expansion of the Pilot program</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                |



|                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Communications & Reporting <ul style="list-style-type: none"> <li>• Ability to participate in mandatory meetings.</li> <li>• Ability and experience in data collection and reporting.</li> </ul>                                                               |
| <input type="checkbox"/> Reasonableness of Cost: <ul style="list-style-type: none"> <li>• Cost per participant served.</li> </ul>                                                                                                                                                       |
| <input type="checkbox"/> Desired Qualifications <ul style="list-style-type: none"> <li>• Prior experience with conducting a program disbursing federal funding</li> <li>• Knowledge of the Final Ruling of American Rescue Plan</li> <li>• Knowledge of OMB Uniform Guidance</li> </ul> |

### 3.3 Selection Process & Timelines

| EVALUATION STAGE                         | ESTIMATED DATE               | DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Evaluation of Narrative & Cost Proposals | 3/8/2022 – 3/11/2022         | <ul style="list-style-type: none"> <li>• An Evaluation Committee will review Narrative &amp; Cost Proposals to select the proposal that best meets the needs of the City.</li> <li>• Evaluations will be conducted using a methodology derived from the evaluation criteria listed in Section 3.2.</li> </ul>                                                                                                                                                                                                  |
| Interviews and Demos                     | TBD                          | <ul style="list-style-type: none"> <li>• An interview and demos will be provided</li> <li>• The City may interview or request demos from none, one, some or all Proposers.</li> </ul>                                                                                                                                                                                                                                                                                                                          |
| Negotiation & Contractor Selection       | March 2022                   | <ul style="list-style-type: none"> <li>• Selected Contractor(s) will be notified in writing.</li> <li>• Any award is contingent upon the successful negotiation of final contract terms. If contract negotiations cannot be concluded successfully, the City reserves the right to negotiate a contract with another Contractor or withdraw the RFP.</li> <li>• Negotiations shall be confidential and not subject to disclosure to competing Contractors unless and until an agreement is reached.</li> </ul> |
| Estimated Contract Execution             | April 2022                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Proposer Debrief                         | After Contractor is Selected | <ul style="list-style-type: none"> <li>• Successful and unsuccessful Proposers are encouraged to request phone call or in person meeting with the City to discuss the</li> </ul>                                                                                                                                                                                                                                                                                                                               |

strengths and weaknesses of their proposal. The intent of the debrief is to provide the Proposer with constructive feedback to equip them with information to effectively meet the City's needs and be successful in future proposals.

## 4 Proposal Instructions & Content

### 4.1 Proposal Timelines & Instructions

| MILESTONE                 | TIME (PACIFIC) & DATE        | LOCATION / ADDITIONAL INFORMATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Release date              | February 14, 2022            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Questions due to the City | 11:00 a.m. February 22, 2022 | <ul style="list-style-type: none"> <li>Submit all inquiries via email to <a href="mailto:rfppurchasing@longbeach.gov">rfppurchasing@longbeach.gov</a></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Posting of the Q&A        | February 25, 2022            | <ul style="list-style-type: none"> <li>Responses to the questions will be posted on the City's PlanetBids portal, available at <a href="https://pbsystem.planetbids.com/portal/15810/portal-home">https://pbsystem.planetbids.com/portal/15810/portal-home</a>.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Proposals due             | 11:00 p.m. March 7, 2022     | <ul style="list-style-type: none"> <li>Proposals should be submitted electronically via the City's PlanetBids portal, available at <a href="https://pbsystem.planetbids.com/portal/15810/portal-home">https://pbsystem.planetbids.com/portal/15810/portal-home</a>.</li> <li>Late proposals, or proposals submitted through other channels will not be accepted.</li> <li>Proposers are responsible for submitting their proposals completely and on time. <ul style="list-style-type: none"> <li>Proposers will receive an e-bid confirmation number with a time stamp from PlanetBids indicating that the proposal was submitted successfully. The City will only receive proposals that were transmitted successfully.</li> <li>Technical support is available by phone at (818) 992-1771</li> <li>Support resources including a list of Frequently Asked Questions are available on PlanetBids at</li> </ul> </li> </ul> |

<https://pbsystem.planetbids.com/porta/15810/help>.

## 4.2 Proposal Content

Complete proposals will include the following. Proposers are encouraged to use this table as a checklist to ensure all components are included in their proposal.

| PROPOSAL                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Narrative Proposal | The Narrative Proposal should provide a straightforward, concise delineation of capabilities to satisfy the RFP. Guidance on preparing a Narrative Proposal is detailed below in Section 4.3.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <input type="checkbox"/> Cost Proposal      | <p>The Cost Proposal should adhere to the following:</p> <ul style="list-style-type: none"> <li>• Provide a proposed budget with estimated costs to provide personnel and support needed to deliver the Pilot.</li> <li>• Provide any additional information that describes your fee structure and that provides a comprehensive estimate of total program costs for <b>your organization's</b> proposal.</li> <li>• The cost proposal and scope of work shall include and specify the <b>firm's labor, indirect costs, and any subconsultant costs</b>. This should include any additional costs related to the potential scaling of the program as described in Section 3.1.</li> <li>• The fee to be paid to the Consultant will be made at the <b>Consultant's</b> established billable rates for staff hours and expenses accrued in producing the required services, up to a maximum fee to be established through negotiations.</li> <li>• The <b>Consultant's billable rates shall not include mark-ups</b> on reimbursable items or mark-ups for overhead and profit; no additional payment will be made for those items. The City will neither reimburse the Consultant for mileage, office supplies, overhead expenses, nor for the use of computer equipment.</li> <li>• All sub-consultant fees and costs shall not include mark-ups and will be reimbursed on an actual-cost basis. The <b>City will not reimburse for a subconsultant's mileage, office supplies, overhead expenses, or for the use of computer equipment.</b></li> <li>• Primary Consultants located outside the Los Angeles/Orange County area shall not assume the City</li> </ul> |

|                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                               | will reimburse for travel to the City without prior approval. Consultants outside of Los Angeles/Orange County should discuss how their remoteness will affect their responsiveness in delivering services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>PROPOSAL APPENDICES</b>                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> Financial Stability                                                                                                                                                                                                  | Proposers should include one or more of the following financial statements to provide the City with enough information to determine financial stability of the Proposer and subcontractor. <ul style="list-style-type: none"> <li>• Financial Statement or Annual Report</li> <li>• Business tax return</li> <li>• Statement of income and related earnings</li> <li>• Formal Audit Report conducted by an external CPA firm, if available</li> <li>• Internal Control Report, if available</li> </ul>                                                                                                                                                                                             |
| <input type="checkbox"/> Other Addenda (if applicable)                                                                                                                                                                                        | Colored displays, promotional materials, and other collateral are not necessary or desired. However, if a complete response cannot be provided without referencing supporting documentation, it may be provided as an addendum clearly cited in the Narrative or Cost Proposal.                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>MANDATORY ATTACHMENTS   <i>The following are included as Attachments in PlanetBids. They must be signed by the individual legally authorized to bind the Proposer.</i></b>                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> A. Authorization & Certification                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> B. Equal Benefits Ordinance (EBO) Form                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> C. W-9                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>NON-MANDATORY ATTACHMENTS   <i>The following are required for awarded Contractors prior to contract execution. If possible, Proposers are encouraged to include this information as part of their proposal to expedite processing.</i></b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> D. Business License                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> E. Proof of Registration with Secretary of State                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> F. Pro Forma – Reference only                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> <b>G. INSURANCE.</b>                                                                                                                                                                                                 | As a condition precedent to the effectiveness of this Agreement, Contractor shall procure and maintain at Contractor's expense for the duration of this Agreement from an insurance company that is admitted to write insurance in the State of California or that has a rating of or equivalent to an A:VIII by A.M. Best and Company the following insurance: <ol style="list-style-type: none"> <li>a. Commercial general liability insurance equivalent in coverage scope to ISO CG 00 01 10 93 naming the City of Long Beach and its officials, employees, and agents as additional insureds on a form equivalent in coverage scope to ISO CG 20 26 11 85 from and against claims,</li> </ol> |

demands, causes of action, expenses, costs, or liability for injury to or death of persons, or damage to or loss of property arising out of activities or work performed by or on behalf of the Contractor in an amount not less than One Million Dollars (US \$1,000,000) per occurrence and Two Million Dollars (US \$2,000,000) in general aggregate.

- b. As applicable, workers' compensation coverage in accordance with the Labor Code of the State of California and Employer's liability insurance with minimum limits of One Million Dollars (US \$1,000,000) per accident or occupational illness. The policy shall be endorsed with a waiver of the insurer's right of subrogation against the City of Long Beach and its officials, employees, and agents.
- c. If use of vehicles is part of the scope of services, commercial automobile liability insurance equivalent in coverage scope to ISO CA 00 01 06 92 in an amount not less than Five Hundred Thousand Dollars (US \$500,000) combined single limit (CSL) covering Symbol 1 (any auto).
- d. Professional Liability (or Errors and Omissions Liability) insurance covering the profession or professions (for example, licensed professions such as accountants or lawyers) provided within the Agreement in the amount of not less than one million dollars (\$1,000,000) per claim.

Any self-insurance program or self-insurance retention must be approved separately in writing by City and shall protect the City of Long Beach and its officials, employees, and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention provisions. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, or canceled by either party except after thirty (30) days prior written notice to City, and shall be primary and not contributing to any other insurance or self-insurance maintained by City.

Any subcontractors which Contractor may use in the performance of this Agreement shall be required to indemnify the City to the same extent as the Contractor and to maintain insurance in compliance with the provisions of this section.

Contractor shall deliver to City certificates of insurance and original endorsements for approval as to sufficiency and form prior to the start of performance hereunder. The certificates and endorsements for each insurance policy shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf. "Claims-made" policies are not acceptable unless City Risk Manager determines that "Occurrence" policies are not available in the market for the risk being insured. In a "Claims-made" policy is accepted, it must provide for an extended reporting period of not

less than three (3) years. Such insurance as required herein shall not be deemed to limit Contractor's liability relating to performance under this Agreement. City reserves the right to require complete certified copies of all said policies at any time. Any modification or waiver of the insurance requirements herein shall be made only with the approval of City Risk Manager. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification provisions of this Agreement.

- PlanetBids | *Ensure your organization's PlanetBids profile is up to date, including an email address, phone number, and for any socioeconomic classifications you may qualify for.*

### 4.3 Narrative Proposal Template

An editable version of the template below has been posted to PlanetBids. Proposers should complete the editable template and submit it as their narrative proposal.

#### Organizational Capacity & Experience

| PROPOSER CONTACT INFORMATION                 |                                              |       |
|----------------------------------------------|----------------------------------------------|-------|
| Organization                                 | Company Name                                 |       |
|                                              | Company Address                              |       |
|                                              | Website                                      |       |
|                                              | Federal Tax ID Number                        |       |
| Authorized Representative                    | Name                                         |       |
|                                              | Title                                        |       |
|                                              | Email Address                                |       |
|                                              | Phone Number                                 |       |
| Other Point of Contact (if required)         | Name                                         |       |
|                                              | Title                                        |       |
|                                              | Email Address                                |       |
|                                              | Phone Number                                 |       |
| PROPOSER CAPACITY & EXPERIENCE               |                                              |       |
| What type of enterprise is the organization? | <input type="checkbox"/> Non-Profit          |       |
|                                              | <input type="checkbox"/> Sole Proprietorship |       |
|                                              | <input type="checkbox"/> General Partnership |       |
|                                              | <input type="checkbox"/> Corporation         |       |
|                                              | <i>State and Date of incorporation:</i>      | <hr/> |

|                                                                                                                                                                                                 |                                                                                            |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|--|
|                                                                                                                                                                                                 | <input type="checkbox"/> Limited Liability Company<br><input type="checkbox"/> _____ Other |  |
| Where is the organization that would service the City's account located?                                                                                                                        |                                                                                            |  |
| Does the organization reside in Long Beach?                                                                                                                                                     |                                                                                            |  |
| Please describe why the organization is qualified to provide the services described in this RFP (1-2 paragraphs).                                                                               |                                                                                            |  |
| How many employees does the organization have in total and residing in Long Beach?                                                                                                              |                                                                                            |  |
| Where are the representative(s) that would service the City's account located?                                                                                                                  |                                                                                            |  |
| Please provide a plan of overview for how the project will be staffed, including the percentage of time each employee will be allocated to the project, and the names and titles of principles. |                                                                                            |  |
| Who are the key staff involved in the project? For each, please provide a name, title, and resume either as an attachment or 1 paragraph description.                                           |                                                                                            |  |
| Does the proposal include subcontractors?                                                                                                                                                       | <input type="checkbox"/> Yes<br><input type="checkbox"/> No                                |  |
| <b>REFERENCES</b>                                                                                                                                                                               |                                                                                            |  |
| Reference 1                                                                                                                                                                                     | Company                                                                                    |  |
|                                                                                                                                                                                                 | Project Manager                                                                            |  |
|                                                                                                                                                                                                 | Phone Number                                                                               |  |
|                                                                                                                                                                                                 | Project Description                                                                        |  |
| Reference 2                                                                                                                                                                                     | Project Start and End Dates                                                                |  |
|                                                                                                                                                                                                 | Company                                                                                    |  |
|                                                                                                                                                                                                 | Project Manager                                                                            |  |
|                                                                                                                                                                                                 | Phone Number                                                                               |  |
| Reference 3                                                                                                                                                                                     | Project Description                                                                        |  |
|                                                                                                                                                                                                 | Project Start and End Dates                                                                |  |
|                                                                                                                                                                                                 | Phone Number                                                                               |  |

|             |                             |  |
|-------------|-----------------------------|--|
|             | Project Description         |  |
|             | Project Start and End Dates |  |
| Reference 4 | Company                     |  |
|             | Project Manager             |  |
|             | Phone Number                |  |
|             | Project Description         |  |
| Reference 5 | Project Start and End Dates |  |
|             | Company                     |  |
|             | Project Manager             |  |
|             | Phone Number                |  |
|             | Project Description         |  |
|             | Project Start and End Dates |  |
|             | Company                     |  |
|             | Project Manager             |  |

|                                                                                                                                                                |                                                                                          |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|--|
| <p><b>SUB-CONTRACTOR CONTACT INFORMATION (if applicable)</b><br/> <i>Please provide this information for all subcontractors included in this proposal.</i></p> |                                                                                          |  |
| Organization                                                                                                                                                   | Company Name                                                                             |  |
|                                                                                                                                                                | Company Address                                                                          |  |
| Authorized Representative                                                                                                                                      | Name                                                                                     |  |
|                                                                                                                                                                | Title                                                                                    |  |
|                                                                                                                                                                | Email Address                                                                            |  |
|                                                                                                                                                                | Phone Number                                                                             |  |
| Other Point of Contact (if required)                                                                                                                           | Name                                                                                     |  |
|                                                                                                                                                                | Title                                                                                    |  |
|                                                                                                                                                                | Email Address                                                                            |  |
|                                                                                                                                                                | Phone Number                                                                             |  |
| <p><b>SUBCONTRACTOR CAPACITY &amp; EXPERIENCE</b></p>                                                                                                          |                                                                                          |  |
| What type of enterprise is the organization?                                                                                                                   | <input type="checkbox"/> Non-Profit                                                      |  |
|                                                                                                                                                                | <input type="checkbox"/> Sole Proprietorship                                             |  |
|                                                                                                                                                                | <input type="checkbox"/> General Partnership                                             |  |
|                                                                                                                                                                | <input type="checkbox"/> Corporation<br><i>State and Date of incorporation:</i><br>_____ |  |
|                                                                                                                                                                | <input type="checkbox"/> Limited Liability Company                                       |  |



|                                                                                                                              |                                         |
|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
|                                                                                                                              | <input type="checkbox"/> Other<br><hr/> |
| Which specific requirements of this RFP will the subcontractor perform?                                                      |                                         |
| Is the subcontractor registered with the California Department of Industrial Relations? If yes, provide registration number. |                                         |
| Please describe why the organization is qualified to provide the services described in this RFP (1-2 paragraphs).            |                                         |
| Please describe the length of time the organization has been providing the services described in this RFP (1-3 sentences).   |                                         |
| How many employees does the organization have nationally, locally, and residing in Long Beach?                               |                                         |
| Where are the representative(s) that would service the City's account located?                                               |                                         |

Organizational Capacity & Experience

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. Please provide an overview of past guaranteed income or comparable cash transfer programs your organization is conducting or has conducted in the past. In your answer, be sure to share the total cost of the project, the number of participants served, amount of staff or resources involved, and metrics on the accomplishments and impact of the project. (suggest highlighting 2-4 programs, 1-2 paragraphs per program)</p>                                                                                            |
| <p>2. Please describe your experience in serving demographics comparable to those selected for the Pilot. (1 paragraph max)</p>                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>3. Please describe your organizational capacity to scale the Pilot should additional funding become available. This may include (but is not limited to) the following: 1) the ability to increase the number of participants, 2) the ability to track separate cohorts of participants 3) the ability to invoice separately based on the funding source, 4) the ability to flexibly modify program elements to meet the requirements of new funding, including record keeping, reporting and audit requests. (1-2 paragraphs)</p> |

|                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                            |
| 4. Please describe your experience and organizational capacity in data collection and reporting. (1 paragraph max)                                                                                                                                                         |
|                                                                                                                                                                                                                                                                            |
| 5. Please describe your organization's capacity to provide outreach and education in non-English (Spanish, Khmer, Tagalog) or non-verbal languages. (250 words max)                                                                                                        |
|                                                                                                                                                                                                                                                                            |
| 6. Describe your organization's ability to keep records according to Federal Single Audit standards, respond to federal audit requests, and regularly self-report on contract performance.                                                                                 |
|                                                                                                                                                                                                                                                                            |
| 7. (Optional) If there is any other information you have not provided above that will help the City evaluate your qualifications for these efforts, please provide them below. Please refer to Sections 3.1 Minimum Qualifications and 3.2 Evaluation Criterion as needed. |
|                                                                                                                                                                                                                                                                            |

Method & Approach

|                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Please describe in detail how your organization intends to implement and administer the Pilot in partnership with the City and its selected Pilot Research and Evaluation partner. Include proposed timelines for launching the website/portal, enrolling identified participants to receive payment, and issuing first payments.        |
|                                                                                                                                                                                                                                                                                                                                             |
| 2. Please describe in detail your organization's approach for identifying additional financial resources, including grants, fundraising opportunities or other strategies to grow the Pilot. If your organization has fundraising capabilities that could be leveraged in support of the program, please elaborate on this capability here. |
|                                                                                                                                                                                                                                                                                                                                             |
| 3. Please describe your organization's approach to providing a customizable digital (electronic) payment solution capable of supporting multiple payment distribution types.                                                                                                                                                                |
|                                                                                                                                                                                                                                                                                                                                             |

|                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4. Describe the end-user digital portal experience from the perspective of program participants.                                                                                                                                                         |
|                                                                                                                                                                                                                                                          |
| 5. Summarize steps you would take to immediately resolve any operational issues that may occur with the portal or prevent the issuance of payments to program participants.                                                                              |
|                                                                                                                                                                                                                                                          |
| 6. This opportunity requires that your organization will serve as a Subject Matter Expert to provide technical assistance to City staff and the City's Pilot Research and Evaluation vendor. Describe how your organization will work with these groups. |
|                                                                                                                                                                                                                                                          |
| 7. Summarize your proposed approach to case management and how will you ensure your organization's solution is able to assist a diverse, multi-lingual population.                                                                                       |
|                                                                                                                                                                                                                                                          |
| 8. Outline what you will need from the City to implement the contract successfully.                                                                                                                                                                      |
|                                                                                                                                                                                                                                                          |

Communications & Reporting

|                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Explain the data and reporting systems that will be used to routinely evaluate program performance, how this data will be used for program management, or how you have used data and reporting systems for program management in the past. |
|                                                                                                                                                                                                                                               |
| 2. Explain how employees responsible for case management will be supervised.                                                                                                                                                                  |
|                                                                                                                                                                                                                                               |
| 3. Please describe your organizational capacity to participate in mandatory meetings as described in Section 2.2.2 of the RFP.                                                                                                                |
|                                                                                                                                                                                                                                               |
| 4. Explain how you will report on performance to the City and coordinate with the City to meet the objectives of the RFP.                                                                                                                     |
|                                                                                                                                                                                                                                               |

- |                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5. The City requires that the awarded Contractor provide proof of payment of any subcontractors used for this project. If the proposal includes subcontractors, please describe the plan for how the City will be notified of such payments. |
|                                                                                                                                                                                                                                              |

## 5 Terms & Conditions

### 5.1 Acronyms/Definitions

1. Awarded Contractor: The organization/individual that is awarded a contract with the City of Long Beach, California for the services identified in this RFP.
2. City: The City of Long Beach and any department or agency identified herein.
3. Contractor / Proposer: Organization/individual submitting a proposal in response to this RFP.
4. Department / Division: City of Long Beach, Department of Economic Development
5. Evaluation Committee: An independent committee comprised solely of representatives of the City established to review proposals submitted in response to the RFP, evaluate the proposals, and select a Contractor.
6. May: Indicates something that is not mandatory but permissible.
7. RFP: Request for Proposals.
8. Shall / Must: Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of a proposal as non-responsive.
9. Should: Indicates something that is recommended but not mandatory. If the Proposer fails to provide recommended information, the City may, at its sole option, ask the Proposer to provide the information or evaluate the proposal without the information.
10. Subcontractor: Third party not directly employed by the Proposer who will provide services identified in this RFP.

### 5.2 Solicitation Terms & Conditions

1. The City reserves the right to alter, amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the City to do so.
2. The City reserves the right to request clarification of any proposal term from Proposers.

3. The City may contact the references provided; contact any Proposer to clarify any response; contact any current users of a Proposer's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process.
4. The level and term of documentation required from the Proposer to satisfy the City will be commensurate with the size and complexity of the contract and Proposers should submit accordingly. If the information submitted by the Proposer, or available from other sources, is insufficient to satisfy the City as to the Proposer's contractual responsibility, the City may request additional information from the Proposer or may deem the proposal non-responsive.
5. The City reserves the right to waive informalities and minor irregularities in proposals received.
6. The City reserves the right to reject any or all proposals received prior to contract award.
7. The City's determination of the Proposer's responsibility, for the purposes of this RFP, shall be final.
8. Unless otherwise specified, the City prefers to award to a single Contractor but reserves the right to award contracts to multiple contractors.
9. The City shall not be obligated to accept the lowest priced proposal, but will make an award in the best interests of the City of Long Beach after all factors have been evaluated.
10. Any irregularities or lack of clarity in the RFP should be brought to the Purchasing Division designee's attention as soon as possible so that corrective addenda may be furnished to Proposers.
11. Proposals must include any and all proposed terms and conditions, including, without limitation, written warranties, maintenance/service agreements, license agreements, lease purchase agreements and the Proposer's standard contract language. The omission of these documents may render a proposal non-responsive.
12. Alterations, modifications or variations to a proposal may not be considered unless authorized by the RFP or by addendum or amendment.
13. Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected.

14. Proposals may be withdrawn by written notice received prior to the proposal opening time.
15. The price and amount of this proposal must have been arrived at independently and without consultation, communication, agreement or disclosure with or to any other Contractor or prospective Contractor.
16. No attempt may be made at any time to induce any firm or person to refrain from submitting a proposal or to submit any intentionally high or noncompetitive proposal. All proposals must be made in good faith and without collusion.
17. Prices offered by Proposers in their proposals are an irrevocable offer for the term of the contract and any contract extensions. The awarded Contractor agrees to provide the purchased services at the costs, rates and fees as set forth in their proposal in response to this RFP. No other costs, rates or fees shall be payable to the awarded Contractor for implementation of their proposal.
18. The City is not liable for any costs incurred by Proposers prior to entering into a formal contract. Costs of developing the proposals or any other such expenses incurred by the Proposer in responding to the RFP, are entirely the responsibility of the Proposer, and shall not be reimbursed in any manner by the City.
19. Proposal will become public record after the award of a contract unless the proposal or specific parts of the proposal can be shown to be exempt by law. Each Proposer may clearly label all or part of a proposal as "CONFIDENTIAL" provided that the Proposer thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any information that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any release of the information.
20. A proposal submitted in response to this RFP must identify any subcontractors, and outline the contractual relationship between the Proposer and each subcontractor. An official of each proposed subcontractor must sign, and include as part of the proposal submitted in response to this RFP, a statement to the effect that the subcontractor has read and will agree to abide by the Proposer's obligations.
21. If the Contractor elects to use subcontractors, the City requires that the awarded Contractor provide proof of payment of any subcontractors used for this project. Proposals shall include a plan by which the City will be notified of such payments.
22. Each Proposer must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP. Any such relationship that might be perceived or represented as a conflict should be

disclosed. The City reserves the right to disqualify any Proposer on the grounds of actual or apparent conflict of interest.

23. Each Proposer must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Proposer or in which the Proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. The City reserves the right to reject any proposal based upon the Proposer's prior history with the City or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.
24. The City reserves the right to negotiate final contract terms with any Proposers selected. The contract between the parties will consist of the RFP together with any modifications thereto, and the awarded Contractor's proposal, together with any modifications and clarifications thereto that are submitted at the request of the City during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFP, any modifications and clarifications to the awarded Contractor's proposal, and the awarded Contractor's proposal. Specific exceptions to this general rule may be noted in the final executed contract.
25. The City will not be responsible for or bound by any oral communication or any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the City Contact.
26. Any contract resulting from this RFP shall not be effective unless and until approved by the City Council / City Manager, as applicable.
27. The City will not be liable for Federal, State, or Local excise taxes.
28. Execution of Attachment A of this RFP shall constitute an agreement to all terms and conditions specified in the RFP, including, without limitation, the Attachment B contract form and all terms and conditions therein, except such terms and conditions that the Proposer expressly excludes.
29. Proposer understands and acknowledges that the representations above are material and important, and will be relied on by the City in evaluation of the proposal. Any Proposer misrepresentation shall be treated as fraudulent concealment from the City of the true facts relating to the proposal.
30. Proposals shall be kept confidential until a contract is awarded.

31. No announcement concerning the award of a contract as a result of this RFP may be made without the prior written approval of the City.
32. Proposers are advised that any contract awarded pursuant to this procurement process that exceeds \$100,000 shall be subject to the applicable provisions of Long Beach Municipal Code Section 2.73 et seq, the Equal Benefits Ordinance. Proposers shall refer to Attachment G for further information regarding the requirements of the ordinance. If Attachment G is not present in the RFP, the Equal Benefits Ordinance does not apply to this procurement.
33. All Proposers shall complete and return, with their bid, the Equal Benefits Ordinance Compliance form contained in Attachment B, if applicable. Unless otherwise specified in the procurement package, Proposers do not need to submit with their bid supporting documentation proving compliance. However, supporting documentation verifying that the benefits are provided equally shall be required if the proposer is selected for award of a contract.

### 5.3 Contract Terms & Conditions

1. The awarded Contractor will be the sole point of contract responsibility. The City will look solely to the awarded Contractor for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded Contractor shall not be relieved for the non-performance of any or all subcontractors.
2. The awarded Contractor must maintain, for the duration of its contract, insurance coverages as required by the City. Work on the contract shall not begin until after the awarded Contractor has submitted acceptable evidence of the required insurance coverages.
3. The Long Beach Municipal Code (LBMC) requires all businesses operating in the City of Long Beach to pay a business license tax. In some cases, the City may require a regulatory permit and/or evidence of a State or Federal license. Prior to issuing a business license, certain business types will require the business license application and/or business location to be reviewed by the Development Services, Fire, Health, and/or Police Departments. Additional information is available at [www.longbeach.gov/finance/business\\_license](http://www.longbeach.gov/finance/business_license).
4. All work performed in connection with construction shall be performed in compliance with all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies (including, without limitation, all applicable federal and state labor standards, including the prevailing wage provisions of sections 1770 et seq. of the California Labor Code), and (b) all directions, rules and regulations of any fire marshal, health officer, building



inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction.

5. Contractor shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys' fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Contractor's breach or failure to comply with any of its obligations contained in this Contract, including any obligations arising from the Project's Contractor's compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 et seq. or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Contractor, its officers, employees, agents, subcontractors, or anyone under Contractor's control, in the performance of work or services under this Contract (collectively "Claims" or individually "Claim").
6. In addition to Contractor's duty to indemnify, Contractor shall have a separate and wholly independent duty to defend Indemnified Parties at Contractor's expense by legal counsel approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of Contractor shall be required for the duty to defend to arise. City shall notify Contractor of any Claim, shall tender the defense of the Claim to Contractor, and shall assist Contractor, as may be reasonably requested, in the defense.
7. If a court of competent jurisdiction determines that a Claim was caused by the sole negligence or willful misconduct of Indemnified Parties, Contractor's costs of defense and indemnity shall be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of willful misconduct attributed by the court to the Indemnified Parties.
8. If the Contractor elects to use subcontractors, Contractor agrees to require its subcontractors to indemnify Indemnified Parties and to provide insurance coverage to the same extent as Contractor.
9. If the Contractor elects to use subcontractors, the Contractor shall not allow any subcontractor to commence work until all insurance required of subcontractor is obtained.

10. The provisions of this Section shall survive the expiration or termination of this Contract.

#### 5.4 Additional Requirements

The payments made to Pilot participants under the Pilot will be funded with federal funding from the Coronavirus State and Local Fiscal Recovery Funds (SLFRF), a part of the American Rescue Plan Act of 2021 (ARPA). When disbursing ARPA Funds to beneficiaries under the Program, the Contractor shall comply with all federal laws and requirements of the SLFRF Statute (Title VI of the Social Security Act Sections 602 and 603, as added by Section 9901 of ARPA); the US Treasury's Final Rule (31 CFR 35; 87 FR 4338); the terms and conditions of the US Treasury's award of ARPA Funds to City, and any and all compliance and reporting requirements for the expenditure of SLFRF funds as outlined in the Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds (issued by the US Treasury on 11/5/21, Version 2.0) (collectively, "SLFRF Program requirements"). The Contractor shall adhere to such SLFRF Program requirements whether or not such requirements are specifically described in this RFP; and to the extent any provisions of this RFP conflict with such federal requirements, the SLFRF Program requirements shall control.

Furthermore, the contract arising from this procurement process may be funded in whole or in part by additional local, state or federal grants in which case the contract may be amended to incorporate additional grant requirements based on the new funding source.

Pursuant to the SLFRF Program requirements, the awarded Contractor will be required to comply with (and to incorporate into its agreements with any sub-consultants) the following provisions in the performance of the contract, as applicable.

1. SAM.gov Requirement: Contractors must register with SAM.gov and maintain eligibility to receive federal funds.
2. Allowable Costs: Contractors must have adequate financial management systems and internal controls in place to account for the expenditure of federal funds.
3. Period of Performance: Contractors must use SLFRF funds to cover eligible costs during the period outlined the Contractor's contract with the City, and in no event may Contractor expend SLFRF funds after December 31, 2026.
4. Civil Rights Compliance: Contractors distributing federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that the Contractor does not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency),

disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

5. Reporting Requirements: Contractors are required to assist the City in the reporting required by the SLFRF Program. In order to facilitate the City's reporting, Contractors must have a robust system to track programmatic data. Contractors will provide reports to the City that detail expenditures and key performance indicators. In addition to more frequent progress reports as required under the Contractor's contract with the City, Contractors will be required at a minimum to submit quarterly and annual reports to the City within 10 days of the close of the City's SLFRF reporting period.

## 5.5 Protest Procedures

### Who May Protest

Only a Proposer who has actually submitted a proposal is eligible to protest a contract awarded through a Request for Proposals (RFP). A Proposer may not rely on the protest submitted by another Proposer but must pursue its own protest.

### Time for Protest

The City will post a notice of the intent to award a contract at least ten (10) business days before an award is made. The notice will be available to all Proposers who submitted a proposal via the City's electronic bid notification system at <http://www.longbeach.gov/purchasing>. A Proposer desiring to submit a protest for a proposal must do so within five (5) business days of the electronic notification of intent to award. The City Purchasing Agent must receive the protest by the close of business on the fifth (5th) business day following posting of notification of intent to award the contract. Proposers are responsible for registering with the City's electronic bid notification system and maintaining an updated Contractor profile. The City is not responsible for Proposers' failure to obtain notification for any reason, including but not limited to failure to maintain updated email addresses, failure to open/read electronic messages and failure of their own computer/technology equipment. The City's RFP

justification memo will be available for review by protestors once the notification of intent to award has been posted via the City's electronic bid notification system.

#### Form of Protest

The protest must be in writing and signed by the individual who signed the proposal or, if the Proposer is a corporation, by an officer of the corporation, and addressed to the City Purchasing Agent. Protests must be submitted via the email address above. They must include a valid email address and phone number. Protests must set forth a complete and detailed statement of the grounds for the protest and include all relevant information to support the grounds stated, and must refer to specific portions of the RFP and attachments upon which the protest is based. Once the protest is received by the City Purchasing Agent, the City will not accept additional information on the protest unless the City requests it.

#### City Response to Protest

The City Purchasing Agent or designee will respond with a decision regarding the protest within five (5) business days of receipt of protest to the email address provided in the protest. This decision shall be final.

#### Limitation of Remedy

The procedure and time limits set forth herein are mandatory and are the Proposer's sole and exclusive remedy in the event of a protest. The Proposer's failure to comply with these procedures shall constitute a waiver of any right to further pursue a protest, including filing a Government Code Claim or initiation of legal proceedings.

# Guaranteed Income in the U.S.

A toolkit of best practices, resources, and existing models of planned and ongoing research in the U.S.

## About the Jain Family Institute

The Jain Family Institute (JFI) is a nonpartisan applied research organization in the social sciences that works to bring research and policy from conception in theory to implementation in society. Within JFI's core policy area of guaranteed income, JFI is the design and implementation partner on The Compton Pledge and has consulted on the Stockton, CA SEED pilot, the Alaska Permanent Fund Dividend, and related policies in New York City and Chicago, as well as on forthcoming pilots in Newark and Atlanta. JFI is leading an evaluation of a 42,000-person guaranteed income program in Marica, Brazil, a keystone of the movement for a solidarity economy. JFI has also provided expert commentary on a range of cash transfer policies from relief checks to the EITC and CTC. Founded in 2014 by Robert Jain, JFI focuses on building evidence around the most pressing social problems. The Phenomenal World is JFI's independent publication of theory and commentary on the social sciences.

[jfi@jfiresearch.org](mailto:jfi@jfiresearch.org)

## Jain Family Institute

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568 Broadway, Suite 601, New York, NY, 10012

[www.JFIresearch.org](http://www.JFIresearch.org)

## What is in this toolkit?

This toolkit is designed to provide a concrete starting point for anyone interested in supporting a guaranteed income for their community, particularly by launching a guaranteed income pilot. It begins by answering some of the key questions that arise in this undertaking, including what guaranteed income is, why it is gaining attention right now, what the open questions are that a pilot might answer, and what is involved in the creation of a local pilot.

For those who are interested in creating a pilot accompanied by a research program, it outlines the current state of guaranteed income research and describes how new research can be designed to make a valuable contribution and avoid repeating findings. It also provides advice on how to design an effective messaging strategy to maximize the impact of your pilot through storytelling, consistent framing, and thoughtful communication of research results.

Finally, it provides an overview of the current state of the guaranteed income movement including ongoing and planned municipal pilots, past examples of guaranteed income in practice, and a description of the network of lawmakers, advocates, and philanthropists pushing the movement forward today.

## Who is this toolkit for?

This toolkit is built for a variety of audiences that are interested in the field of guaranteed income and seeking a starting point: policymakers working in local, state, or federal government in the U.S. or abroad; philanthropic leaders interested in effecting change through guaranteed income programs; and practitioners or non-profit leaders focused on economic inclusion, equity, and justice. For all of these audiences, this document provides tools to evaluate whether and how to pilot guaranteed income in a given community, and other ways to both learn from and contribute to the movement around direct cash policy.

## Why did JFI create it?

JFI is a leading applied research organization in guaranteed income and cash policy. We have worked with public servants, local governments, foundations, international governments and media in their exploration of guaranteed income policy. This report provides answers to some of the questions we receive most frequently based on our research and insights from working in the field.

## Acknowledgements

This toolkit was built in collaboration and consultation between JFI's guaranteed income team and partner organizations conducting pilots or researching this policy alongside us. Special thanks to JFI Fellow in PR and Policy Communications, Charles de la Cruz, for his work on this toolkit, as well as Halah Ahmad, Stephen Nuñez, Alexander Jacobs, Molly Dektar, and Sidhya Balakrishnan. Likewise, we would like to acknowledge the contributions of Leah Hamilton, JFI Senior Fellow in Guaranteed Income and board member at Basic Income Earth Network (BIEN); Malcolm Berry at Basic Income Earth Network; Sarah Berger-Gonzalez at Stanford Basic Income Lab; Rachel Black and Sheida Elmi at the Aspen Institute's Financial Security Program; Stacia Martin of the University of Pennsylvania Center for Guaranteed Income Research, the University of Tennessee Knoxville and co-Principal Investigator of Stockton SEED; Nika Soon-Shiong and the Compton Pledge team; and to our many partners among pilot administrators in the U.S., without whom none of this work would be possible. Likewise, we want to thank the wider community of academics, advocates, policymakers and early implementers of this policy for their immense efforts to further a policy rooted in agency, trust, stability, and relief.

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## The Basics

### What is guaranteed income?

Guaranteed income (GI) is a type of cash transfer program that provides regular, unconditional, and unrestricted cash transfers to individuals or households. This differs from typical social safety net policies by providing a steady, predictable stream of cash to recipients to spend however they see fit without requiring that they perform specific activities—like working, going to school, or seeking employment—to remain eligible.

While guaranteed income is always unconditional, it may be *targeted* toward people below a certain income threshold. Targeting can take place at the *front end* through means-testing or at the *back end* through an income phase-out, meaning that everyone receives the benefit but people with higher incomes pay back some or all of this benefit through taxes. This targeting is distinct from conditionality, which refers to behavioral requirements for benefit recipients. Guaranteed income can be both unconditional and targeted. Universal basic income (UBI) refers to a guaranteed income that is both unconditional and untargeted. While the idea of a UBI has gained much attention in recent years, this toolkit is focused on the broader category of guaranteed income policy and advocacy, particularly through local pilots. In other words, we are focused on unconditional cash transfers generally, whether universal or income-targeted.

Among researchers, advocates, and pilot administrators, there are differences in opinion on the exact definitions of guaranteed income and UBI. For example, researchers at the [Stanford Basic Income Lab](#) consider GI to be income-targeted by definition and distinguish it from UBI based on this lack of universality. JFI defines guaranteed income more broadly as any regular, unconditional, and unrestricted cash transfers program whether universal (e.g. UBI) or targeted. This document uses the broader definition of GI.

Notably, most current pilots are front-end targeted for low-income recipients, while the wider vision for a guaranteed income policy is one that is universal, with any targeting occurring through post-hoc clawbacks in taxes or otherwise.

### Why are many policymakers turning to guaranteed income policy?

Over the last several years, guaranteed income has exploded in popularity across the United States. A first round of pilots in 2017, led by Stockton's SEED program and The Magnolia Mother's Trust in Mississippi, brought increased attention to the need for guaranteed income as a policy tool to fight poverty, improve social mobility, and reduce economic inequality. These pilots, along

with the creation of [Mayors for a Guaranteed Income](#), have fueled the creation of numerous local guaranteed income pilots across the country, including large pilots in Compton, CA; Chelsea, MA, Oakland, CA; and Newark, NJ (see section: "[Planned and ongoing pilot research in the U.S.](#)," for a running list). This is a growing movement driven by the recognition that existing policies have failed to break cycles of poverty or promote widespread prosperity and that new approaches are needed.

In the wake of the COVID-19 pandemic, federal, state and local governments as well as non-profit organizations provided [effective](#) cash relief to millions of individuals who became unemployed, had to stay home from work due to public health risks, or lost necessary income when they were already living paycheck to paycheck. Yet, even before the COVID-19 pandemic, the deficiencies of the U.S. social safety net, with its patchwork of modest, targeted, means-tested, employment-conditioned programs, had become apparent. The limited assistance leaves the US with a financially fragile middle class, the highest post-tax poverty rate in the developed world, and dramatic racial and gender inequality. These issues became more dire during the pandemic and economic downturn of 2020. Safety net targeting means young adults, non-custodial parents, and others considered "undeserving" fall through the cracks; means testing imposes upfront burdens on the eligible and leads to delays and incorrect rejections; and employment conditioning punishes recipients for labor market conditions and can exacerbate economic downturns.

This system could be greatly improved. After all, Canada, the U.K., and other countries with similarly structured welfare regimes have managed to reduce poverty with more generous benefits, less onerous upfront paperwork, and gentler phase outs of means-tested benefits. But decades after the U.S. declared a War on Poverty, the ongoing stalemate has led to calls for a broader rethinking of how we structure our welfare state. And that is what U.S. guaranteed income advocates hope to accomplish.

## Key components for effective guaranteed income

An effective guaranteed income is not a complete replacement for the existing network of safety net programs, but it can be designed to correct for many of its shortcomings. Above all, guaranteed income programs should be **universal** (available to all rather than subject to burdensome front-end means-testing, although they may be universal with targeting through post-hoc taxation), **unconditional** (not contingent on labor market participation, training, or other activities), and **unrestricted** (allowing recipients to decide how to spend funds). It is also important that they be designed while keeping in mind their interactions and potential conflicts with other safety net programs.

### Universal

Front end targeting (means testing) requires households to prove that they meet eligibility requirements before they can receive aid. This has obstructed the efficient disbursement

of funds and other benefits through existing welfare programs. It overburdens the most vulnerable with circuitous qualification tests and bureaucratic forms that hinder their ability to receive urgently needed support for which they are technically eligible.

In addition to limiting access, means testing can also create a “benefits cliff” in which, for example, a family’s increased income means that they no longer qualify for benefits, but the value of the lost benefits is greater than the increase in income. The result is that an increase in household income can actually leave a family worse off financially.

The federal poverty line used to means-test benefits is a notoriously weak measure of household income precarity. Before the pandemic, 40% of Americans would have struggled to cover an unexpected \$400 expense even though only about 10% of families fell below the official poverty line. In some cases, means-tests on asset values contribute to this problem by penalizing benefit recipients for accumulating savings. A universal program would provide cash benefits to every household with few to no upfront hoops to jump through.

Some may object to a system that includes people who need the cash assistance less, or not at all. **But a universal guaranteed income can be targeted on the back end such that everyone receives the benefit while wealthier households pay back some or all of it through progressive taxation.** In other words, front end targeting that places the bureaucratic burden on needy households applying for aid can be replaced with universal distribution and back end targeting that adds an extra item to the tax forms of high-income households instead. A universal program is both simpler to administer and more likely to ensure that nobody who needs assistance falls through the cracks.

### Unconditional

Safety net programs in the U.S. are often accompanied by a set of conditions that must be met to continue receiving support. In some cases, like drug testing requirements, these conditions communicate a lack of respect for or trust in recipients that are often rooted in long standing racial prejudice. More commonly, financial support is conditioned on work requirements: recipients must either be employed, actively seeking employment, or engaged in job training activities. In each case, the burden falls to the already-disadvantaged recipient to navigate regularly the paperwork required to prove their eligibility.

Conditioning aid on employment status often undermines its own purpose. Perversely, it is when the economy is in recession and the need for assistance greatest that a work-conditioned safety net is least effective. When work is scarce, so too is assistance. For example, the EITC provides benefits only to people who are employed. As a result,

recipients can be punished for forces outside of their control, including the hiring practices of employers.

Unconditional cash transfer programs avoid these issues. They remove the administrative burden of repeatedly demonstrating compliance. And by eliminating work requirements they ensure that people are able to receive support even during economic downturns and in the face of employment discrimination.

### **Unrestricted**

Unlike benefits like food stamps or housing vouchers, a guaranteed income is intended to allow recipients to decide how to use the funds in the ways that best fit their needs. Unrestricted aid programs place value on recipients' autonomy and judgment while recognizing their expertise over their own financial lives. Spending restrictions in existing welfare programs are ultimately rooted in a lack of trust in recipients, but research consistently supports the fact that when provided with cash support people use the money responsibly. As a policy principle, unrestricted aid is about recognizing that poverty results from a lack of resources, not a lack of judgment.

### **Regular, predictable payments over time**

Financial security is rooted in stable and predictable income. Though research is inconclusive on the optimal disbursement frequency (monthly versus yearly or otherwise), existing research suggests that a regular, and therefore predictable, pace of cash transfers affords families the financial stability for long-term financial planning.

### **In tandem with other safety net programs**

Guaranteed income policy is not a panacea. While it *may* better serve the role of income support than TANF, SNAP, or EITC if it is implemented with less paternalism and administrative burden, it cannot replace important public insurance programs like Social Security, Unemployment Insurance, or Medicaid/Medicare. And it is no substitute for direct government intervention where markets simply don't work (well) such as in healthcare, child care, and education. Likewise, there can be proposals for guaranteed income to exist alongside other forms of income support; many emerging pilots will provide useful case studies for this, such that marginalized communities have robust economic security and the potential for economic mobility. For a deeper look at ways a guaranteed income could fit into the existing safety net, see JFI's recent white paper on this topic, "[Reweaving the Safety Net](#)." To explore some of the ways that guaranteed income would interact with benefits from other federal, state, and local programs for a range of household situations, check out this [net GI value calculator](#) created by the Atlanta Fed.

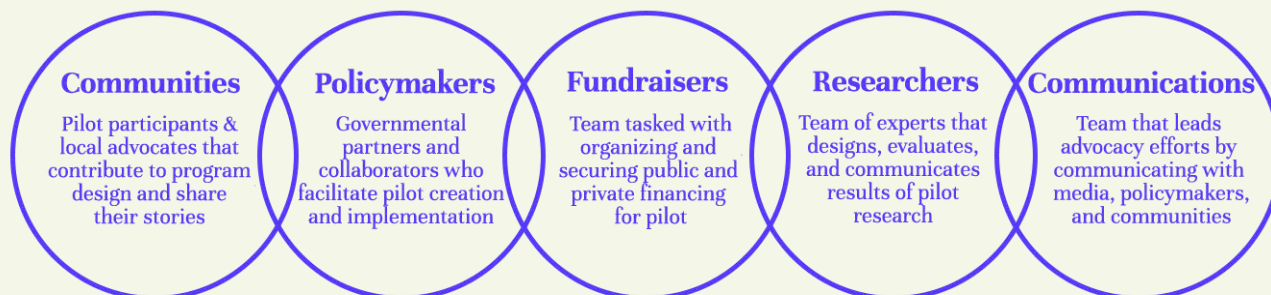
## What is a guaranteed income pilot?

A guaranteed income pilot is a program that provides cash transfers to a limited group of participants for a specific period of time while collecting data that can inform policymakers and researchers as well as contribute to ongoing public discourse around guaranteed income policy.

While this can take the form of a rigorous quantitative study of participant outcomes, there are a range of means by which a pilot can make a valuable contribution. For example, there is much room for experimentation with different methods of administering guaranteed income through partnerships with financial institutions and local organizations, or through varying frequencies and amounts. And in addition to quantitative measures, there is much to be gained from both qualitative research and, separately, storytelling. Qualitative research can give necessary nuance and evidence to explain quantitative outcomes and inform better research foci. Storytelling can shed light on the lived experience of recipients within wider media and break down tropes in public perceptions of social benefits. Quantitative research can provide more generalizable evidence for causation within positive GI outcomes. Many researchers are focused on all three of those, including JFI, GiveDirectly, and the [Center for Guaranteed Income](#), which incorporates mixed methods RCTs with participatory action research (PAR).

Local pilots have typically been privately funded through philanthropic donations or institutional grants. That is, in part, because sustainable public financing of a guaranteed income policy is difficult to achieve at the local level. As a result, the long-term goal of the guaranteed income movement is the establishment of a guaranteed income policy at the state or federal level where this kind of large-scale public financing would be feasible. While there is much to be gained from local pilots in terms of research and influence on public opinion, it is important to remember that these pilots are advocacy opportunities that represent small steps toward this larger goal.

## Anatomy of a guaranteed income pilot



This graphic outlines the key stakeholders that form the core of any guaranteed income pilot, drawing on the Stanford Basic Income in Cities [guide](#), and corroborated by JFI's work.

**Communities** are important participants at every stage of the process, from early consultation on pilot design to long-term advocacy and storytelling around the pilot's vision. **Policymakers** facilitate the pilot or policy implementation through coordination with existing social service programs and communications that channel public buy-in for sustained advocacy even after the pilot has ended. The **Funding Team** secures financing for the pilot, including funds for distribution to participants and the costs of administration and research evaluation. Recent municipal pilots have most often been funded through philanthropic donations and institutional grants, but in some cases local governments may be able to fund a pilot by drawing on discretionary funds, federal pass-through grants, or even emergency funds.

**Researchers** are in charge of designing the guaranteed income program in ways that will provide insights into open questions around the impact of GI on the community and the optimal methods of program implementation. The next section will cover these questions of research design in more depth. Finally, the **Communications Team** plays a key role in using the pilot as an opportunity to build widespread support for guaranteed income. This involves direct engagement to share community members' stories with the broader public, ensuring that the pilot gains the attention of media and legislators, while developing a consistent messaging strategy that clarifies the pilot's guiding vision throughout. The team also collaborates with researchers to ensure that research results are communicated effectively. The elements of an effective messaging strategy are discussed below in the "Pilot Messaging" section.

Although there will often be overlap between these different stakeholder groups, it is useful to distinguish them functionally from the very beginning in order to effectively coordinate the key elements of a successful guaranteed income pilot. Further practical notes on pilot planning are on [page 18](#).

## What to know if you are considering a guaranteed income research project for your community

There are several ways to contribute to the movement around guaranteed income. One of those ways is to pilot a guaranteed income program in your community and research its effects. If you are considering doing so it is important to understand what research has already been done, what the open questions about guaranteed income are, and what it takes to collect evidence on GI. In this section we provide an overview of each of these topics to help you think through whether a pilot is right for your community.

### What evidence do we already have about guaranteed income's effects?

Although there has been a surge of recent interest and research on GI, scholars have been studying cash transfer policy for decades. This includes research on guaranteed income-like pilots and policies like the North American Negative Income Tax experiments in the 1970s and the Alaska Permanent Fund Dividend, which has offered checks annually to residents since 1982. But it also includes research into inheritances, lottery winnings, conditional cash transfer programs, and pensions. Cash is cash, so much of what we know about the effects of additional income in general on household wellbeing and choices applies to guaranteed income.

Extensive social science research on cash transfer programs around the world shows that cash transfers increase expenditure on education and training, improve food security, increase durable good consumption (buying a car, a refrigerator, etc.), and improve measures of well-being. The positive impact of guaranteed income has been studied for decades, with [evidence](#) indicating that cash transfers are an effective anti-poverty measure with an array of welfare benefits. [Empirical evidence](#) also indicates that people keep their jobs and [spend](#) the extra money on groceries, utilities or other basic needs; those who work fewer hours largely invest that time in education, job training, or caring for children. Key findings include:

- There is [little evidence](#) that cash transfers decrease the motivation to work.
- Cash transfers [do not](#) lead to spending on “temptation goods.”
- Cash transfers [reduce](#) inequality, and have had multiple [positive impacts](#) on [recipients'](#) welfare, alongside positive [spillover effects](#) for [non-recipients](#).

In other words, there is already a robust literature on the employment, poverty/material hardship, and consumption effects of GI. We do not need to demonstrate that GI will not lead to a major

reduction in the labor supply nor increased drug/tobacco/alcohol consumption; researchers have already established this several times across several countries. To the extent that this message has not been absorbed by the public, that is best rectified through further communication efforts rather than additional research.

## What are the open questions around guaranteed income?

In light of the above, why pilot guaranteed income at all? It is useful to break that question down into two separate ones:

- Do we need to pilot guaranteed income before moving forward with efforts to enact one on a state or federal level?
- Are there important unanswered questions that further research can address that would be of value to policy makers?

The answer to the first question is, as regards more evidence needed, no. We already know enough about how GI works for GI advocates to push for GI legislation. Still, local piloting efforts can have an impact for short-term poverty alleviation, and serve a key role in building public awareness and support for the policy, as addressed in later sections.

The answer to the second question, however, is definitely yes. There are several important outstanding questions around guaranteed income policy that researchers should address. It is also worth looking into what pilots are currently being developed or are underway to answer some of these open questions. See the section on "[planned and ongoing pilots](#)" to check if there are existing initiatives in your area or on the questions you might want to answer.

Some of the urgent questions for researchers include:

- What are the macroeconomic effects of GI (e.g. price, wages, or inflation effects) and how can it be responsibly financed?
- How much money should each individual receive considering the need to fund other important safety net policies?
- How often should the money be disbursed? Yearly? Quarterly? Biweekly?
- How do we build a cash disbursement infrastructure that quickly and efficiently gets money into recipients' hands?
- What are the long-term effects of GI on education, criminal justice involvement, civic and political engagement, and other lesser studied outcomes?
- What programs should GI be paired with to maximize its benefits?
- What are the broader political effects of GI on public perception of the safety net, the stigma attached to government assistance, etc.?



- What outcome measures are most salient to inform robust benefit-cost analyses for policymakers? How do the economic benefits to individuals and communities compare to the costs of the program?
- *How* does a GI generate the observed impacts? For example, what effects on recipient decision-making and future planning might explain better educational or other outcomes? Likewise, how do GI recipients compare their experiences with means-tested programs, particularly with regard to the unconditional and unrestricted nature of GI support? Qualitative research can particularly elucidate these questions.
- What effects do GI recipients' perceptions and meaning-making have on their outcomes? What meanings do recipients attach to the program design?

## Where can pilot research usefully contribute/which of these questions can pilots help answer?

There is, as noted above, research still to be done on guaranteed income. Pilots can contribute answers to some but not all open questions—though it is worth emphasizing that the cost of high-quality research, persuasive to academics and policymakers, is substantial. That said, an RCT of significant scale could definitively solidify the shape of an ideal guaranteed income policy. Pilots can also provide important data on the effects of variation in disbursement amount and frequency or of pairing GI with other services. Still, they are ill-equipped to investigate things like different financing schemes or macroeconomic effects. This is because GI pilots are by necessity limited in size and duration and will not generate the sorts of economy-wide economic effects on prices, wages, and interest rates that scholars are interested in exploring. Such questions have been more usefully investigated through models and sophisticated [simulations](#) of local and national economics than real-world pilots.

Pilots can contribute to our understanding of guaranteed income in important ways by focusing on the open questions discussed above. Additionally, as discussed below in the messaging section, pilots can play a valuable role in bringing public attention to the need for and benefits of guaranteed income policy even without a significant research component. If a more ambitious impact analysis is not feasible, making an effort to publicize the stories of recipients and developing a consistent messaging strategy can allow a guaranteed income pilot to have real impact on public opinion. Even small pilots can contribute to research by helping us develop best practices for implementation.

## How can guaranteed income pilots and programs be funded?

Almost all guaranteed income pilots currently underway in the U.S. have been privately funded with philanthropic dollars and/or institutional grants, with only recent examples of emergency or one-time funds used or proposed in the cases of St. Paul, Mountain View, Los Angeles, and a few others. Typically the majority of the program dollars have come from high-net-worth individuals

but recently, and in response to the pandemic, philanthropic foundations have begun to express interest in funding pilots and associated research.

Guaranteed income pilots with a significant research component generally require initial funding of at least \$5-10 million, with about 20% of funds going to research and administrative costs. Smaller pilots focused more on messaging and sharing recipient stories can be launched with a smaller budget and less overhead.

A universal guaranteed income policy at the state or federal level can potentially be funded through a wealth tax, an increase in progressive income tax, a VAT tax, a carbon tax, a budget reallocation, or dividend from sources including natural resource royalties, casino revenue, or other social wealth funds. This is an area of substantial interest to the research community though, as noted, this work is typically done through modeling and simulation. In 2021, JFI will release a deep-dive analysis of the implications of financing choice for guaranteed income as part of its whitepaper series, "[From Idea to Reality: Getting to Guaranteed Income.](#)"

## What kinds of research can accompany pilots?

Pilot programs need not include a rigorous research study, but policymakers and researchers are often interested in studying the implementation and impact of the pilot program to draw lessons that can be applied in future policy design. Those interested in exploring a study should be mindful that research can be expensive, operationally complex, and potentially burdensome for participants.

There are two main types of research projects typically attached to a pilot (often together): Impact analysis and implementation analysis. Impact or outcome analysis is an exploration of the effect that the program had on participants, their households, and/or their communities; implementation analysis explores the development and roll-out of the pilot itself, including what went well and what did not.

### Impact analysis

Impact or outcome analyses can be performed using a wide variety of methodologies. This includes qualitative analyses like interviews and focus groups as well as formal statistical analysis of outcomes using administrative and survey data. Formal impact analysis includes attempts to identify and establish a counterfactual: what would have happened in the absence of the program? For example, if a program participant started the program with a \$35,000/year salary and ended it with a \$45,000/year salary, how much of that change can be attributed to participation in the program? Might this change have occurred anyway?

The techniques researchers use to establish the counterfactual and thus estimate the “impact” of the program are complex and outside the scope of this document. However, generally speaking, researchers either devise an experiment or a “quasi experiment.” Experiments involve random assignment of participants to the program group(s) to create two or more groups that are broadly similar. This allows researchers to rule out differences in individual or household characteristics or circumstances as potential causes in any observed differences in outcome. Quasi-experiments typically use coincidences, arbitrary eligibility thresholds, and other statistical techniques to mimic experimental conditions.

All impact analyses, whether qualitative or quantitative, must be approved by an Institutional Review Board (IRB), an entity that reviews research proposals to ensure they are ethical and protect participants’ data and privacy. Universities and non-profit research organizations typically have their own IRBs or work with an external board.

While a qualitative research plan can be done relatively cheaply and effectively with 30-50 individuals (including some that are not receiving the program benefit), quantitative research requires much larger sample sizes and much more expensive data collection. This is because experiments and quasi-experiments need hundreds or thousands of participants to both to ensure that they have established the counterfactual and to ensure that they can detect the impact within the statistical “noise” and generate a precise estimate. RCTs (experiments) require at least 100 individuals/households (assigned 50/50 between program and control groups) to establish causality and typically 800 or more to generate confidence that program impacts will be reliably captured. Quasi-experimental analysis may instead require 2,000 to 4,000 study participants to do the same.

The size requirements to do formal impact analysis, of course, also generate sizable data collection costs—costs over and above those of the program itself. Some important participant outcomes can be measured using administrative data (though there is time and expenditure involved in gaining access to these records) but many require fielding surveys. This can be costly due to tracking and other logistical costs and the typical need to provide payments to survey respondents to reimburse them for their time. Pilots undergoing formal impact analysis, therefore, typically cost in excess of \$1 million.

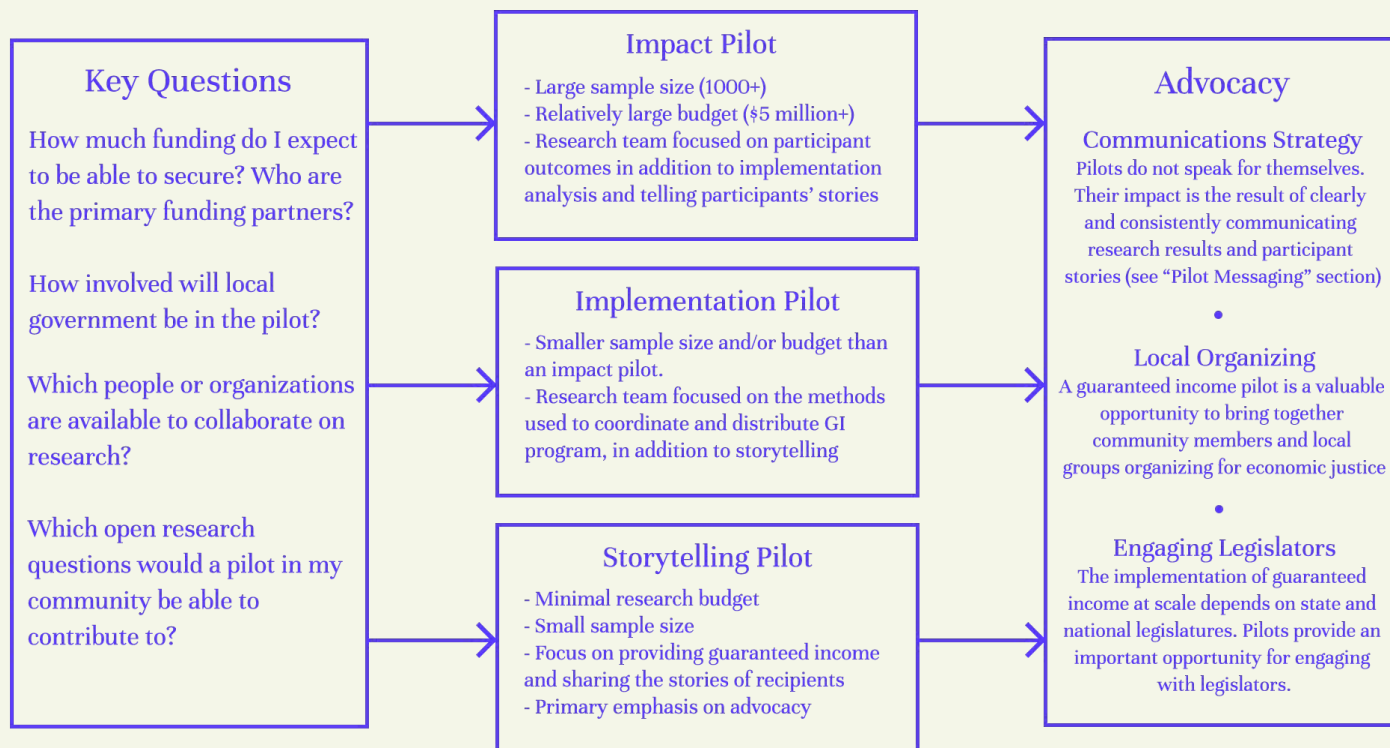
For those interested in impact analysis but unable to absorb such costs, there are generally two good contingencies. The first is to pool resources with other organizations and/or municipalities to build a sufficient sample. A “multi-site” study where each individual site is small can, through pooling, potentially generate precise impact estimates. The second is to focus on qualitative impact analysis rather than on statistical modeling. Qualitative research fleshes out impact analysis and helps scholars understand the “why” behind observed impacts (some examples include an ongoing study of [Baby’s First Years](#), an unconditional cash program for mothers after childbirth). It is valuable on its own or, when paired with statistical analysis, in a so-called mixed-methods design.

It is, by contrast, not advisable to attempt an experiment with a very small sample or to use a non-experimental method to generate impact estimates (e.g. a pre/post design). These approaches will not generate useful data for the field and will thus make demands on pilot participants' time for minimal gain.

### Implementation analysis

Implementation analysis explores the development and roll-out of a program and can be immensely useful in helping policymakers better understand the logistical challenges in serving a population and how to effectively and quickly administer aid. While we understand a great deal about the impacts of cash assistance on individual and household wellbeing, we have considerably less knowledge of how best to get cash into people's hands. Whether it be government officials investigating the failures in federal aid disbursement during the COVID-19 crisis or nonprofits looking to better identify, reach, or reimburse clients, there is great need for analysis of what works and what doesn't in cash infrastructure design. Therefore government and nonprofit organizations running pilots can contribute meaningfully to the research around GI policy by focusing all or part of their research on these topics. This is typically done through qualitative analysis: interviews and focus groups with study participants and with employees and leaders of the organizations involved in the pilot efforts. It may also include an analysis of record keeping practices, computer systems, and any materials or methods used to interact with (potential) cash recipients.

With these different avenues of research in mind, you can think of your options in terms of three broad categories of pilot, depicted below along with some of the key questions that should inform your decisions about pilot design from the beginning. In general, impact analysis will require the largest budget and sample size, while a pilot that emphasizes storytelling rather than formal research can be executed with the fewest resources. But regardless of type, any pilot can make a valuable contribution to the guaranteed income movement through messaging and advocacy.



## What are some best practices for pilot design?

Along with many others in guaranteed income research, we find that pilots are most successful when they are built in consultation with community members and their specific needs. Rachel Black and Aisha Nyandoro have also [advised](#) and [modeled](#) this approach. Moreover, a clear messaging strategy is a core component of a successful pilot, rather than relying on the program to “speak for itself.” Drawing on JFI’s experiences working with multiple municipalities in the U.S. and internationally, our research team can help you evaluate appropriate guaranteed income approaches for your locality alongside community-based organizations that should fundamentally inform the design.

Many cities have also found it valuable to create a dedicated **task force**, assembling multiple stakeholders to define the community needs motivating the pilot and to collaborate on its vision, design, and implementation. Such a coalition of local nonprofits, community leaders, academics, and residents also can help generate public attention and strengthen the pilot’s connection to local perspectives and expertise. A task force may also provide a forum to discuss research design and any supportive programs. Task forces typically produce reports (e.g. [Newark’s](#), or [Atlanta’s](#)) which may be of use in subsequent fundraising efforts.

Though each pilot should be designed for the specific needs of its community there are several best practices designers should consider:

#### **Target low-income individuals**

Although the ideal guaranteed income program would be universal, with the limited resources available for any pilot, targeting low-income households ensures the greatest benefit for those most in need. To target low-income populations is often to address issues of racial, gender-based and economic inequality, as communities of color are often most marginalized by the existing safety net and both historic and present economic policy. This targeting can be crucial for storytelling efforts because the stories of low-income communities, especially of color, can help amplify voices often ignored by the media and rebut harmful stereotypes about the value of cash as an anti-poverty tool.

#### **Provide full-package services**

Cash transfers can be more effective when they are accompanied by additional forms of support from local organizations such as financial coaching and job placement assistance. Participation in these services should always be completely voluntary for recipients, consistent with the unconditional nature of guaranteed income. Understanding how guaranteed income interacts best with other support programs is also one of the pressing questions for GI research, so pilots should seek these synergies both for their immediate benefits and because they provide opportunities for learning.

#### **Enhance individual agency**

In line with the principles of unrestricted and unconditional guaranteed income, pilots should enhance individual agency by providing cash transfers with no strings attached. This maximizes recipients' agency by leaving it to them to decide how best to use the funds in their unique circumstances.

#### **Promote long-term economic inclusion**

A pilot is an opportunity to improve the well-being of recipients by connecting them to the resources and infrastructure they need in the long-term, not just while they are receiving benefits. For example, connecting recipients to local credit unions or nonprofits that provide low or no-cost financial services can help support the unbanked. Pilots may also offer the opportunity to rethink or newly build payments infrastructure. These improvements can persist and continue to provide benefit to residents after the pilot period.

#### **Provide regular, not one-time, support**

A pilot should be designed to provide regular cash transfers over a period of time rather than all at once. While participants might benefit from a one-time transfer, it is the predictability and long-term security provided by recurring cash transfers that are of

greatest interest both to researchers and value to the public. Providing payments over time has the added benefit of expanding the presence of the pilot in public discourse.

#### **Offer simple, efficient enrollment procedures**

Enrollment should involve minimal paperwork and demonstration of need. Reducing barriers like these, which currently prevent millions from receiving means-tested social benefits to which they are entitled, is one of the virtues of guaranteed income policy; this should be reflected in the pilot's enrollment procedures.

#### **Serve a long-term guaranteed income agenda**

Guaranteed income pilots do not create impact in isolation, but rather through engagement with the broader movement for guaranteed income and economic justice. Pilots should be designed with this context in mind, working with advocacy organizations oriented towards future policy. In addition to focusing on research questions that are likely to drive the discourse forward rather than reiterating established claims, pilots should be designed with a deliberate messaging strategy that engages with and supports the broader movement.

Involving participants in the research design and centring their agency and needs is inherent to a successful implementation of the above principles (also see Rachel Black and Aisha Nyandoro's [work](#) on this). Likewise, participant confidentiality should be prioritized. In general, participants should understand that choosing not to participate in the research has no bearing on their pilot payments. Separating continued participation in research from continued receipt of payments is important to avoid creating a coercive situation. This should be addressed during the IRB review.

## Planning a Pilot

A successful guaranteed income pilot is often a multi-year project that requires careful planning and coordination. This section will cover some of the practical questions that emerge in designing and executing a pilot, including timelines, costs, and potential obstacles. The [Guaranteed Income Community of Practice \(GICP\)](#), formed in 2021, of which JFI is a member, can also be a resource for emerging questions. While the details below provide a starting point for scoping out the planning needs and timeline of a pilot, a closer look at your own needs may be best served by further conversations with us or our partners. Reach out to [jfi@jainfamilyinstitute.org](mailto:jfi@jainfamilyinstitute.org) to chat or to be connected with another pilot.

#### **Pilot costs**

The total cost of a pilot will include both the money distributed to recipients and the costs of evaluation and administration, which can be expected to take up roughly 20% of the budget with a robust research program. For a given level of funding, program administrators and researchers must find a balance between **benefit size**, **benefit duration**, and **number of recipients**. For example, one million dollars could provide (a) 100 people \$833/mo for a year, (b) 50 people



















\$1666/mo for a year, or (c) 200 people \$833/mo for 6 months. These three parameters will be balanced based on the pilot's objectives.

In 2020 the city of Newark, NJ collaborated with JFI to release a [task force report](#) which includes a helpful breakdown of the relative costs of a few different pilot designs (see right). These designs are inspired by earlier research on [unconditional cash transfers in Kenya](#) by JFI senior fellow Johannes Haushofer & Jeremy Shapiro.

The [task force report](#) for Atlanta's guaranteed income pilot provides some helpful cost estimates for different program sizes. JFI provided estimates that a program with 600 recipients in which half receive \$800/mo for 36 months and half receive \$200/mo for 36 months will total about \$13 million, including administration and evaluation. Generally, an RCT research program focused on quantitative impact analysis will require a cohort of at least this size to ensure that its findings are robust. On the other hand, the report also describes a potential qualitative research program with a cohort of just 200 participants in which 130 receive \$800/mo for 36 months and 7 receive \$200/mo for 36 months. The total for this smaller program would be about \$5 million.

### Developing a Timeline

A guaranteed income pilot will generally be designed to distribute benefits for at least one year in order to provide researchers with enough information to make meaningful evaluations. Many pilots are designed to run for two or more years to better understand the long-term impacts of guaranteed income. However, creating a successful GI pilot is a process that begins well before payments start going out and continues after they have stopped. It is important to start

| PILOT STUDY 1                                                                                                                                                                                                                                             | PILOT STUDY 2                                                                                                                                                                                     | PILOT STUDY 3                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <br>500 participants randomly assigned to receive either \$250/month or \$500/month for 18-months (50/50) <sup>64</sup>                                                  | <br>1000 participants randomly assigned to receive either \$500/month or no cash benefit for 18 months (50/50). | <br>1000 participants randomly assigned to receive 9,000 dollars lump sum or \$500/month for 18 months <sup>64</sup> |
| <br>Disbursement: 250 program A group members x 250 dollars x 18 months: \$1,125,000<br>Disbursement: 250 program B group members x 500 dollars x 18 months: \$2,250,000 | <br>Disbursement: 500 program group members x 500 dollars x 18 months: \$4,500,000                              | <br>Disbursement: 1000 participants receiving 9,000 dollars over 18 months: \$9,000,000                              |
| <br>1 endline survey at 80 percent response rate: \$400,000                                                                                                              | <br>1 endline survey at 80 percent response rate: \$800,000                                                     | <br>1 endline survey at 80 percent response rate: \$800,000                                                          |
| <br>Qualitative research including interviews with staff and participants: \$50,000                                                                                     | <br>Qualitative research including interviews with staff and participants: \$100,000                           | <br>Qualitative research including interviews with staff and participants: \$100,000                                |
| <br>Overhead: 20%                                                                                                                                                      | <br>Overhead: 20%                                                                                             | <br>Overhead: 20%                                                                                                  |
| <br>Total: \$4,590,000                                                                                                                                                 | <br>Total: \$6,480,000                                                                                        | <br>Total: 11,880,000                                                                                              |



developing an expected timeline early to ensure that there is enough time allotted for key prerequisites for a successful pilot launch.

Fundraising can be time consuming. A pilot may require multiple funders including foundations and high-net-worth individuals and each may be hesitant to be the first mover on the project. Money may also come with strings attached or earmarking (reserved for program or research costs alone). While pilots with early support from funders have been able to begin administering cash on an accelerated pilot design schedule, such as within 3-4 months, these scenarios often rely on significant staffing capacity, existing pilot or research designs, and the structures of existing service providers and platforms to reach intended recipients or administer cash. Such programs can also be hampered by the existing limitations of the structures they employ. More likely fundraising timelines would be a year and two years to encompass both direct cash and research or administrative costs.

A successful pilot requires extensive coordinated efforts to implement. You will need to find implementation partners: organizations who can help you identify participants from the clientele roster or from other data sources (e.g. in Compton, a handful of community-based organizations alongside the City); organizations that can distribute money or that can develop a cash disbursement platform should such a system be needed (e.g. MoCaFi, or the Compton Pledge Portal with Venmo, Paypal and other financial partners); and organizations or individuals who can play the role of communications lead and interface with the media and your local community. If you are planning on exploring cash assistance as an overlay on existing benefits rather than a benefit that may substitute others or conflict with eligibility, you may wish to request waivers from the department that oversees state-administered benefits. This can involve lawyers where statutes are unclear. But even straightforward waiver applications, such as for SNAP, can take 6 to 12 months to resolve.

Research can take time to design. Once you bring a team on board, they may wish to build an advisory council; researchers will likely want to come up with several options that depend on fundraising success to ensure a statistically valid design even if the project falls short of fundraising goals; research must be conducted under the supervision of an Institutional Review Board and an application process that can take 3-6 months to conclude; the research team may need to find and hire a subcontracting organization to carry out survey field work (this is common practice in evaluation); and, of course, researchers will have to develop data collection instruments, data sharing agreements/NDAs, and a formal analysis plan for the pilot. While much of this work can be done in parallel it is important to allocate sufficient time for it, especially given the possibility of “snags” in the process.

**Common administrative challenges include public benefits eligibility and participant selection.**

Providing low-income pilot participants with additional income creates risks that this additional income will disqualify them for public benefits programs they are enrolled in. These risks should be anticipated and addressed ahead of time to ensure that participation in the pilot does not

leave anyone worse off. Public benefits programs exist at the federal, state, and local level with eligibility requirements that vary with geography. Navigating the set of public programs that pilot participants may be enrolled in will require consultation with legal counsel and benefits specialists.

Mayors for a Guaranteed Income has produced a useful [overview of program design considerations](#) in relation to public benefits. They suggest structuring pilot benefits as gifts when possible, which can prevent them from being counted toward safety net eligibility requirements and, when less than the annual gift exclusion amount, do not need to be reported in tax filings. In other cases it may be necessary to seek waivers from government agencies to ensure that pilot participants do not lose public benefits.

Regarding participant selection and recruitment, there are a number of methods of recruiting and selecting participants in a given guaranteed income pilot or program. Depending on the research objectives and target populations, it can be very difficult to both select within and to reach vulnerable populations. Random selection among those in need helps make this process more fair. Likewise, a pilot may choose to provide cash to individuals or households (and within households sometimes designating who receives funds to ensure the income supports the full family). Moreover, **maintaining the principles of a guaranteed income, and ensuring an effective intervention, relies on minimizing the burden on recipients to receive cash, and expanding eligibility as widely as possible within the scope of the pilot's research.** Some examples from existing programs include:

In Hudson, New York, the pilot created a simple application that was circulated through community-based organizations and publicized by the city. A communications campaign through local partners helped allay any fears that the application was a fraud. Then, a weighted lottery system was used to favor applicants in greatest need across a variety of factors.

In Compton, the pilot worked with community based organizations to complement lists of city residents with individuals who often fall outside of governmental resources. Then, Compton selected randomly from those lists of low-income qualifying households. Despite widespread media coverage in local and national news outlets, Compton's enrollment, like all pilots, required a careful process of continuing to build trust through local partners, and multiple conversations with residents. It was also crucial to make clear to the public how recipients would be selected. Stockton SEED created a simple explanatory video on social media, as did Compton, as a tool to address significant inbound to the mayor's office regarding how to join the program.

In Maricá, Brazil, three years of prior residency is required to apply for a Mumbuca card through the city government's basic income policy. In that case, anyone with three years'

residence and at the designated income level can receive the guaranteed income. There are now many models.

To discuss selection approaches unique to your pilot and context, reach out to us at [jfi@jainfamilyinstitute.org](mailto:jfi@jainfamilyinstitute.org).

## Pilot Messaging

The greatest obstacle to the implementation of guaranteed income policy is not a lack of research, but a lack of political will. At this point, much of the impact of local guaranteed income pilots will come from their ability to influence established attitudes and narratives rather than to provide more empirical evidence reaffirming the benefits of guaranteed income. **The purpose of a guaranteed income pilot should be understood to include its effects on public opinion through messaging, not just its research findings.**

This broader shift in public opinion is essential for building popular support for implementing guaranteed income as a permanent program at the state or federal level. Every pilot, large or small, can contribute to this effort—and make a positive impact in the lives of local residents.

This section will focus on three aspects of effective communication around guaranteed income pilots: storytelling (highlighting the lives and experience of recipients), framing (communicating the benefits of GI by strategically focusing on key elements), and communicating research.

### Storytelling

In order to effectively shift public attitudes towards a guaranteed income, it is important to first understand the established narratives and arguments supporting it. A few of the most common such arguments are:

1. That it can **eliminate poverty** and **increase well-being** by providing an income floor for everyone
2. That it increases **economic and social mobility** by providing people with the economic security they need to pursue new opportunities and weather economic shocks
3. That it ensures that **everyone in need of support receives it** rather than erecting barriers through means-testing and administrative requirements
4. That it **reduces economic inequality** and helps **close racial wealth gaps** by redistributing income

In addition, it is important to understand that changing negative or false narratives about guaranteed income and the safety net often requires changing the narrator. Cynicism about how poor people spend money has often been perpetuated by leaders or analysts who have no experience with financial precarity. Pilots can partake in narrative change by uplifting those with lived experiences of poverty and experiences accessing highly-conditional benefits programs. Transforming the policy debate can involve changing the narrator of policy or research evidence, and supporting the storytelling capacities of those “target populations” for guaranteed income, individuals most marginalized by existing economic and welfare systems, especially across race and gender.

In our experience, the strongest opposition to these claims comes less from doubts about their accuracy than from doubts about whether they are goals that we should collectively pursue—or whether the government should allocate additional resources towards these goals. Many might grant that a guaranteed income would reduce poverty while also denying that poverty-reduction through redistribution should be a policy goal. This belief is a matter of values rather than evidence.

The two most prevalent rebuttals, firmly refuted by empirical research, are that a guaranteed income would:

1. Induce people to become “freeloaders” who receive income without working
2. Be spent irresponsibly on “temptation goods” by low-income recipients

That empirical evidence from decades of cash transfer study runs counter to these claims is insufficient to dislodge them, for they are rooted not in evidence but in long-established race and gender-based narratives about poverty. We believe these attitudes can be transformed not by more evidence, but rather through changes in rhetoric and attitudes.

Many of these established narratives are closely associated with the concept of “welfare” understood by many not just as anti-poverty policy, but as a system in which the government provides resources to the “undeserving” poor who choose to rely on this support rather than working harder to support themselves. These attitudes found most pernicious expression in the figure of the “welfare queen” in the 1980s and 90s, a political symbol used to reinforce the harmful perception of welfare programs as a hand-out to black people taking advantage of the system rather than as essential economic support for low-income families of all races. In the United States, distinctions between the deserving and undeserving poor are often rooted in race and class prejudice; many other nations labor under similar illusions about poverty, in which the poor remain so only by lack of effort or self-discipline.

Every life touched by a guaranteed income program, whatever its size, is an opportunity to rebut such harmful stereotypes in the public imagination. In lieu of abstract stereotypes about poverty,

pilot storytelling can offer humanized and relatable examples of people fighting to get ahead in a system that too often works against them.

**The key storytelling message is that poverty is the result of a lack of resources, not a lack of character**, and that a guaranteed income makes a significant and positive impact on peoples' lives. Stories transform attitudes and narratives at an emotional level through rich, embodied stories. This is especially important because the voices of low-income populations are so often absent in mainstream discourse.

## Framing

As a fast-growing policy area with a wide range of social and economic effects, guaranteed income resonates for different reasons with particular audiences. Accordingly, an effective messaging strategy should make use of one or more frames most effective for its intended audience(s).

Through our work on guaranteed income and across a number of key messaging studies conducted by other scholars, JFI has found certain frames particularly effective in mobilizing support for guaranteed income. Of the list below, pilots would do well to choose some, but not all, to place at the heart of their messaging strategy. That choice, in turn, will depend on your local social and political context. For example, forthcoming research from Catherine Thomas (alongside Markus, H. and Walton, G.) suggests that conservative audiences respond more positively to frames that center the effects of GI on individual freedom and autonomy rather than economic security or financial stability, a conclusion consistent with the recommendations of progressive messaging experts for communications around welfare policy more generally. Stanford Basic Income Lab has also [examined](#) the impacts of different names used to describe cash policy and pilots. In general, **your framing strategy should be based on careful consideration of your audience's values, political orientations, and the local and national issues that are most salient to them.** Whatever you choose to focus on, it is important to be consistent in your framing approach over time.

### Guaranteed Income Frames

#### Poverty Alleviation

A guaranteed income can eliminate or significantly reduce poverty by providing an income floor that ensures that everyone has enough to survive. As a society, we have the resources to ensure that nobody falls into destitution and should recognize a right to basic subsistence.

This frame can also be used to emphasize that a guaranteed income provides a buffer against economic shocks -- unexpected bills, repairs, injuries, irregular employment, or sudden job loss—that keep people trapped in poverty. That is, a guaranteed income not

only lifts people out of poverty in the short term through cash transfers, but also in the longer term by ensuring that they have the positive cash-flow necessary to save in the face of volatility.

### **Economic Stimulus and Community Development**

A guaranteed income is a powerful economic stimulus that puts money directly into the pockets of people who will spend it locally, [supporting the growth of small businesses and local economies even in low-income areas](#). There is also evidence that providing community members with a guaranteed income [reduces both property crime and violent crime](#).

### **Agency and Social Mobility**

A guaranteed income gives people more agency over their lives by providing them with the financial stability they need to pursue their goals without depending entirely on their employer. It facilitates social mobility by encouraging people to pursue potentially risky new opportunities—including education, entrepreneurship, or relocation—with the knowledge that they have a financial buffer. It also supports social mobility by providing protection against the economic shocks that often keep families trapped in cycles of poverty.

### **Breaking Intergenerational Cycles of Poverty**

Guaranteed income programs represent a commitment not just to a minimum standard of living for all, but to the idea that every child deserves to grow up with the resources they need to thrive. Children who grow up in financially secure households are more likely to succeed in school and have more positive outcomes throughout life.

Reducing poverty through cash transfers is not just about helping individuals achieve financial stability; it's also about ensuring that children are not unfairly disadvantaged simply because they were born into one household rather than another. A guaranteed income for parents impacts the whole family, disrupting intergenerational poverty cycles by simultaneously helping parents build financial security and providing children the resources and stable environment they need to flourish.

### **Racial and Economic Equality**

While there are a range of methods that might be used to finance a guaranteed income, it is a fundamentally redistributive policy representing a net transfer of resources from higher to lower income populations relative to the status quo. A guaranteed income is therefore a direct way to reduce economic inequality. Because people of color are disproportionately affected by low wages, income volatility, and poverty, this reduction in economic inequality also reduces racial income and wealth gaps.

## Communicating Research

The above discussions of storytelling and framing are important for any guaranteed income pilot whether or not it has a research component. But for pilots that *are* designed as research programs it is also important to think about how research findings are communicated. Communicating research to the public involves several different actors, including researchers, politicians, activists, and journalists, which creates many opportunities for miscommunication.

[Karl Widerquist](#) has argued that the different preconceptions of each of these audiences can create a game of “telephone” as findings grow distorted while communicated across audiences with different expectations. For example, researchers are trained to answer specific empirical questions in a balanced way, often hedging their findings with potential challenges, doubts, and further questions. The public, on the other hand, often expects more clear-cut answers not just to empirical questions but also to ethical questions about what policies ought to be implemented. Ethical social science research can tell us what is the case, not what we ought to do with that information. The resulting absence of clear ethical conclusions invites various actors to spin the research in ways that support their views and sow confusion about the meaning of the results.

Widerquist suggests four strategies for ensuring that such research-oriented guaranteed income pilots contribute effectively to public understanding:

1. **Work back and forth from public discussion to the experiment** - The design of a research pilot should start from an engagement with ongoing public discussions and be oriented toward answering questions relevant to them. Reports about experimental findings should relate them to these salient questions.
2. **Focus on the effects rather than the side effects** - Researchers often focus on answering questions that are more quantifiable at the expense of answering questions that are less precisely measurable but more relevant to public discussions. In many cases, it is more valuable to provide an imprecise answer to salient questions than a precise answer to questions that are difficult for the public to appreciate or engage with.
3. **Focus on the bottom line** - Although there are many facets of public discussion about guaranteed income, observers, and especially the media, are ultimately looking for conclusions that relate to the bottom line: an overall evaluation of guaranteed income as a long-term national policy. No single pilot will be able to provide a definite conclusion to questions about the bottom line, but it is important to communicate clearly how specific findings relate to the viability, costs, and benefits of a state or national guaranteed income policy.
4. **Address the ethical controversy** - Although empirical research cannot resolve ethical questions about what ought to be done, it is important for researchers to engage with

public concerns and reduce the potential for spin by clearly explaining what their findings mean for people holding different ethical positions.

Finally, it is important to consider the public perception of the need for additional pilots. [Almaz Zelleke](#) has argued that new pilots can actually hinder progress toward the implementation of a permanent guaranteed income by falsely signalling to the public that it is still an untested policy whose significant unknowns must be tested before any large-scale implementation.

When creating a research pilot, you should be sure to communicate that new research on guaranteed income is valuable not because it will tell us whether guaranteed income “works,” but because it can help refine our understanding of how to a) optimize the design of GI policy and b) contribute to a shift in the narrative around guaranteed income. In other words: emphasize both the questions your pilot seeks to answer and the ones—like impact on overall well-being—that are already well-established.

## The Guaranteed Income Movement

Although the concept of a guaranteed income is not new, the movement that has developed in support of it in recent years represents an exciting boost in public awareness and support for guaranteed income policy. Much of this momentum has been driven by the explosion of local pilots created in the wake of the Stockton SEED demonstration and as part of the creation of [Mayors for a Guaranteed Income](#). Andrew Yang’s 2020 presidential campaign, which promoted a \$1,000 per month universal basic income, also had a significant impact on public awareness of guaranteed income as a policy option.

Most recently, the economic crisis created by the COVID-19 pandemic has created an immediate need for expanded cash transfers through universal cash assistance and large increases in unemployment benefits. These policies have the benefits of direct cash transfers and add to the public momentum in support of guaranteed income not just as a response to crises, but as a permanent part of the social benefits system. This section provides further context for guaranteed income advocacy today by compiling lists of recent local pilots, past examples of guaranteed income in practice, and some of the key individuals and organizations advocating for guaranteed income today. For an updated list of past, ongoing, and planned guaranteed income pilots please also consult the [Stanford Basic Income Lab’s global map](#).

### Planned and ongoing pilot research in the U.S.

Below is a look at the cities implementing guaranteed income pilots and their relative differences in design and targeting. For a larger list of cities interested in guaranteed income pilots, see the [Mayors for Guaranteed Income website](#). Programs indicated with a star (\*) have begun providing cash. Please reach out if you are working on a pilot and would like for it to be included in this list.



| City / Area                       | Recipients | Amount    | Frequency | Length     | Targeting                                                                                                       | Notes                                                                                                                                                                                                                                                                          |
|-----------------------------------|------------|-----------|-----------|------------|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Jackson, MS*<br>(2018, 2020)      | 20, 110    | \$1,000   | monthly   | 12 months  | African-American mothers                                                                                        | After the initial pilot of 20 people from 2018-2019, a second pilot with more than 110 participants began in March 2020. <a href="#">website</a>                                                                                                                               |
| Stockton, CA*<br>(2018)           | 150        | \$500     | monthly   | 24 months  | Residents of neighborhoods with <\$46k median income                                                            | Initiated by Mayor Michael Tubbs, founder of <a href="#">Mayors for a Guaranteed Income</a> . View the Stockton SEED website <a href="#">here</a> .                                                                                                                            |
| Compton, CA*<br>(2020)            | 800        | \$300-600 | varies    | 24 months  | Low-income, formerly incarcerated, and undocumented residents                                                   | Known as the Compton Pledge, this privately funded program is spearheaded by Mayor Aja Brown in collaboration with the Fund for Guaranteed Income. <a href="#">website</a>                                                                                                     |
| Santa Clara County, CA*<br>(2020) | 72         | \$1000    | monthly   | 1 year     | 24-year-olds transitioning out of foster care support                                                           | In July 2020, Santa Clara County began administering the pilot with support from MyPath and Excite Credit Union, with \$900,000 in public funds and financial advising. The pilot was approved by the county's board of supervisors. Press announcement <a href="#">here</a> . |
| Chelsea, MA*<br>(2020)            | 2,000      | \$200-400 | monthly   | ~10 months | Low-income families                                                                                             | Funded by the City of Chelsea along with private funders like the Shah Family Foundation. Fundraising continues in an effort to extend the pilot's duration.                                                                                                                   |
| Hudson, NY*<br>(2020)             | 25         | \$500     | monthly   | 5 years    | Income <\$35k                                                                                                   | Funded by two non-profits: The Spark of Hudson and the Humanity Forward Foundation. <a href="#">website</a>                                                                                                                                                                    |
| St. Paul, MN*<br>(2021)           | 150        | \$500     | monthly   | 18 months  | Families participating in the "CollegeBound Saint Paul" program                                                 | Proposed by Mayor Melvin Carter and unanimously approved by the city council in September 2020. <a href="#">website</a>                                                                                                                                                        |
| Lynn, MA*<br>(2021)               | 15         | \$400     | monthly   | 36 months  | New mothers                                                                                                     | The <a href="#">Family Health Project</a> participants refer into the program through federally qualified community health centers, a corporate partner provides debit cards, and a social services firm provides onboarding and administrative support. Privately funded.     |
| Richmond, VA*<br>(2020)           | 55         | \$500     | monthly   | 2 years    | Low-income families in existing anti-poverty programs; employed but excluded from traditional benefits programs | The Richmond Resilience Initiative started in 2020 with 18 families and was funded through CARES Act funds, but it has since been expanded to add 37 families as part of Mayors for Guaranteed Income.                                                                         |
| Columbia, SC                      | 100        | \$500     | monthly   | 1 year     | Black fathers in Columbia within an                                                                             | The Columbia Life Improvement Monetary Boost ( <a href="#">CLIMB</a> ) program was                                                                                                                                                                                             |

|                          |     |         |         |           |                                                                                                                            |                                                                                                                                                                                                                                                                               |
|--------------------------|-----|---------|---------|-----------|----------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (2020)                   |     |         |         |           | existing program                                                                                                           | <a href="#">founded</a> in Dec. 2020 by Mayor Stephen Benjamin alongside Midlands Fatherhood Coalition, and supported by private funds. To begin spring 2021.                                                                                                                 |
| Long Beach, CA (2021)    | 150 | \$500   | monthly | 6 months  | Artists                                                                                                                    | Mayor Robert Garcia's proposal was accepted by the city council in Nov 2020 and is in the planning stages.                                                                                                                                                                    |
| Pittsburg, PA (2021)     | 200 | \$500   | monthly | 2 years   | Families earning <50% of area median income                                                                                | Mayor Bill Peduto is calling this pilot the "Assured Cash Experiment of Pittsburgh." Half of the funds are to be sent to households run by black women with the hope of reducing racial and gender inequalities.                                                              |
| San Francisco, CA (2021) | 150 | \$1,000 | monthly | 2 years   | Black and Pacific Islander women during pregnancy & postpartum                                                             | A partnership between the San Francisco Department of Public Health, Hellman Foundation, and University of California - San Francisco to decrease infant mortality.                                                                                                           |
| Oakland, CA (2021)       | 600 | \$500   | monthly | 18 months | BIPOC families earning <50% of area median income, with half earning below 138% of the federal poverty line                | Led by Mayor Libby Schaaf, one of the Mayors for a Guaranteed income, the "Oakland Resilient Families" program is supported by the Family Independence Initiative. Payments starting as soon as spring 2021.                                                                  |
| San Diego, CA (2021)     | 150 | \$500   | monthly | 2 years   | Random selection of low-income families with children under 12 within hardest-hit zip codes for COVID-19 and child poverty | A pilot serving both San Diego and National City families, <a href="#">Resilient Communities for Every Child</a> is supported and housed by Jewish Family Service of San Diego, with a \$2 million fundraising goal.                                                          |
| Marin County, CA (2021)  | 125 | \$1000  | monthly | 2 years   | Low-income mothers of color with children under 18 years of age, with priority for those ineligible for federal benefits   | <a href="#">Introduced</a> with unanimous support of Marin county supervisors, <a href="#">MOMentum</a> has the financial support of the Marin Community Foundation and Family Independence Initiative as an administrative partner for payments.                             |
| Cambridge, MA (2021)     | 120 | \$500   | monthly | 18 months | Single-parent households earning 80% of area median income (AMI) who have children under age 18                            | The City of Cambridge announced <a href="#">Cambridge RISE</a> (Recurring Income for Success and Empowerment) in April 2021, a project spearheaded by Mayor Sumbul Siddiqui with support from Cambridge Community Foundation, Harvard University, MIT, and Boston Foundation. |
| Tacoma, WA (2021)        | 100 | \$500   | monthly | 1 year    | Tacoma residents, single head of household, and Asset-Limited-Income-Constrained while Employed (ALICE)                    | The <a href="#">GRIT Demonstration</a> , Growing Resilience in Tacoma, is a partnership between Mayor Victoria Woodards and United Way of Pierce County, and part of Mayors for a Guaranteed Income (MGI). It will rely on private funds.                                     |

|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |            |          |           |                                                                       |                                                                                                                                                                 |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|----------|-----------|-----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| New York, NY (2021)            | 100                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | \$500-1000 | biweekly | ~3 years  | Low-income Black and immigrant mothers during first 1000 days of life | Funded and implemented by the Monarch Foundation, the program aims to reach those in Washington Heights & Harlem, with hopes of expanding to other areas.       |
| San Francisco, CA (2021)       | 50                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | \$330      | monthly  | 6 months  | Young parenting mothers of Hilltop School                             | MyPath and Hilltop School aim to provide financial mentoring and cohort-based learning circles to those receiving the basic income. More <a href="#">here</a> . |
| West Garfield Park, IL (2020)  | 30                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | \$500      | monthly  | 18 months | Formerly incarcerated individuals in the neighborhood                 | Fundraising for EAT (Equity and Transformation) Chicago's <a href="#">pilot</a> began in Nov. 2020 and the program aims to begin disbursement in August 2021.   |
| Other nascent proposals (2021) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |            |          |           |                                                                       |                                                                                                                                                                 |
| Los Angeles, CA                | Los Angeles Mayor Eric Garcetti was among the founding mayors of the Mayors for Guaranteed Income and has proposed expanding his previous Angeleno Campaign, which provided one-time prepaid debit cards of \$700-1500 to eligible families as part of a \$10 million emergency assistance campaign of Accelerator for America alongside Mastercards' City Possible initiative. The program aimed to reach low-wage or hourly workers whose jobs were affected by the COVID-19 pandemic, and received over 400,000 applicants. The expanded guaranteed income program aims to give \$1000 per month to 2000 families in Los Angeles, with a <a href="#">proposed</a> budget of \$24 million.                                                                                                              |            |          |           |                                                                       |                                                                                                                                                                 |
| Atlanta, GA                    | Beginning the week of Juneteenth 2020, Atlanta City Council member Amir Farokhi launched a task force to explore the potential for a guaranteed income program to reduce economic inequality in Atlanta, and particularly Atlanta's historic fourth ward. The Old Fourth Ward Economic Security Task Force brought together 28 local and national stakeholders, with the Georgia Budget & Policy Institute, Economic Security Project and JFI among those weighing in. A key objective was to tackle wealth stratification and particular insecurity among Black and Latinx Atlantans. <a href="#">Their report</a> was published in January 2020. Atlanta Mayor Keisha Lance Bottoms is also a member of Mayors for a Guaranteed Income, launched in 2020 with 34 mayors joining their advocacy to date. |            |          |           |                                                                       |                                                                                                                                                                 |
| Newark, NJ                     | Mayor Ras Baraka of Newark began exploring a guaranteed income program in 2019, forming a Task Force of community-based organizations and national research groups, like JFI, to investigate the role a guaranteed income program could play to address failures of the existing safety net, a lack of economic mobility in Newark, and especially housing precarity. <a href="#">The Newark Guaranteed Income Task Force report</a> , published in early 2020, provides three potential pilot frameworks and recommended policy changes at the state and federal level, while underscoring the specific needs of Newark residents. Since then, Newark launched the <a href="#">Newark Movement for Economic Equity</a> , with plans to begin a first cohort of 30 recipients in spring of 2021.          |            |          |           |                                                                       |                                                                                                                                                                 |
| Chicago, IL                    | Aldermen Gilbert Villegas, Sophia King, and Maria Hadden are advocating for the introduction of a guaranteed income providing \$500/month to 5,000 of Chicago's neediest families. The pilot would be funded by allocating \$30 million of the \$1.8 billion in federal relief funds Chicago is expected to receive this year. This effort is distinct from the task force assembled two years ago to examine the potential for a 1,000 person guaranteed income pilot in the city. Other initiatives in Chicago are pushing for regular cash transfer programs for new moms as well.                                                                                                                                                                                                                     |            |          |           |                                                                       |                                                                                                                                                                 |
| New York, NY                   | Chapin Hall at the University of Chicago and Point Source Youth have been undertaking <a href="#">plans</a> for a direct cash transfer program (DCTP) for young adults facing homelessness in NYC. The target group is 30 young adults, with 30 others receiving usual services and shelters already available (an RCT model). The cash transfers will be \$1250/mo for 2 years, with participants able to choose payment frequency and mechanism (Venmo, Paypa, direct deposit, card) through UpTogether's online platform. The participants will also receive optional support services.                                                                                                                                                                                                                |            |          |           |                                                                       |                                                                                                                                                                 |
| Denver, CO                     | The <a href="#">Denver Basic Income Project</a> founded by Mark Donovan, Denver-based philanthropist and entrepreneur, with the support of Denver Mayor Michael B. Hancock, and researchers at the University of Denver's Center for Housing and Homeless Research. The pilot is explicitly focused on the unhoused, and will provide \$1000 per month to 260 individuals, a lump sum of \$6500 to 260 more, followed by \$500 per month to the lump-sum contingent. A control group of 300 will receive \$50 per month for their participation. The project <a href="#">aims</a> to begin payments July 1, 2021.                                                                                                                                                                                         |            |          |           |                                                                       |                                                                                                                                                                 |
| Oakland County,                | A collaborative group made up of the 18th District Oakland County Commissioner's office, Lighthouse, a local housing non-profit, and researchers from Wayne State University are drafting a pilot program. The focus of this pilot                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |            |          |           |                                                                       |                                                                                                                                                                 |

|                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MI                  | is unique in the space. While others have focused on the efficacy of cash transfers towards positive economic outcomes - this pilot intends to shed light on the physio/psychological impacts that guaranteed income have on an individual and family's health.                                                                                                                                                                                                                                                                                                                                             |
| Minneapolis, MN*    | The Nancy Somers Family Foundation facilitated funding for a pilot providing \$1000 monthly for 15 individuals through a local anti-poverty non-profit, Avivo. The pilot began amid the urgency of the pandemic in 2020 and included low income individuals who were unhoused, challenged by mental illness and/or enrolled in a career training program at Avivo; it will extend for 1 year. The group aims to expand the initiative as "Project Solid Ground" at Avivo, pending future funding.                                                                                                           |
| Long Beach, CA      | Mayor Robert Garcia announced in January 2021 the intent to create a basic income program for low-income students at Long Beach City College. The City Council had previously considered proposals to provide \$500 per month over six months for up to 150 artists. The city previously also provided \$1,000 per month in rental assistance, in part supported by CARES Act funds. San Diego was among 15 cities awarded funds from Jack Dorsey as part of the Mayors for Guaranteed Income, with the aim to supplement funds with private sources. More specific details are not yet available.          |
| Las Vegas, NV       | A Las Vegas City Council candidate supportive of guaranteed income has proposed a program that would aim to provide annual lump sum payments to 60,000 residents in initial disbursements (~9% of the city population).                                                                                                                                                                                                                                                                                                                                                                                     |
| Mountain View, CA   | In April 2021, Mountain View City Council voted to pilot a guaranteed income program. The council plans to dedicate \$1 million in American Rescue Plan (ARPA) funds alongside any philanthropic or corporation donations. Provided exclusively ARPA funding, the recipients would receive \$500 per month for 1 year. While the program design is forthcoming, Mayor Abe-Koga indicated an interest in targeting low-income families, similar to affordable housing.                                                                                                                                       |
| Nashville, TN       | <a href="#">Moving Nashville Forward</a> is a pilot program intended to target residents in North Nashville (zip code 37208), a community that has faced acutely a history of systemic discrimination. The pilot is currently fundraising to provide 100 families a monthly guaranteed income of \$1000 to families with annual incomes under \$40,000. Organizers include Gideon's Army, a group that has supported local tornado recovery efforts, with support from Dr. Stacia West, a University of Tennessee Knoxville Assistant Professor and one of the co-Principal Investigators of Stockton SEED. |
| South San Francisco | South San Francisco has been considering a pilot since early 2021, based on presentations on UBI to the city council led by City Manager Mike Futrell and his team. While eligibility and program design specifics are forthcoming, the group identified the YMCA as a program administrator.                                                                                                                                                                                                                                                                                                               |
| Gainesville, FL     | In collaboration with local nonprofit Community Spring, Mayor Lauren Poe <a href="#">aims</a> to provide a \$600/mo guaranteed income for two years to formerly incarcerated residents. First payments are expected to go out October 1.                                                                                                                                                                                                                                                                                                                                                                    |
| Gary, Indiana       | The Guaranteed Income Validation Efforts (GIVE) program is <a href="#">fundraising</a> to support 125 low-income residents with \$500/mo. Income cut-offs are at \$35,000/year and citywide surveys are being used to identify potential recipients. The effort is supported by Mayors for Guaranteed Income and is looking to raise \$1.6M.                                                                                                                                                                                                                                                                |
| Puget Sound, WA     | In a program to target pregnant families within the Puget Sound urban Indian and Pacific Islander communities, the United Indians of All Tribes Foundation, Seattle Indian Health Board, Cowlitz Behavioral Health, Native American Women's Dialogue on Infant Mortality, and Pacific Islander Health Board are designing a 3-year pilot supported by Perigee Fund. Learn more about their wrap-around services <a href="#">here</a> , and Perigee Fund's interests <a href="#">here</a> .                                                                                                                  |
| Paterson, NJ        | <a href="#">Announced</a> in March 2021, Paterson's Mayor Andre Sayegh aims to provide 110 low-income residents with \$400 per month, regardless of employment status. The income cut-off for individuals and families is \$30,000 and \$88,000 respectively. Residents <a href="#">applied</a> online by April 30 and a lottery system is set to select recipients in May 2021, for payments to begin in July. The research is supported by the Center for Guaranteed Income.                                                                                                                              |
| New York, NY        | The Andrew W. Mellon Foundation is working to launch Creatives Rebuild New York (CRNY) to support dozens of small-to-midsize community arts organizations and over 1000 individual artists with cash over 2 years. More <a href="#">here</a> .                                                                                                                                                                                                                                                                                                                                                              |
| Boston, MA          | The Community Love Fund is a landmark guaranteed income initiative of the National Council for Incarcerated and Formerly Incarcerated Women & Families and Justice as Healing. The aim is to provide unconditional monthly cash transfers to formerly incarcerated women in Roxbury (Boston) for one year, beginning in 2021. More <a href="#">here</a> .                                                                                                                                                                                                                                                   |
| Nevada              | The <a href="#">Move Nevada Forward</a> initiative is focused on advancing economic rights for Nevadans with a particular focus in 2021 on establishing a basic income experiment statewide. It is a coalition of grassroots-led nonprofits. There are other groups in Nevada working to rally public officials for a guaranteed income program in Las Vegas as well.                                                                                                                                                                                                                                       |

*\*These programs have begun to deliver the guaranteed income.*

## Has guaranteed income ever been tried in the United States?

The answer to this question is yes and no. A population-wide guaranteed income has not been tried in the U.S., but forms of regular cash transfer policies have been implemented. The most well-known example of a guaranteed income at the state level is the Alaska Permanent Fund Dividend, which inspired 2020 Democratic presidential candidate Andrew Yang's proposal to implement a UBI nationwide. The examples below are antecedents to a future cash transfer policy that would more closely represent a guaranteed income at scale.

### EITC, Child Tax Credit, and similar cash relief

The Earned Income Tax Credit (EITC) is a refundable tax credit provided by the federal government (and by about half of state governments) for low-income workers, particularly those with children. While childless households can receive a maximum federal benefit of \$538 in 2020, households with one child can receive up to \$3,500 annually and those with three or more children can receive up to \$6,660. Because this tax credit is refundable, households receive these amounts in cash as a refund after subtracting remaining taxes owed. Each year the federal government distributes about \$70 billion in tax credits through this program, lifting millions out of poverty through what are effectively cash transfers.

Using thirty years' worth of data on EITC policy expansions, researchers Bastian and Jones (2018) concluded that EITC is one of the least expensive anti-poverty programs in the United States. For every \$350 in EITC spending, total government revenues increased by \$303, compensating for 87% of the program cost through positive spillover effects. EITC expansions were found to increase average annual earnings and labor supply, increase payroll and sales taxes paid, and reduce dependence on public assistance.

The Child Tax Credit (CTC) provides low-income parents with a fully refundable tax credit for each dependent child. As of 2018, it provided a \$2,000 annual tax credit per qualifying child with a maximum refundable amount of \$1,400. Although it is not targeted exclusively at low-income families, the CTC is an important anti-poverty program, [lifting over 4 million people—including 2 million children—out of poverty in 2018](#). In 2021, the CTC was temporarily expanded until the end of the year as a part of the American Rescue Plan Act. While this expansion is in effect, roughly 80% of parents receive a credit of \$300/mo (\$3,600/year) for each child under 6 and \$250/mo (\$3,000/year) for children age 6-17. Unlike the ordinary CTC, the expanded credit is fully refundable, available to parents with little to no income, and can be distributed monthly rather than all at once after filing taxes. In this way, the expanded CTC much more closely resembles child allowance programs found in other countries (i.e. guaranteed income for parents). Making this expansion permanent would be a large step forward for social policy in the United States. For more details check out JFI's [policy brief comparing CTC expansion proposals](#).

### Alaska Permanent Fund Dividend

The Alaska Permanent Fund has paid a yearly dividend to state residents since 1982. Established to conserve revenue from oil and mineral resources to benefit all Alaskans, the fund also grows its principal through investment and pays out an average dividend of around \$1,600 per year to each resident. It is both the largest and the longest running example of guaranteed income in practice.

### Eastern Band of Cherokee Basic Income

In 1996, the Eastern Band of Cherokee Indians in North Carolina opened a casino and decided to distribute a portion of its annual profits to every tribe member in the form of a cash subsidy. The payouts began at around \$500 per person per year but have increased to several thousand dollars since. In addition to increased financial security, researchers observed a [range of positive effects](#) on community members receiving this additional income, including reduced behavioral and emotional problems in children and less depression, anxiety, and alcohol dependence in adults.

## Which individuals and organizations are working on guaranteed income policy?

The movement for guaranteed income policy is international, and this section does not provide an exhaustive list of the many important organizations and individuals who contribute significantly to the field. In the U.S., the “big tent” of advocacy organizations can include those supporting a wide variety of cash-based safety net policies that involve a regular payment or income floor. Similar policies include a Child Allowance or Child Tax Credit (CTC), the Earned Income Tax Credit (EITC) and historic Negative Income Tax, advocates of Temporary Assistance for Needy Families (TANF), and programs that guarantee businesses can provide paychecks to workers during widespread government and business shut-downs as we saw in 2020 (such as the Paycheck Protection Program, Paycheck Recovery Act, etc.). Notably, interest in federal cash relief in 2020 came alongside the expansion of unemployment insurance programs that can likewise guarantee an income floor, although in more limited and highly-conditioned ways. The importance of these other programs for guaranteed income policy is that many advocates for such benefits believe in fundamentally similar social safety net measures rooted in cash support. **Below are some of the notable organizations that occupy the wider landscape of advocacy and research on guaranteed income or cash transfer policy:**

### Cash support advocates in Congress

“Advocates” are defined as those that have cosponsored or introduced legislation that provides for an income floor or cash-based family support program. This list is not comprehensive of all

cosponsors or all cash transfer legislation, but rather focuses on leading figures in policy that either directly models a guaranteed income or that begins with more modest measures, like a child allowance that provides baseline income for parents and caretakers with children.

**The legislation that most resembles a guaranteed income has come from these progressive offices:**

- Rep. Bonnie Watson Coleman (D-NJ)
  - [Guaranteed Income Pilot Program Act of 2020](#) (one-pager [here](#))
- Rep. Rashida Tlaib (D-MI)
  - [Automatic Boost to Communities Act](#) (“ABC Act”), BOOST Act (previously known as the LIFT+ Act)
- Rep. Ilhan Omar (D-MN)
  - [RELIEF Act](#) and [letters](#) for continuous relief checks

Legislation around an income floor for parents has even wider support, with many of those advocates also supporting regular payments during the crisis of the coronavirus pandemic. Notably, there is widespread Democratic support for a child tax credit (CTC) proposal, especially with President Biden’s [American Rescue Plan](#) expansion and [American Families Plan](#). Below are just a few key champions of a CTC expansion:

- Rep. Rosa DeLauro (D-CT)
- Sen. Sherrod Brown (D-OH)
- Rep. Suzan DelBene (D-WA)
- Sen. Richard Neal (D-MA)
- Sen. Chris Murphy (D-CT)
- Rep. Nancy Pelosi (D-CA)

In addition to the Child Tax Credit, [Families First Coronavirus Response](#):

- Sen. Michael Bennet (D-CO)
- Sen. Sherrod Brown (D-OH)
- Sen. Cory Booker (D-NJ)

Among other forms of pandemic-related income support were several different paycheck protection bills. Such bills work similarly to the EITC in that they are employment-conditioned. Also included below is an expansion of the EITC:

- Sen. Bernie Sanders (I-VT)
  - Paycheck Recovery Act
- Rep. Pramila Jayapal (D-WA)

- Paycheck Recovery Act
- Co-sponsored Rep. Tlaib's ABC Act
- Former Sen. Kamala Harris (D-CA)
  - [LIFT Act](#)
  - [Monthly Economic Crisis Support Act](#)

Among Republican legislators, support has primarily centered around a pandemic-specific relief. Nonetheless, the following legislators supported more robust checks for families in the wake of COVID-19:

- Sen. Josh Hawley (R-MO)
- Sen. Tom Cotton (R-AR)
- Sen. Mitt Romney (R-UT)
  - Also supports the Child Tax Credit
- Rep. Justin Amash (R-MI)
- Sen. Marco Rubio (R-FL)
- Sen. Mike Lee (R-UT)

Emergency cash relief legislation has garnered much greater support than regular cash relief legislation. While support for the CARES Act, which passed with bipartisan support in the House and Senate, is one example, a few key legislators have put forth additional and more sweeping legislation for cash transfers throughout the course of the pandemic and its economic downturn, including some mentioned above. Some additional examples include:

- Rep. Ro Khanna (D-CA)
  - [Emergency Money to the People Act](#)
- Rep. Tim Ryan (D-OH)
  - [Emergency Money to the People Act](#)
- Rep. Maxine Waters (D-CA)
  - [House Financial Services Committee proposal](#)
- Rep. Alexandria Ocasio-Cortez (D-NY)
  - [Amendment](#) to the CASH Act
  - Cosponsored ABC Act

Efforts are also being made at the state and municipal level to create guaranteed income pilots and programs. Some examples of state level advocates are:

- NY State Sen. Kevin S. Parker
  - [Senate Bill S6696](#) proposing the creation of a 2-year statewide guaranteed income pilot with 10,000 recipients



- [Senate Bill S6552](#) proposing a state-wide universal basic income pilot program and funds to support it
- NY State Sen. Leroy Comrie
  - [Senate Bill S6696](#) co-sponsor
- MA State Sen. James B. Eldridge
  - [Bill H.1632](#) proposing the creation of a state-level universal basic income program
- MA State Rep. Tami L. Gouveia
  - [Bill H.1632](#) joint petitioner
- CA Assemblymember Evan Low
  - [AB-65](#) Stating legislature's intent to implement a universal basic income in California
  - [AB-1338](#) Exempting guaranteed income demonstrations' cash transfers from means tests for CalWORKS, CalFRESH, CalEITC
- CA State Sen. Dave Cortese
  - [SB-739](#) The UBI for Transition Age Foster Youth Act, a bill to provide 3-years of UBI, \$1000/mo for foster youth

## Academic champions for guaranteed income

Among academics, there is a growing acknowledgment of the longstanding empirical evidence in favor of a guaranteed income or similar cash transfer policy. In an [open letter](#) to Congress of over 150 economists and social scientists, academics argued in July 2020 for additional cash relief for families alongside expanded cash-based safety net policies like unemployment insurance. Notable academics working most directly on cash transfer research and guaranteed income include: Our own researchers, Sidhya Balakrishnan, Stephen Nuñez, Johannes Haushofer (also of GiveDirectly), Leah Hamilton, Maximilian Kasy, and Paul Katz; co-Directors of the newly-launched [Center for Guaranteed Income Research](#) at the University of Pennsylvania, Stacia West and Amy Castro Baker; major international researchers in the Brazilian Basic Income Network such as Fabio Waltenberg; Fernando Freitas, Roberta Mendes e Costa; at OpenResearchLabs (formerly YC Research) Elizabeth Rhodes; and, while not all advocates for guaranteed income, longtime cash transfer researchers like Sandra Black, Susan Dynarski, Evelyn Forget, Maura Francese, Ugo Gentilini, Michael Howard, Hilary Hoynes, Damon Jones, Michael A. Lewis, Ioana Marinescu, Delphine Prady, Jesse Rothstein, Philippe Van Parijs, Karl Widerquist, and Almaz Zelleke have written important work on the subject.

## Advocates & civil society in support of guaranteed income

A wide and growing number of grassroots organizations support recurring cash transfers for low-income individuals in particular. During the protest movement surrounding the murder of

George Floyd in 2020, the Movement for Black Lives (M4BL) included a call for guaranteed income in its week of action demands. In addition, M4BL released what has been called “a modern-day Civil Rights Act” known as the BREATHE Act, which calls for a guaranteed income among its economic justice policy proposals. The Compton Pledge guaranteed income pilot worked alongside local organizers of the Electoral Justice Project of M4BL to introduce and pass a local resolution of the BREATHE Act to that effect. With a more direct focus on guaranteed income, the Income Movement Foundation is an advocacy group building grassroots support for a federal basic income. The Economic Security Project (ESP) advocates for a guaranteed income as well as an expanded EITC. ESP was instrumental in launching Mayors for Guaranteed Income (MGI) in 2020, which was led by Mayor Michael Tubbs of Stockton, California alongside over 20 founding mayors calling for pilots and guaranteed income policy at a federal level. Another organization to emerge in 2020 was Humanity Forward, a group that was built after the end of Andrew Yang’s 2020 presidential run in which he called for a universal basic income in the U.S.

More recent and emerging examples in 2021 include grassroots organizations and movements that supported the launch of the Compton, California guaranteed income, the Compton Pledge, which was built by the Fund for Guaranteed Income (also launched in 2020 by Nika Soon-Shiong) and JFI. The supportive partners include founding leaders in the Black Lives Matter movement, the National Council for Incarcerated and Formerly Incarcerated Women, the National Domestic Workers Alliance, Essie Justice Group, One Fair Wage, and A New Way of Life Reentry Project, among others. This growing support for a major guaranteed income initiative in the U.S. may signal more widespread support from these organizations to come. In addition, a Guaranteed Income Community of Practice has formed around multiple emerging pilots (see [here](#)).

## Philanthropy

Much like the public support for cash transfers, there is a growing interest among funders to enable guaranteed income pilots that build on the research and public narrative. Among them are the newly-established Fund for Guaranteed Income, the Schusterman Family Foundation, the Family Independence Initiative, the Shah Family Foundation, Humanity Forward Foundation, Jack Dorsey, and the Economic Security Project (although notably they focus especially on advocacy). Progressive philanthropist George Soros has also advocated for government-based direct cash relief. In developing countries, GiveDirectly has financed guaranteed income programs as well.

## Joining the Movement

If you are interested in contributing to guaranteed income research and advocacy through a community pilot, research or advocacy, JFI can be a resource and partner on additional questions that may not be addressed in this report. As a non-profit, non-partisan research group, we are ready to offer our network and support to initiatives that build on the evidence for a GI in the US. Reach out to us at [jfi@jainfamilyinstitute.org](mailto:jfi@jainfamilyinstitute.org) and we'll discuss potential next steps.

## Further Reading and Global Perspectives

**JFI's publication *Phenomenal World* provides a thorough review of existing academic research on guaranteed income, UBI, and other cash policies - see [here](#).**

JFI also publishes an ongoing whitepaper series titled *From Idea to Reality: Getting to Guaranteed Income*. The series is designed to provide a concrete analysis of the path toward guaranteed income policy in the U.S. by examining specific implementation questions and challenges. View the series [here](#).

Stanford's Basic Income Lab has created a useful and practice-oriented guide for those looking to create municipal basic income pilots. You can access their guide, *Basic Income in Cities*, [here](#).

The Aspen Institute's Financial Security Program released a three-part report bringing together what is known about the need for, innovations in, and the effects of cash transfer programs. You can view the report [here](#).

Ugo Gentilini, along with others at the World Bank, have put together a comprehensive review of social protection programs—including cash transfers—implemented around the world during the COVID-19 pandemic. View the report [here](#).

### Brazil's Bolsa Família

Brazil has been, since 2004, the only country in the world to legislate every citizen's right to a basic income. That same year, Brazil introduced a transformative cash assistance program that proponents see as the first step toward securing that right. Known as Bolsa Família, the program provides families with direct cash transfers in return for keeping their kids in school and attending preventative health care visits. After ten years, Bolsa Família [helped cut](#) the percentage of Brazilians living in extreme poverty in half, from 9.7% to 2.7%. It remains the largest conditional cash transfer program in the world, reaching about a quarter of the population (50 million people).

Within Brazil, the city of Maricá has recently launched an ambitious guaranteed income policy providing more than 42,000 residents with income equivalent to about three quarters of the national poverty line. JFI is closely involved with the accompanying research program designed to study the effects and administration of large-scale guaranteed income policies. You can learn more about Bolsa Família and the Maricá program [here](#).

## GiveDirectly program in Kenya

GiveDirectly has been running one of the largest and longest guaranteed income research programs in the world in Kenya, where they are providing cash transfers to 20,000 individuals across 197 villages. Some recipients will receive regular payments for as long as twelve years. By varying the lengths of time that individuals receive benefits, as well as whether they receive the cash monthly or all at once in a lump sum, researchers hope to learn more about the long-term effects of guaranteed income and the impact of different disbursement patterns.

In addition to the primary pool of subjects, two additional villages are receiving monthly payments for twelve years without being a part of the main study so that researchers can have more in-depth qualitative conversations with them about their experience. This group is very much aligned with the storytelling aspect of pilots discussed earlier. You can read more about the study [here](#).

## Other global implementations

- The Iranian government created a universal basic income program in 2011, providing monthly transfers amounting to 29% of median household income. [Research on its effects](#) did not find evidence of a significant effect on labor supply outside of people in their twenties who were more likely to enroll in higher education.
- Finland conducted a guaranteed income experiment for two years from the beginning of 2017 to the end of 2018. During this time 2,000 unemployed persons received 560 Euros every month, regardless of any other income they had or whether they were looking for work. However, this program had major design and implementation [flaws](#). Read more about the experiment [here](#).
- Many European countries have long-established child allowance programs which provide recurring cash transfers to parents based on the number of children they have. For example, in Germany parents receive a little over 200 Euros per month for each child. You can read more about child allowance policy in various European countries [here](#).
- During the COVID-19 pandemic Spain has introduced a targeted guaranteed minimum income program with the intention of continuing it indefinitely. The program would reach over three million of the country's poorest households and be means-tested according to the type of family, number of children, and financial need.
- During the pandemic, Japan has provided direct cash transfers of \$930 to every citizen in addition to doubling the existing child allowance, bringing it to approximately \$200 per month per child.



# COMPTON PLEDGE DELIVERS \$1 MILLION TO RESIDENTS 800 FAMILIES ARE NOW RECEIVING REGULAR GUARANTEED INCOME PAYMENTS

Compton Mayor Aja Brown, the Fund for Guaranteed Income and the Compton Community Development Corp. managing the largest city-based GI pilot in U.S. history.

## *PRESS RELEASE*

Compton, CA, April 14, 2021 – Today, Mayor Aja Brown and the [Compton Pledge](#) announced the successful enrollment of 800 families in Compton’s guaranteed income pilot program, making it the largest city-based guaranteed income initiative in United States history.

Launched in December 2020 with the support and administration of the Fund for Guaranteed Income (F4GI) and the Compton Community Development Corporation (CCDC), the Compton Pledge has already disbursed \$1 million to support over 1770 recipients, including dependents. A total of \$9.1 million will be distributed in recurring payments over the next two years.

The community-led pilot uses a custom, web-based payments platform to enhance the economic security and self-determination of historically marginalized groups, including undocumented and formerly incarcerated residents. The program is the first to offer a tailored set of payment options and allow participants to switch between them. To date, 50% chose Direct Deposit, 9% chose Venmo, 8% chose PayPal and 33% chose prepaid card.

“There can be no peace without understanding identity, operating in purpose, and the inalienable right of human dignity. I want residents to be empowered by the greatness from where they came,” said Aja Brown, Mayor of Compton.

“Economic empowerment and equity are essential to community wellness and uplift. These vital investments disrupt generational poverty experienced by many families and children,” said Dr. Sharoni Little, Compton Pledge Community Advisory Council member and CEO of the Strategist Group.

The Compton Pledge is supported by a Community Advisory Council as well as national advocacy groups including Black Lives Matter, One Fair Wage, CHIRLA, Essie Justice Group, A New Way of Life, and the National Council for Incarcerated and Formerly Incarcerated Women and Girls.



"The day I received my first payment, there was much-needed medication I was unable to pay for before. Compton has been my city for 30 plus years. I love it and the people in it," said Tiffany, a participant in the program.

"COVID-19 hit this community really hard. After losing my job, the Compton Pledge let me pay for my electricity and internet bills, or buy shoes for my two little ones," said Ileri, who is a member of the Voices of Compton Pledge storytelling initiative.

"As an artist, this is helping me move forwards in faith that I can be a strong businessman. The Compton Pledge is helping me to breathe easier," said De'Shawn, another member of Voices of Compton Pledge.

The [Jain Family Institute](#) (JFI), an applied research organization with international expertise in guaranteed income design and evaluation, is serving as a design and implementation partner.

The pilot is philanthropically funded from private donors and recently received a \$200,000 grant from Amazon Foundation and Amazon Studios Foundation. "Not only is the Compton Pledge performing vital services as the community recovers, but in the long term it is breaking down barriers to opportunity and creating new narratives to foster equity and justice," said Cameron Onumah, Amazon's Public Policy Manager for Southern California.

To follow the progress of the Compton Pledge, a two-year program delivering recurring cash relief to low-income residents, go to [comptonpledge.org](https://comptonpledge.org) and select "sign up for news" or follow Compton Pledge on [Twitter](#), [Instagram](#) or [Facebook](#). To make a tax-deductible donation to the Compton Pledge, led by the nonprofit Fund for Guaranteed Income, go to [comptonpledge.org/donate](https://comptonpledge.org/donate).

###

To learn more about the Compton Pledge or how to get involved, contact [media@comptonpledge.org](mailto:media@comptonpledge.org).

**ANNOTATED AGENDA  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Tuesday, June 9, 2020**

**4:00 P.M.**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**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 City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place 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.*

*Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/89047645600>. 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 by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **890 4764 5600**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*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. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

**Roll Call:** 4:02 p.m.

**Present:** Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** None

**Action:** M/S/C (Arreguin/Robinson) to accept temporary rules for the conduct of the meeting related to public comment and Council discussion.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None Abstain – Davila.

### Ceremonial Matters:

1. Adjourned in memory of George Floyd and all those that are victims of police violence
2. Adjourned in memory of all victims of COVID-19
3. Adjourned in memory of Erik Salgado, victim of California Highway Patrol shooting

### City Manager Comments:

The City Manager announced that she will be hosting a Town Hall meeting for the community on Thursday, June 11, 2020 at 7:00 p.m.

## Action Calendar

**Action:** M/S/C (Arreguin/Harrison) to:

1. Accept an urgency item from Councilmember Kesarwani pursuant to Government Code Section 54954.2(b)(2) entitled Budget Referral to Establish Structure and Framework for an Office of Racial Equity.
2. Accept an urgency item from Councilmember Hahn pursuant to Government Code Section 54954.2(b)(2) entitled Black Lives Matter and Ohlone Recognition.
3. Accept an urgency item from Councilmember Harrison pursuant to Government Code Section 54954.2(b)(2) entitled Urgency Resolution: Directing the Police Review Commission and City Manager to Submit Revised Berkeley Police Department Use of Force Policy for Council Review and Approval Before the 2020 Summer Recess.
4. Accept an urgency item from Mayor Arreguin pursuant to Government Code Section 54954.2(b)(2) entitled Prohibiting the use of Chemical Agents for Crowd Control during the COVID-19 pandemic.
5. Accept an urgency item from Councilmember Hahn pursuant to Government Code Section 54954.2(b)(2) entitled Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews.
6. Accept supplemental material from the City Manager on Item 1.

**Vote:** All Ayes.



## Action Calendar

### **Budget Referral to Establish Structure and Framework for an Office of Racial Equity**

**From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Droste (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)**

**Recommendation:** Refer to the FY 2020-21 Budget Process the one-time allocation of \$150,000 to establish a structure and framework for an Office of Racial Equity consisting of a Racial Equity Officer and a supporting Specialist. The purpose of the Office of Racial Equity is to: (1) establish a common vision for racial equity across all City departments, (2) create mechanisms for measuring racial inequities in the delivery of all City programs and services; and (3) initiate efforts by all City departments to implement best practices related to metrics, policies, and procedures to close racial inequities in the allocation and delivery of all City programs and services.

**Financial Implications:** See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

**Action:** 24 speakers. M/S/C (Hahn/Wengraf) to approve the recommendation amended to include that the Office of Racial Equity should be seated in the Office of the City Manager, and that the programs and services delivered by the Planning and Development Department and the Transportation Division should be included among the Citywide programs and services to be considered by the Office of Racial Equity.

**Vote:** All Ayes.

### **Black Lives Matter and Ohlone Recognition**

**From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Davila (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**

**Recommendation:**

1. In solidarity with the Mayor of Washington, D.C. and the Black Lives Matter movement, direct the City Manager to immediately paint the words "Black Lives Matter" on Martin Luther King Jr Way in front of Old City Hall, between Center Street and Allston Way, with the text to be read from the eastern sidewalk of Martin Luther King Jr Way.
2. In recognition of the fact that Berkeley is situated on Ohlone territory, paint the words "Ohlone Territory" on Milvia Street in between Center Street and Allston Way, with the text read from the west sidewalk of Milvia Street.
3. The City Manager is encouraged to work with local artists to render the paintings. In addition, the City Manager should take care not to interfere with other street markings that are necessary for safety of pedestrians, bikes, or vehicles, or otherwise necessary.

**Financial Implications:** See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

**Action:** 4 speakers. M/S/C (Hahn/Droste) to approve the recommendation with the following amendments: 1) the locations for the words to be painted are suggestions for the City Manager's consideration; 2) the City Manager is encouraged to work with the community to render the paintings; and 3) the paintings should not pose challenges to bicycle infrastructure.

**Vote:** All Ayes.

## Action Calendar

**Urgency Resolution: Directing the Police Review Commission and City Manager to Submit Revised Berkeley Police Department Use of Force Policy for Council Review and Approval Before the 2020 Summer Recess**

**From: Councilmember Harrison (Author), Mayor Arreguin (Author), Councilmember Davila (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)**

**Recommendation:** Adopt an Urgency Resolution directing the Police Review Commission (“PRC”) and City Manager to:

1. Finalize revisions to the use of force policy as referred by Council in 2017 and drafted by the department for PRC review in January, 2020;
2. Submit revised Use of Force Policy directly to the full City Council for the Council to review and adopt before the 2020 Summer recess;
3. Incorporate revisions included the October 31, 2017 Council referral and all outstanding “8 Can’t Wait” use of force policy reforms.

**Financial Implications:** Staff time

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

**Action:** 59 speakers. M/S/C (Harrison/Davila) to adopt Resolution No. 69,438–N.S. amended to add the following resolved clauses:

*BE IT FURTHER RESOLVED that the City Council directs the Police Review Commission to review the use of control holds.*

*BE IT FURTHER RESOLVED that the City Council directs the City Manager to allow anonymized access to records about use of force to the Police Review Commission to inform deliberation of the use of force general order.*

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

Recess: 6:21 p.m. – 6:26 p.m.

## Action Calendar

### **Prohibiting the use of Chemical Agents for Crowd Control during the COVID-19 pandemic**

**From: Mayor Arreguin (Author), Councilmember Harrison (Author), Councilmember Robinson (Author)**

**Recommendation:** Adopt a motion to establish an official City of Berkeley policy prohibiting the use of tear gas (CS gas), pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** 23 speakers. M/S/Failed (Wengraf/Kesarwani) to establish an official City of Berkeley policy prohibiting the use of tear gas (CS gas), pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition. And, to refer the item to the Public Safety Policy Committee and the Police Review Commission for the consideration of a permanent ban of these chemical agents.

**Vote:** Ayes – Kesarwani, Hahn, Wengraf, Droste; Noes – Davila, Bartlett, Harrison, Robinson; Abstain – Arreguin.

**Action:** M/S/Carried (Davila/Harrison) to establish an official City of Berkeley policy 1) prohibiting the use of tear gas by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, and 2) prohibiting the use of pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition.

**Vote:** All Ayes.

## Action Calendar

### **Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**

#### **Recommendation:**

1. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify the following with respect to the declaration of a Local Emergency:
  - a. A Local Emergency can only be declared by the Director of Emergency Services if a regular or special meeting and session of the City Council cannot be called due to physical impossibility of holding a meeting, because a quorum cannot be established, or because the urgency of the Local Emergency is such that waiting 24 hours for the City Council to convene a session and/or Special Meeting would endanger the community;
  - b. Should the Director declare a Local Emergency without action of the City Council (due to one of the reasons stated at (a), above), Council ratification of such action occurs at the first possible opportunity, even if it requires calling a Special Meeting and/or session of the Council; and
  - c. The applicable statutory and legal standards (Federal, State and Local) for calling a Local Emergency shall be presented to the City Council when seeking declaration or ratification of a Local Emergency, along with facts to support meeting those standards, so that the City Council, likely acting under rushed and exigent circumstances, is able to make a carefully considered and fact-based determination that declaration of such Local Emergency conforms with the legal standards and is supported by facts.
2. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify policies, terms and procedures for the order, scope, terms, duration, and all other elements and conditions of curfews called in response to, or likely to have the effect of limiting or banning, planned, expected or reasonably foreseeable first amendment activity, including rallies, marches, demonstrations and assemblies of all kinds ("First Amendment Curfews"), as enumerated (1-8) under the "Background" section of this item, below.
3. Advise the City Manager and/or Director of Emergency Services that approval of this item represents the will and direction of the City Council with respect to declarations of Local Emergencies and imposition of First Amendment Curfews, and should the occasion to declare a Local Emergency or impose a First Amendment curfew arise prior to formal Council adoption of the requested amendments and policies, the City Manager and/or Director of Emergency Services shall, to the greatest extent possible under existing law, strive to encompass actionable elements, and meet spirit, of this item.

#### **Financial Implications:** See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

**Action:** M/S/C (Arreguin/Wengraf) to continue Items 3, 4, 5, 6, and the urgency item regarding Local Emergency Declarations and First Amendment Curfews, to the June 16, 2020 regular City Council meeting.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

1. **Fiscal Year 2021 Proposed Budget Update Public Hearing #2** *(Continued from June 2, 2020)*  
**From: City Manager**  
**Recommendation:** Conduct a public hearing regarding the FY 2021 Proposed Budget Update.  
**Financial Implications:** See report  
 Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000  
  
**Action:** M/S/C (Arreguin/Robinson) to continue Items 1, 2, and the supplemental material for Item 1 from the City Manager, to a special meeting called by Mayor Arreguin for June 16, 2020 at 2:30 p.m.  
**Vote:** All Ayes.

## Action Calendar

2. **FY 2020 Mid-Year Budget Update** *(Continued from June 2, 2020)*  
**From: City Manager**  
 Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000  
**Action:** Item 2 continued to June 16, 2020 special meeting.
3. **Presentation and Discussion of Community Survey Results and Direction About Next Steps for Possible Ballot Measure Development** *(Item Contains Supplemental Material) (Continued from June 2, 2020)*  
**From: City Manager**  
**Recommendation:** Discuss results of the community survey and provide direction to the City Manager about the drafting of possible measures for inclusion on the November 2020 ballot.  
**Financial Implications:** See report  
 Contact: David White, City Manager's Office, 981-7000  
**Action:** Item 3 continued to June 16, 2020 regular meeting.
4. **Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers** *(Continued from June 2, 2020)*  
**From: City Manager**  
**Recommendation:**
  1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
  2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.**Financial Implications:** None  
 Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Item 4 continued to June 16, 2020 regular meeting.

## Action Calendar – Public Hearings

5. **Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral** (*Continued from June 2, 2020*)

**From: Energy Commission**

**Recommendation:** The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.

**Financial Implications:** See report.

Contact: Billi Romain, Commission Secretary, (510) 981-7400

**Action:** Item 5 continued to June 16, 2020 regular meeting.

6. **Proposed Amendment to Berkeley’s Minimum Wage Ordinance: Berkeley Municipal Code Chapter 13.99** (*Continued from June 2, 2020*)

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, revising Section 13.99.040 to reinstate the exemption for youth job training programs, and freezing the youth wages at \$14.50 per hour for FY21, then increase the wage annually according to the Consumer Price Index as will occur with the Berkeley Minimum wage.

**Financial Implications:** See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

**Action:** Item 6 continued to June 16, 2020 regular meeting.

Recess: 9:49 p.m. – 10:00 p.m.

Councilmember Wengraf absent at 9:49 p.m.

## Adjournment

**Action:** M/S/C (Arreguin/Robinson) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Wengraf.

Adjourned at 10:02 p.m.

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

**Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2**

1. 19 similarly-worded form letters

2. Sharon Negri
3. Era Goel
4. Catie
5. Andrew Graves
6. Kate Gingold
7. David Noriega
8. Robert Hurley
9. Russbumper
10. Lauren Hermele
11. Ella Hass
12. Fiona Hass
13. Emilie Reaves
14. Ryan Thayer
15. Amanda Ho
16. Julia Bleier
17. Nirali Patel
18. Chimey Lee
19. Sage Lenier
20. Terry Taplin
21. Riley Hellinger

**Item #5: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral**

22. John Arens

**Supplemental Communications and Reports 3**

**Urgency Item: Urgency Resolution: Directing the Police Review Commission and City Manager to Submit Revised Berkeley Police Department Use of Force Policy for Council Review and Approval Before the 2020 Summer Recess**

23. Urgency item, submitted by Councilmember Harrison, Mayor Arreguin, Councilmembers Davila and Bartlett
24. Che Garcia
25. Yaritza Cruz
26. Mariana Duarte
27. Arev Walker
28. Melody Joliff
29. Jesica Ender
30. Haleigh Fleming
31. Arjun Mayur
32. Jenn Guitart
33. Sal Levinson
34. Bella Lynch
35. Bob Martin
36. Rafael Gonzalez
37. Erwan Illien
38. Benjamin Pierias
39. LeeAnn Dowd (2)
40. Danielle Royston-Lopez
41. Racial and Criminal Justice Reform Group
42. Carole Marasovic

- 43. Jill Suttie
- 44. Ryan Grant
- 45. Sheridan Pauker
- 46. Sarah Pieper

**Urgency Item: Prohibiting the use of Chemical Agents for Crowd Control during the COVID-19 pandemic**

- 47. Urgency item, submitted by Mayor Arreguin, Councilmembers Harrison and Robinson
- 48. Shawn Beckman (2)
- 49. Chimey Lee
- 50. Moni Law
- 51. Kimiye Owens

**Urgency Item: Black Lives Matter and Ohlone Recognition**

- 52. Urgency item, submitted by Councilmember Hahn
- 53. Liza Lutzker, on behalf of Walk Bike Berkeley
- 54. Corinna Gould
- 55. Moni Law (2)

**Urgency Item: Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews**

- 56. Urgency item, submitted by Councilmember Hahn
- 57. Madeline King
- 58. Thomas Lord
- 59. Friends of Adeline (2)
- 60. Carol Denney
- 61. Bryce Nesbitt
- 62. Elisa Mikiten
- 63. Chimey Lee
- 64. Kara O'Malley

**Urgency Item: Budget Referral to Establish Structure and Framework for an Office of Racial Equity**

- 65. Urgency item, submitted by Councilmember Kesarwani
- 66. Amanda Prufer
- 67. Stephanie Prufer
- 68. Caroline Yunker
- 69. Marianne Lagarias (2)

**Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2**

- 70. Christina Romak
- 71. Megan Raymond
- 72. Aimee Trujillo
- 73. Ashley Johnson
- 74. Alex Thomson
- 75. Anna McFall
- 76. Elena Vann Cleave
- 77. Tommy Chung
- 78. Erika Schultz
- 79. Rose Soffa Clarke
- 80. Diana Bohn
- 81. Celia Ford



82. Nick Nold
83. Becky Sotello
84. Noor
85. Jane Francis
86. Heather Hardison
87. Susan Saadat
88. Lilith Gamer
89. Mary Gilg
90. Kate Mather
91. Alfred Twu
92. Rachael Cornejo
93. Steve KoneffKlatt
94. Juliana Schwartz
95. Rachel Shipps
96. Alicia Roy
97. Natasha Geiling
98. Dana Perls
99. Alisdair Broshar
100. Orly Suveda
101. Alix Vadot
102. Eliza Smith
103. Ryan Gorelik
104. Ben Pierias (2)
105. Kayla Moore
106. Sarah Bancroft
107. Angela Clapp
108. Samuel Kaplan
109. Heather and Luke Ball
110. Dewi Zarni
111. Portal Finder
112. Catherine O'Hare
113. Theodora Gibbs-Plessl
114. Taj Herzer-Baptiste
115. Michaela Reilly
116. Julia Sen
117. Ellen McClure
118. Martin Lenarz-Geisen
119. Katrina Lapira
120. Ariella Cooley
121. Natasha Huey
122. Noelle Fa-Kaji
123. Jessica Barber
124. Jean Caiani
125. Lucia Brosgart
126. Tia Bottger
127. Allyson Bogie
128. Michelle Chung
129. Karen Shimoda
130. Jessica Brownell
131. Sanya Sehgal

132. Angela Ames
133. Ace Chen
134. Ryan Hall
135. Maya Sen
136. Dylan Campopiano
137. Allison Zau
138. Firdausi Sudarmadji
139. Judy Grether
140. Zaynab At-Taras
141. Jackie Kennedy
142. Logan Falley
143. Nahkoura Mahnassi
144. Madelyn Weiss
145. Sophia Mahoney-Rohrl
146. Madeleine Muscari
147. Christopher Lin
148. Francie Maguire
149. Laurel Chen
150. Reyna Fa-Kaji
151. Marcelo Felipe Garzo Montalvo
152. Re Nor
153. Chloe Novak
154. Kat Kott
155. Katie Cording
156. Christine Tseng
157. Celia Alter
158. Zoe Westbrook
159. Julian Dennis
160. Daniel Kim
161. Loan Pham
162. Colin Piethe
163. Elizabeth Ferguson
164. Chelsea Lee
165. Maxine Schoefer-Wulf
166. Jessica Olson
167. Daniel Milutin
168. Olivia Neville
169. Bryanna Perez
170. Kei McHale
171. Diane
172. Jordan Mickens
173. Voulette Hattar
174. Emily Haan
175. Christine Schwartz
176. Emily Yao
177. Manduhai Baatar
178. Kacei Conyers
179. Ella Hass
180. Logan Rimel
181. Andrew Lynch

182. Nicole Teixeira
183. Bethany Lourie
184. Anya Platt
185. Erin Rhoades
186. Julia S.
187. Suzanne Merkelson
188. Valerie Kratzer
189. Ceren Fitoz
190. Lanie Peterson
191. Amalee Beattie
192. Emily Bronston-Joseph
193. Alions Alkon
194. Sarah Wulf
195. Jordan Mickens
196. Ann Marie Callegari
197. Leah Renee Smith
198. Liam Bergstrom
199. Bryce Nesbitt
200. Paige
201. Katie Wilson
202. Ivonne Del Valle
203. Chimey Lee (2)
204. Juliana Dearth
205. Jesslyn Janssen
206. Ferri Wahl
207. Anne Whyte
208. Madison Luzar
209. Mark and Agatha Greeley

**Item #2: FY 2020 Mid-Year Budget Update**

210. Angela Jernigan (2)
211. Niels Teunis
212. Leah Naomi Gonzales (2)
213. Councilmember Davila
214. Valerie Kratzer

**Item #5: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral**

215. Michael Katz

## **Action Calendar – Public Hearings**

**Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2**

216. Supplemental Material, submitted by City Manager's Office





Office of the City Manager

**ACTION CALENDAR**  
 December 6, 2022  
*(Continued from November 15, 2022)*

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Interim Chief of Police

Subject: Update on BPD efforts related to the Improving Hate Crimes Reporting and Response Referral

**INTRODUCTION**

On November 17, 2020, Council recommended to the City Manager that City staff review proposals to improve systems for reporting and responding to hate incidents and crimes. As many of the proposals fell under the responsibility of the Berkeley Police Department (BPD), BPD organized several meetings with other City staff and stakeholders who had pieces of this project in order to ensure strong collaboration.

**CURRENT SITUATION AND ITS EFFECTS**

Hate Crimes targeted at people based on their perceived race, color, national origin, gender, gender identity, sexual orientation, religion and/or disability are a widespread problem in communities across the United States. However, an acute discrepancy exists between the number of actual hate crimes committed and the number officially reported to the FBI. This results in significant challenges for a community:

- Hate and bias crimes can escalate if not identified, addressed, and tracked
- Without accurate data, appropriate resources cannot be allocated to address tensions and violence in communities
- Inadequate response to hate crimes can leave affected victims feeling unheard and unsafe

Furthermore, there are serious factors that relate to underreporting:

- Communities targeted for hate may not feel safe or comfortable reporting hate crimes to law enforcement
- Long-standing distrust among some communities leads victims to believe law enforcement will be unwilling or unable to help
- Immigrant communities may fear deportation or other consequences if they step forward

- Victims who speak different languages or have disabilities may not report due to cumbersome, inaccessible hate crime reporting procedures
- Individuals and targeted communities may fear retaliation if they report incidents

There is a clear negative ripple effect when a hate crime occurs:

1. Victimization is projected outward to all members of the victim's wider community.
2. Other members of the same group feel victimized.
3. Members of other commonly targeted groups are reminded of their vulnerability to similar attacks.
4. The community is polarized into an "us-versus-them" mentality.
5. It impedes community spirit, morale, and growth.
6. Property values are lowered.
7. It increases security concerns at schools, churches, businesses, and private homes.

In the City of Berkeley in 2021, there were forty-two hate crimes reported to the Berkeley Police Department. Current hate crime data for this calendar year suggests that we will likely see a similar number of hate crimes reported to BPD.

In response to the November 17, 2020 Council recommendation, the Berkeley Police Department connected with Berkeley Mental Health, Police Accountability Board, IT, City of Berkeley Communications Director, Berkeley Youth Commission, and the Peace and Justice Commission to identify our respective responsibilities within the Improving Hate Crime Reporting and Response Referral. Some of the Referral items connect directly with one of these City Department's or groups and will provide updates later. These representatives are referred to as the working group below.

The following outlines the specific City Council recommendations under the responsibility of BPD and the progress made so far:

**Council Recommendation:**

**Develop a Hate Crime Reporting Hotline (modeled after the San Francisco District Attorney's Hotline) to be staffed by the Berkeley Mental Health Division or a non-profit community partner. The Hotline will provide support for victims and those reporting hate crimes/incidents, and direct victims to resources and how to report hate crimes or incidents. Consider existing internal and external resources, including the City's 311 Customer Service line and the County's Hate Crimes Reporting Hotline.**

**Status:**

The City working group discussed this recommendation and identified the Alameda County District Attorney's Office's existing Hate Crime Hotline, which is available for all County residents. The District Attorney's Office fields calls for the Hotline and refer callers to the appropriate resources either within their own office or the callers'

respective community. Berkeley Mental Health staff expressed concerns about the challenge that staffing a separate hotline would require. The group felt that existing county resources were adequate.

BPD currently provides 24/7 coverage via the Communications Center and receives calls related to hate crimes and incidents. As the Communications Center's responsibilities expand during the reimagining public safety, victim support and resources could be incorporated into or referred from this system.

**Council Recommendation:**

**Explore adding hate crimes to the BPD Online Crime Reporting System to allow individuals to report specific hate-related criminal acts or incidents.**

**Status:**

The Berkeley Police Department explored the feasibility of adding hate crimes to the BPD Online Crime Reporting System. We determined that responding to hate crimes and hate incidents in person allows us to provide the highest level of service and care to our victims. Online reporting of a hate crime or hate incident reduces the Department's ability to apprehend offenders and make arrests as appropriate, provide mental health support to the victim(s), collect evidence, obtain statements, or secure a crime scene. The Department has focused our approach on being victim-centered, and responding in person allows BPD to continue this approach.

**Council Recommendation:**

**Launch a public information campaign, including the production of information videos, posters, and ads in different languages about what is a hate crime and how to report it to Berkeley Police.**

**Status:**

The Berkeley Police Department launched a public information video, shared through our social media platforms and the new BPD Transparency Hub, to coincide with Anti-Hate week. BPD Community Services Bureau made the video in partnership with Mayor Jesse Arreguin and Police Accountability Board Chair Michael Chang.

BPD will recognize Anti-Hate week annually through outreach and social media. We will also update our public information video to include translations in Spanish and Cantonese.

**Council Recommendation:**

**Conduct proactive outreach and develop partnerships with religious leaders, community service providers, and organizations that work with groups which have historically been the target of hate crimes/incidents.**

**Status:**

This item will be the focus of the next phase of work on this Referral.

**Council Recommendation:**

**Develop a public-facing mapping tool that indicates patterns of hate incidents and crimes to help outreach and prevention.**

**Status:**

As of the time of this report, BPD's Transparency Hub now provides public information on reported hate crimes dating back to 2016. We will soon launch more detailed hate crime and hate incident data to include mapping and filters to analyze and view the data. This data can not only help inform internal responses, but will be a valuable tool to our community partners engaged in work combatting and addressing hate crimes.

**Council Recommendation:**

**Coordinate with educational institutions (e.g. UC Berkeley and BUSD) to achieve goals.**

**Status:**

BPD met with UCPD and the BUSD Title IX Coordinator. BUSD is currently working on a new policy around Hate Crimes. BUSD will be connecting with BPD in the future to help with educating staff about responding to Hate Crimes and Incidents.

**Council Recommendation:**

**Review other emerging policies and best practices in other communities that support an inclusive and safe community.**

**Status:**

The work on this item will be ongoing.

**Council Recommendation:**

**That Council refers to the City Manager to develop a targeted approach, towards persons with homeless status, to improve hate crime reporting and response consistent with the other approaches for other populations under the City of Berkeley's Improving Hate Crimes Reporting and Response legislation.**

**Status:**

BPD researched the state laws surrounding hate crimes against persons with homeless status. In 2019 there was an assembly bill written by Assemblyman Mike Gipson asking that homelessness status be added as a protected class to the hate crime law. At that time, the assembly bill did not receive enough votes. This item will be ongoing as there continue to be conversations statewide and locally about expanding protection for this group.



ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Jennifer Louis, Interim Chief of Police, Police Department, (510) 981-5700





Office of the City Manager

PUBLIC HEARING  
December 6, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Eleanor Hollander, Economic Development Manager  
 Subject: Renewal of the Elmwood Avenue BID for Calendar Year 2023

### RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) for 2022-23 and, if no majority protest exists, levy annual assessments in the District for calendar year 2023 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.

### FISCAL IMPACTS OF RECOMMENDATION

Projected BID revenue of approximately \$30,000 will be deposited into the Elmwood BID Fund, and expensed from budget code 782-21-208-251-0000-000-446-636110. The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts that are recommended by the Advisory Board. The City of Berkeley operates a parking lot within the district and will thus be assessed \$1,000, paid through the Off-Street Parking Fund (835-4942-410-4046). To the extent that the work of the Elmwood BID enhances the development of the Elmwood and its business climate over the long term, the BID contributes towards improving City revenues through increased sales and property taxes.

### CURRENT SITUATION AND ITS EFFECTS

Under the State of California Parking and Business Improvement Area law of 1989 (California Streets and Highways Code Section 36500 et. seq.) that authorized the establishment of the Elmwood BID, the City Council must hold a public hearing before levying assessments for 2023. The renewal process was initiated on November 29, 2022, when Council approved by Resolution No. 70,591-N.S. (Attachment 1, Exhibit A) the Annual report and budget for 2022-23 and set the public hearing date for December 6, 2022. The City Clerk noticed businesses in the Elmwood BID area by publishing Resolution No. 70,591-N.S. in a newspaper of general circulation. If no majority protest is received at the public hearing, at its conclusion the City Council may confirm the Annual report and budget for 2023 and levy assessments.

### BACKGROUND

The Elmwood BID was established in November 2013 to provide the Elmwood Business Association with a sustainable, predictable source of funding for its activities to promote, maintain and beautify the Elmwood commercial district. The Elmwood Business Association has used the funds raised through the BID to implement a variety of activities such as marketing, place-based branding, events, and capital improvements.

### ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the district, the Elmwood BID creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The environmental enhancements contribute to making the Elmwood a more pleasant walking destination. Because the district is served by public transportation and biking infrastructure, these services indirectly support environmental sustainability goals of encouraging alternative transportation choices.

### RATIONALE FOR RECOMMENDATION

State law requires that the City Council annually renew the Elmwood BID by conducting a public hearing on the proposed renewed assessment for the coming year.

### ALTERNATIVE ACTIONS CONSIDERED

The Advisory Board has considered many alternatives for expenditure of its limited revenues and has decided upon the activities described in the Annual Report as its priorities for 2023.

### CONTACT PERSON

Kieron Slaughter, Community Development Project Coordinator, 510-981-2490

#### 1: Resolution

Exhibit A: Resolution No. 70,591-N.S., with incorporated Annual Report, map of the District and Assessment table

#### 2: Public Hearing Notice

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

CONFIRMING THE ANNUAL REPORT FOR THE ELMWOOD BUSINESS IMPROVEMENT DISTRICT (BID), LEVYING AN ANNUAL ASSESSMENT FOR THE ELMWOOD BID FOR 2023, AND AUTHORIZING A CONTRACT OR CONTRACT AMENDMENTS WITH ELMWOOD BUSINESS ASSOCIATION TO SERVE AS FISCAL AGENT FOR RECEIPT AND EXPENDITURE OF ELMWOOD BID FUNDS

WHEREAS, the Elmwood Business Improvement District (BID) Advisory Board recommended an Annual Report to the Berkeley City Council that outlined the activities of the District proposed for the year 2023, including a budget for said activities, as required by California Streets and Highways Code Section 36533 and Berkeley Municipal Code Section 7.97.080; and

WHEREAS, on November 29, 2022, the City Council by Resolution No. 70,591-N.S (attached as Exhibit A) approved the Annual Report and proposed budget of the Elmwood BID for 2022-23 and declared its intent to levy an assessment in the District to finance the proposed activities for the calendar year 2023; and

WHEREAS, Resolution No. 70,591-N.S. also scheduled a public hearing for December 6, 2022, to consider levying said assessment and gave notice that interested parties could attend and be heard on the issue, for and against; and

WHEREAS, the City Clerk has notified potential assessees of the public hearing by publishing the Resolution of Intention in a newspaper of general circulation; and

WHEREAS, the public hearing has now been held and there has not been protests by business owners who collectively pay 50 percent or more of the assessment proposed to be levied.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that any protests are overruled and the Annual Report of the Elmwood BID is confirmed, thereby levying an annual assessment for the Elmwood BID for calendar year 2023.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to enter into a contract or contract amendments with Elmwood Business Association to receive and spend funds for purposes approved in the Annual Report and Budget and as directed by the Elmwood BID Advisory Board.

Exhibit A: Resolution No. 70,591-N.S., including the 2022-23 Annual Report, map of the District and Assessment Table

RESOLUTION NO. 70,591-N.S.

APPROVING THE 2022 ANNUAL REPORT AND PROPOSED BUDGET OF THE ELMWOOD BUSINESS IMPROVEMENT DISTRICT FOR 2023; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2023; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR DECEMBER 6, 2023 REGARDING LEVYING OF A RENEWED ASSESSMENT FOR 2023

WHEREAS, the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code section 36500 et seq.) authorizes cities to establish parking and business improvement areas for the purpose of imposing assessments on businesses for certain purposes; and

WHEREAS, on November 19, 2013 the Berkeley City Council established such an area known as the Elmwood Business Improvement District (the "District"); and

WHEREAS, the City Council established a Elmwood Business Improvement District Advisory Board (Advisory Board) to act in compliance with State law to oversee the activities of the District; and

WHEREAS, the Advisory Board has submitted an Annual Report to the Berkeley City Council that outlines the activities of the District proposed for 2023 as required by the California Streets and Highways Code Section 36533; and

WHEREAS, the Annual Report is clear and complete and found to comply with the interests of Elmwood BID assessees; and

WHEREAS, the annual process for levying assessments in Business Improvement Districts requires that cities adopt a Resolution of Intent that declares their intent to levy such an assessment and then set a date for a public hearing where interested parties may be heard on the issue.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

Section 1. The City Council hereby approves the Elmwood Business Improvement District Annual Report for 2022-23 (Exhibit A) as submitted to the City Clerk by the Elmwood Business Improvement District Advisory Board.

Section 2. Pursuant to the provisions of Section 36500 et seq. of the California Streets and Highways Code (the "Act"), the City Council declares its intent to levy an annual assessment for the parking and business improvement area known as the Elmwood Business Improvement District.

Section 3. The boundaries of the District are set forth in Exhibit A1 to the 2022-23 Annual Report which is attached hereto and incorporated herein by reference.

Section 4. The improvements and activities proposed for the District are as described in the Report and budget (Exhibit A) and appended hereto.

Council intends that these funds be used for designated activities and improvements in the Elmwood commercial area. Council explicitly intends that funds generated through this BID shall not be used to pay for activities routinely paid for by the City.

Section 5. The City Council intends to levy assessments on businesses located within the boundaries of the District shown Exhibit A1 and according to the business classifications and rates set forth in Exhibit A2 which is attached hereto and incorporated herein by reference.

Section 6. A public hearing shall be held before the City Council on December 6, 2022 in the Council Chambers, 1231 Addison St, Berkeley, California. The public may participate in this hearing virtually on a publicly accessible video conference call or in-person. Following the hearing the Council will consider adoption of a resolution levying an assessment as recommended by the Elmwood Business Improvement Advisory Board. At this hearing the Council will hear all interested persons for or against the levying of such an assessment.

Formal protests against the levying of the District assessment must be made in writing. All written and oral protests should contain the following certification: "I certify that I am the owner of the business listed below, and that the business is located or operates within the boundaries of the Elmwood Business Improvement District." Protests should also contain the following information: business name (printed), business address (printed), City Business License Tax Registration number, name of protester (printed), signature of protester, date of protest and the reason(s) the protester is against the levying of the District assessment. Protests will not be considered valid unless signed and submitted by the owner of a business located within the boundaries of the proposed District. Written protests shall be filed with the City Clerk, First Floor, City Hall, at 2180 Milvia Street, Berkeley, California, 94704, at or before 3 pm on December 6, 2022 and shall contain a description of the business sufficient to identify the business, and if the person so protesting is not listed on City records as the owner of the business, the protest shall be accompanied by written evidence that the person subscribing the protest is the owner of the business. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made. If written protests are received from the owners of businesses in the District which will pay fifty percent (50%) or more of the assessment proposed to be levied, no further proceedings to levy the assessment shall be taken for a period of one year from the date of the finding of a majority protest by the City Council. If the majority protest is only against the furnishing of a specified type or types of improvements or activities within the District, those types of improvements or activities shall be eliminated.

Section 7. The City Clerk is directed to give notice of said public hearing by publishing the Resolution of Intention in a newspaper of general circulation.

#### Exhibits

A: Annual Report for the Elmwood Business Improvement District for 2022-23

A1: Map of the Elmwood BID

A2: Assessment Rates

The foregoing Resolution was adopted by the Berkeley City Council on November 15, 2022 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest: \_\_\_\_\_  
Mark Numainville, City Clerk



## EXHIBIT A

### Annual Report for the Elmwood Business Improvement District for 2022-23

August 31, 2022

To: Members of the Berkeley City Council  
From: The Elmwood Business Improvement District Advisory Board  
Re: 2023 Elmwood BID Renewal

We respectfully request that the Elmwood Business Improvement District be renewed for the 2023 fiscal year, without any changes to the assessment method or amount.

The Elmwood BID was established in November 2013 to promote, maintain and beautify the Elmwood commercial district. Revenues of roughly \$30,000 per year provide a regular, predictable source of funding for the activities of the Elmwood Business Association (EBA). The Elmwood BID has allowed the EBA to expand its activities into areas such as maintenance and capital improvements.

The Elmwood Business Association is continuing to be the catalyst for Elmwood Business District's on-going vitality. Here are some highlights of our projects:

- Maintenance of year-round lighting installation on district buildings
- Website: [www.shoptheelmwood.com](http://www.shoptheelmwood.com) serves as one of the district's main marketing tool – District Events, Introducing New Businesses, and on-going marketing updates
- Installation of Welcome to Elmwood banners on light posts and ongoing maintenance
- Quarterly weeding and cleaning of Russell St. parking lot partnering with UC Berkeley • Maintenance of security camera at Russell St. parking lot
- Maintaining a part-time Administrative Assistant to:
  - Post on social media
  - Manage merchant communications
  - Promote monthly happenings/specials among Elmwood Merchants
  - Updating the website to keep it current
- Sponsored the following events:
  - Holiday events: Live bands, and Tapdancing Trees
  - Shop Local Promotions
- Held a Merchant Social in an outdoor setting along with our Annual Meeting
- Members of the board active in other Berkeley commercial and residential neighborhoods to promote harmony and cooperation

Below for your review is a summary of our current financial position and our proposed budget for 2022-23

## 2022-23 Projected Expenditures Elmwood Business Association

| INCOME                      |                                               | 2023 Budget      | 2022 Actual      |
|-----------------------------|-----------------------------------------------|------------------|------------------|
| <b>Operating Income</b>     |                                               |                  |                  |
|                             | BID Membership dues                           | \$ 30,000        | \$ 30,000        |
|                             | Other (Partial BID Payment, Wine Walk Income) | \$ 5,000         | \$ -             |
|                             | <b>Total Operating Income</b>                 | <b>\$ 35,000</b> | <b>\$ 30,000</b> |
| <b>Non-Operating Income</b> |                                               |                  |                  |
|                             | Other                                         |                  |                  |
|                             | <b>Total Non-Operating Income</b>             |                  | <b>\$ -</b>      |
| <b>Total INCOME</b>         |                                               | <b>\$ 35,000</b> | <b>\$ 30,000</b> |

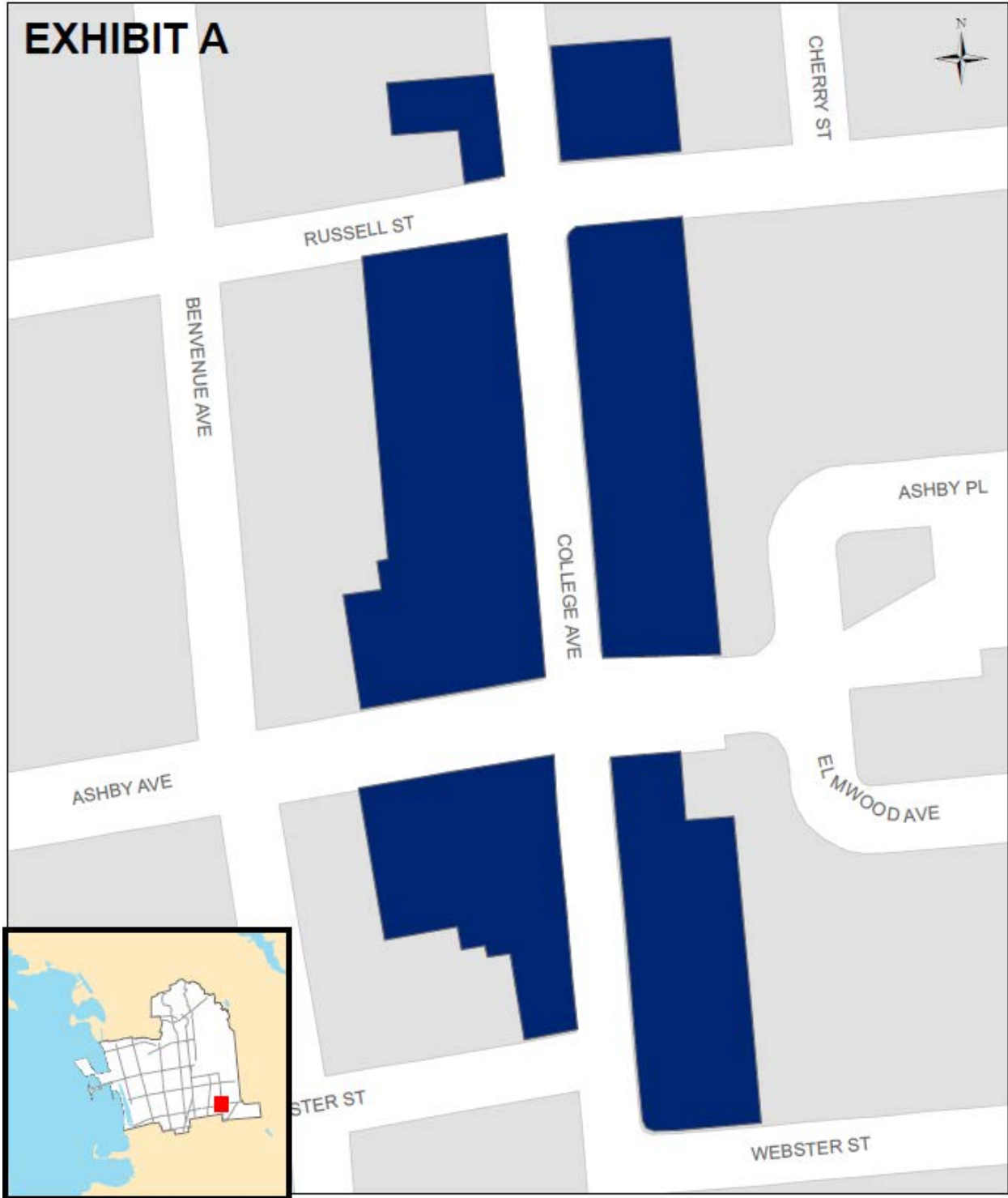
| EXPENSES                                  |                                                     |          |          |
|-------------------------------------------|-----------------------------------------------------|----------|----------|
| <b>Advertising &amp; Marketing</b>        |                                                     |          |          |
|                                           | Banner Maintenance                                  | \$ 2,000 | \$ 6,713 |
|                                           | Building Light Maintenance                          | \$ 1,000 | \$ 1,240 |
|                                           | Wine Walk production                                | \$ 4,000 |          |
|                                           | Spring event production                             | \$ 1,000 |          |
|                                           | Summer event production                             | \$ 1,000 |          |
|                                           | Special Event-Art & Music Week                      |          |          |
|                                           | Web Hosting and Domains                             | \$ 500   | \$ 274   |
|                                           | General Marketing, Ads, Social media                | \$ 300   |          |
|                                           | Halloween event production                          | \$ 300   |          |
|                                           | Holiday season event production (incl. tree lights) | \$ 9,000 | \$ 7,989 |
|                                           | Event planning                                      | \$ 250   |          |
|                                           | EBA Expansion research                              | \$ 100   |          |
| <b>Charity</b>                            |                                                     |          |          |
|                                           | Wine Walk Partner                                   |          |          |
| <b>Consulting &amp; Accounting</b>        |                                                     |          |          |
|                                           | Accounting S/W (Xero)/Tax Filing                    | \$ 300   | \$ 301   |
| <b>Dues and Subscriptions</b>             |                                                     |          |          |
|                                           | Chamber of Commerce                                 | \$ 300   | \$ 305   |
| <b>Insurance</b>                          |                                                     |          |          |
|                                           | Liability for EBA                                   | \$ 350   | \$ 350   |
|                                           | Liability for Board members                         | \$ 1,100 | \$ 1,061 |
| <b>License &amp; Permits</b>              |                                                     |          |          |
|                                           | Taxes & Licenses                                    | \$ 50    |          |
|                                           | Lobbyist registration                               | \$ 500   |          |
| <b>Other: Office Supplies/Annual Mtg.</b> |                                                     |          |          |
|                                           | Printing/copy                                       | \$ 600   | \$ 369   |
|                                           | Postage & Delivery (PO Box)                         | \$ 200   | \$ 150   |
|                                           | Misc.                                               |          | \$ 269   |

|                                |                                  |                  |                  |
|--------------------------------|----------------------------------|------------------|------------------|
|                                | Annual Mtg. Food/Beverage        | \$ 600           | \$ 610           |
| <b>Repairs and Maintenance</b> |                                  |                  |                  |
|                                | Gardening (Tree wells)           | \$ 500           |                  |
|                                | Sidewalk Cleaning (Power Wash)   | \$ 500           |                  |
| <b>Professional Fees</b>       |                                  |                  |                  |
|                                | Legal and Professional Fees      | \$ 100           |                  |
| <b>Security</b>                |                                  |                  |                  |
|                                | Surveillance System Installation |                  | \$ 2,720         |
|                                | Surveillance System Maintenance  | \$ 500           |                  |
|                                | Holiday Private Security         | \$ 7,200         | \$ 7,168         |
| <b>Admin Support</b>           |                                  |                  |                  |
|                                | Wages                            | \$ 9,000         | \$ 9,000         |
|                                | <b>Total Operating Expenses</b>  | <b>\$ 41,250</b> | <b>\$ 38,519</b> |

|                          |  |                   |                   |
|--------------------------|--|-------------------|-------------------|
| <b>Retained Earnings</b> |  | <b>\$ (6,250)</b> | <b>\$ (8,519)</b> |
|--------------------------|--|-------------------|-------------------|

Thank you for your attention to this matter. We look forward to an equally productive year for the BID in 2023.

Exhibit A1: Elmwood Business Improvement District, Map



**Exhibit A2: Elmwood Business Improvement District, Assessment Rates**

| <b>Classifications</b>                                                                                                                                                                                                                                                                                                   | <b>Rates</b>                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Retail including jewelers and groceries but not restaurants<br>(Tax Codes R, M and G but without NAICS 722, Food Services<br>and Drinking Places) <ul style="list-style-type: none"> <li>• Gross receipts under \$350,000</li> <li>• Gross receipts \$350,000=\$999,000</li> <li>• Gross receipts \$1,000,000</li> </ul> | \$250.00 per year<br>\$350.00 per year<br>\$500.00 per year |
| Restaurants, including all businesses that prepare and serve food at the request of customers (NAICS 722)                                                                                                                                                                                                                | \$500.00 per year                                           |
| Professionals including offices of real estate brokers (Tax Code P) <ul style="list-style-type: none"> <li>• Gross receipts under \$100,000</li> <li>• Gross receipts over \$100,000</li> </ul>                                                                                                                          | \$300.00 per year<br>\$400.00 per year                      |
| Entertainment and Recreation (Tax Code E)                                                                                                                                                                                                                                                                                | \$450.00 per year                                           |
| Business, Personal and Repair Services (Tax Code B) except Hair, Nail and Skin Cares Services (NAICS 81211)                                                                                                                                                                                                              | \$200.00 per year                                           |
| Hair, Nail and Skin Care Services (NAICS 81211)                                                                                                                                                                                                                                                                          | \$250.00 per year                                           |
| Parking lot operators                                                                                                                                                                                                                                                                                                    | \$1,000.00 per year                                         |
| Financial Institutions                                                                                                                                                                                                                                                                                                   | \$2,500.00 per year                                         |

Any business that is classified as a nonprofit (Tax Code N) for business license purposes shall nevertheless pay the assessment at the rate that corresponds to its North American Standard Industrial Classification if it is engaged in the sale of products or services and occupies a space zoned for commercial purposes.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**RENEWAL OF THE ELMWOOD BUSINESS IMPROVEMENT DISTRICT  
AND LEVYING OF ASSESSMENT FOR 2023**

**The public may participate in this hearing by remote video or in-person.**

The Elmwood Business Improvement District (BID) Advisory Board is proposing that the Berkeley City Council confirm the Annual Report of the Elmwood BID for 2022 and levy an assessment for 2023.

The hearing will be held on, **Tuesday, December 6, 2022 at 6:00 p.m.** at the Berkeley Unified School District Board Room located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City’s website at <https://berkeleyca.gov/> as of **November 23, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers. Communications to the Berkeley City Council 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 the City Council, 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 City Clerk. 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 City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

For further information, please contact Kieron Slaughter, Office of Economic Development, at 510-981-2490.

**Published:** Resolution of Intention No. 70,591-N.S. November 25, 2022 –Berkeley Voice

As required by Streets and Highways Code Section 36534.

~~~~~

I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek

Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 23, 2022.

Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING
December 6, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: David Sprague, Interim Fire Chief, Berkeley Fire Department
 Subject: Adoption of the 2022 California Fire Code with Local Amendments – Second Reading

RECOMMENDATION

Conduct a public hearing and upon conclusion adopt the second reading of Ordinance No. 7,845-N.S. repealing and reenacting the Berkeley Fire Code, including amendments to the California Fire Code as outlined in the proposed ordinance, plus Appendix Chapters D, E, F, L (as amended by BMC 19.48.020, Amendments to the California Fire Code) and O published by the International Code Council not included in the California Building Standards Code, as Berkeley Municipal Code Chapter 19.48.

FISCAL IMPACTS OF RECOMMENDATION

The fiscal impact to the City will be approximately \$15,000 for the purchase of new fire codebooks, inspection guides, inspection forms, and training. The fire department has allocated the expenditure as part of its FY 2023 budget. Neither the new State code overall, or our continuing or new local amendments are expected to create significant cost increases for homeowners, builders or developers.

CURRENT SITUATION AND ITS EFFECTS

As part of a regular three-year cycle, the California Building Standards Commission promulgated the 2022 California Fire Code. The California Fire Code as referred to in Title 24 Part 9 of the California Code of Regulations will take effect on January 1, 2023. The Fire Code provides minimum standards for fire and life safety. The State of California amends and adopts a model fire code every three years.

To create the 2022 California Fire Code, the State of California amended and adopted a model fire code published by the International Code Council. The 2022 California Fire Code reflects the 2021 International Fire Code (“IFC”) with State amendments. Local jurisdictions must enforce the California Fire Code, as adopted by the state, 180 days after publication.

BACKGROUND

The City of Berkeley has unique climatic, geological, and topographical conditions, which require local amendments to mitigate potential hazards, and to reduce loss of life caused by fires or natural disasters. To address local fire and life safety impacts, the City of Berkeley has adopted local amendments to address sprinkler system and fire alarm requirements for existing hotels, fraternities, sororities, window bars, smoke detectors, and firefighter safety and operations in high-rise construction. Without the adoption of the local amendments, the new and past amendments cannot be enforced. At the November 15, 2022 meeting, Council adopted Resolution No. 70,611-N.S. which sets forth findings of local conditions that require more stringent regulations than those provided by the 2022 California Fire Code.

The City of Berkeley also creates and adopts by resolution a fee schedule which specifies fees associated with operational and construction permits required by the fire code, and for other general and specific fire inspection services as well as establishing billing and collection procedures and setting forth delinquency charges. At the November 15, 2022 meeting, Council adopted Resolution No. 70,612-N.S. setting forth such fees.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Unwanted fires have a significant, detrimental effect on the environment, climate, and the sustainability of our society. Unwanted fires have impacts which include air particulate, fire gas and carbon dioxide emissions and runoff of water contaminated when it is used to extinguish fires. Firefighting efforts generally use treated potable water that must be processed and transported into the City via a water utility service at some financial expense and expense to the City's overall carbon-footprint. Fires also damage structures and other built-environment infrastructure that ultimately must be removed and replaced, further increasing the city's carbon-footprint. The adoption of a strong fire code ultimately serves to reduce the frequency, severity and cost of fires to society, environment, and the climate.

RATIONALE FOR RECOMMENDATION

Local amendments to the California Fire Code must be adopted every three years, or the state code goes into effect without local amendments. Adoption of local amendments and findings-of-fact are needed to customize the state code to Berkeley's particular topographic, geologic and climatic conditions.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Steven Riggs, Fire Marshal, Berkeley Fire Prevention and Office of Emergency Services, (510) 981-5585

Attachments:

- 1: Ordinance
- 2: Public Hearing Notice

ORDINANCE NO. 7,845–N.S.

REPEALING AND RE-ENACTING BERKELEY MUNICIPAL CODE CHAPTER 19.48
(FIRE CODE)

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 19.48 is hereby repealed and reenacted as to read as follows:

Section 19.48.010 Adoption of California Fire Code

- A. The California Fire Code, 2022 edition, as adopted in Title 24, Part 9 of the California Code of Regulations, including Chapter 1 (excluding Section 103), Chapter 3, Section 503 of Chapter 5, Sections 1103.5.6 through 1103.5.6.3 (new sections as created by BMC 19.48.020, Amendments to the California Fire Code), Appendix Chapters D, E, F, L (as amended by BMC 19.48.020, Amendments to the California Fire Code) and O published by the International Code Council not included in the California Building Standards Code, are adopted by this reference into this Chapter, and are hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth this ordinance. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.
- B. This chapter shall be known as the "Berkeley Fire Code" and shall be referred to in this chapter as "this code".
- C. This Chapter will become effective on January 1, 2023.

Section 19.48.020 Amendments to the California Fire Code

The following additions, changes and deletions to the 2022 California Fire Code, as detailed below, are adopted as part of the Berkeley Fire Code.

- A. **Section 101.1 Title [Amended subsection].** ~~These regulations shall be known as the *Fire Code* of [NAME OF JURISDICTION], including the local amendments to the California Fire Code set forth in this ordinance, shall be known as the Berkeley Fire Code, hereinafter referred to as "this code."~~
- B. **Section 107.7. Expense of securing emergencies [Additional subsection]** The expense of securing any emergency that is within the responsibility for enforcement of the fire code official as given in Sections 104.1 or 104.11 is a charge against the person who caused the emergency. Damages and expenses incurred by any public agency having jurisdiction or any public agency assisting the agency having jurisdiction shall constitute a debt of such person and shall be collectible by the fire code official for proper distribution in the same manner as in the case of an obligation under contract expressed or implied. Expenses as stated above shall include, but not be limited to, equipment and personnel committed and any payments required by the public agency to outside business firms requested by the public agency to secure the emergency, monitor remediation, and clean up.

- C. **Section 102.6 Historic buildings. [Amended subsection]** The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings where such buildings or structures do not constitute a distinct hazard to life or property. Fire protection in designated historic buildings shall be provided ~~with an approved fire protection plan as required in Section 1103.1.1. in~~ accordance with the 2022 California Historical Building Code.
- D. **Section 104.13. Authority to arrest and issue citations [Additional subsection]** The Fire Chief, Chief Officers, Fire Marshal, Deputy Fire Marshal, and Fire Inspectors shall have authority to arrest or to cite any person who violates any provision of this Chapter involving the International Fire Code or the California Building Standards Code regulations relating to fire and panic safety as adopted by the State Fire Marshal, in the manner provided for the arrest or release on citation and notice to appear with respect to misdemeanors or infractions, as prescribed by Chapters 5, 5c and 5d of Title 3, Part 2 of the California Penal Code, including Section 853.6, or as the same hereafter may be amended. It is the intent of the City Council that the immunities provided in Penal Code Section 836.5 are applicable to aforementioned officers and employees exercising their arrest or citation authority within the course and scope of their employment pursuant to this Chapter.
- E. **Section 104.14 Authority to abate fire nuisance [Additional subsection].** The Fire Chief, Chief Officers, Fire Marshal, Deputy Fire Marshal, Fire Inspectors, Fire Officers and Acting Fire Officers shall have the authority to order the abatement of fire nuisances.
- F. **105.5.18 Flammable and combustible liquids. [Amended subsection]** An operational permit is required:
1. To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the offsite transportation in pipelines regulated by the Department of Transportation (DOTn) nor does it apply to piping systems.
 2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:
 - 2.1. The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire code official, would cause an unsafe condition.
 - 2.2. The storage or use of paints, oils, varnishes or similar flammable mixtures where such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.
 3. To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment.

4. To store, handle or use Class IIIB liquids in excess of 110 gallons in containers, or in tanks or portable tanks for fueling motor vehicles at motor fuel-dispensing facilities or where connected to fuel-burning equipment.
Exception: Fuel oil and used motor oil used for space heating or water heating.
5. To remove Class I or II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.
6. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
7. To place temporarily out of service (for more than 90 days) an underground, protected above-ground or above-ground flammable or combustible liquid tank.
8. To change the type of contents stored in a flammable or combustible liquid tank to a material that poses a greater hazard than that for which the tank was designed and constructed.
9. To manufacture, process, blend or refine flammable or combustible liquids.
10. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or to engage in on-demand mobile fueling operations in accordance with Section 5707.
11. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles, marine craft and other special equipment at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or, where required by the fire code official, to utilize a site for on-demand mobile fueling operations in accordance with Section 5707.

- G. **Section 105.5.55 Christmas tree sales lot. [Additional subsection]** An operational permit is required to operate a Christmas tree sales lot.
- H. **Section 105.5.56 Escort convoy service [Additional subsection]** Police and/or Fire Department convoy service for vehicle transportation of extremely hazardous materials.
- I. **Section 105.5.57 Fire Fighter Air Replenishment System (FARS). [Additional subsection]** An annual operational permit is required to maintain a FARS system in accordance with Appendix L.
- J. **Section 105.5.58 General use permit. [Additional subsection]** For any activity or operation not specifically described in this code, which the fire code official reasonably determines, may produce conditions hazardous to life or property.
- K. **Section 105.5.59 Parking facility, special events [Additional subsection]** An operational permit is required to use buildings or structures for vehicle parking, including parking for special events (i.e. football games, etc.).

- L. **Section 105.6.25 Fire fighter air replenishment system (FARS). [Additional subsection]** A construction permit is required for installation of or modification to a FARS system in accordance with Appendix L.
- M. **Section 105.6.26 Window bars, operational constraints and opening control devices. [Additional subsection]** A construction permit is required to install window bars or other equipment which imposes operational constraints and opening controls on emergency escape and rescue openings on exterior doors or windows of any sleeping rooms in accordance with fire code Section 1031.2.1 of this code.
- N. **Section 107.2 Schedule of permit fees. [Amended subsection]** Where a permit is required, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing body. ~~Of fees for permits and inspections as set forth by the City Council by resolution.~~
- O. **Section 107.4 Work commencing before permit issuance [Amended subsection]**. A person who commences any work, activity or operation regulated by this code before obtaining the necessary permits shall be subject to a fee established by the applicable governing authority, which shall be in addition to the required permit fees. ~~equivalent to three times the amount of the required fees to obtain a permit for that work, activity or operation regulated by this code.~~
- P. **SECTION 111 MEANS OF APPEALS [Amended Section]**
- Q. **Section 111.1 Board of appeals established. Appeals Procedure [Amended subsection]** In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, ~~there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official. An appeal therefore may be taken to the City Council by the applicant or permit holder. Notice of the appeal must be filed in triplicate with the City Clerk of the City of Berkeley within ten days from the date of mailing of the fire code official's decision to the applicant or permit holder. The notice of appeal shall contain a statement of the reasons for the appeal. The City Clerk shall forward one copy thereof to the fire code official. Within ten days after the filing of the notice of appeal, the fire code official shall transmit to the City Council all his/her records pertaining to the decision appealed from.~~
- R. **Section 111.1.1 Stay of Proceedings [Additional subsection]** The filing of the notice of appeal shall stay all proceedings by all parties in connection with the matter upon which the appeal is taken until determination of the appeal as hereinafter provided, unless the fire code official determines that such a stay could result in an imminent threat to public safety.

- S. Section 111.3 Qualifications.** ~~The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems, and are not employees of the jurisdiction.~~ **Decisions [Amended subsection]** The City Council shall review the action of the fire code official and shall do any one of the following:
- a. Refer the matter back to the fire code official.
 - b. If the facts stated in or ascertainable from the application, the Notice of Appeal, the written statement of the fire code official setting forth the reason for his/her decision, and the other papers, if any, constituting the record do not, in the opinion of the City Council, warrant further hearing, the City Council may affirm the decision of the fire code official. Such decision shall be final.
 - c. If, in the opinion of the City Council, said facts warrant further hearing, the City Council shall set the matter for hearing and shall give notice of the time and place of said hearing by mailing a copy of such notice by certified mail to the address of the applicant as stated in the Notice of Appeal, at least ten (10) days before the time fixed for the hearing. The City Council may continue the hearing from time to time.
 - d. Following such hearing, the City Council shall reverse, affirm wholly or partly modify any decision of the fire code official, or make any other decisions or determinations or impose such conditions as the facts warrant. Such decision or determination shall be final.
 - e. If none of the above actions have been taken by the City Council within thirty (30) days from the date the appeal first appears on the City Council agenda, then the decision of the fire code official shall be deemed affirmed and the appeal shall be deemed dismissed.
 - f. If the appeal is set for hearing but the disposition of the appeal has not been determined within ninety (90) days from the date the appeal first appears on the City Council agenda, then the decision of the fire code official shall be deemed affirmed and the appeal deemed dismissed.
- T. Section 112.1 Unlawful acts [Amended subsection].** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code, or to create, maintain or allow to continue any fire hazard.
- U. Section 112.4 Violation penalties [Amended subsection].** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment misdemeanor, but may be cited or charged, at the election of the enforcing officer or City Attorney, as infractions, subject to an election by the defendant under Penal Code Subsection 17 (d). Each day that a violation continues after due notice has been served shall be deemed a separate offense. In

addition to all other legal remedies, civil or criminal (as set forth above), any violation of this code constitutes a public nuisance in accordance with B.M.C Chapter 1.26, and is subject to all provisions of B.M.C. Chapter 1.26, as well as abatement under B.M.C. Chapter 1.24, "Abatement of Nuisances". All such violations are also subject to the issuance of an administrative citation in accordance with B.M.C Chapter 1.28 at the discretion of the enforcing officer or the City Attorney.

- V. **Section 114.7 Summary abatement [Amended subsection]** Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code. Where the owner does not comply with an abatement order under Section 114.4 within the period specified, the City of Berkeley may perform or cause to be performed the necessary work. The costs incurred shall be recoverable under the procedures in Section 114.7.1
- W. **Section 114.7.1 Abatement process [Additional subsection]** The abatement process shall be conducted in accordance with the notice and hearing requirements of the nuisance abatement provisions of Berkeley Municipal code chapter 1.24, including summary abatements of structures or premises determined by the City of Berkeley to constitute an imminent hazard or emergency condition.
- X. **Section 202 Definitions – B [Additional definition] BERKELEY MARINA.** The area shall mean all those, parts of the City of Berkeley west of the Interstate 80 Freeway
- Y. **Section 202 (Definitions — F) [Additional definition] FIRE HAZARD.** Anything or act which increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire or anything or act which could obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire. Fire hazards as defined herein are hereby declared to be public nuisances subject to abatement by the City of Berkeley.
- Z. **Section 202 (Definitions — F) [Additional definition] FIRE NUISANCE.** Anything or act, which is annoying, unpleasant, offensive or obnoxious because of fire.
- AA. **Section 202 (Definitions – J [Amended definition]. JURISDICTION.** The City of Berkeley. The governmental unit that has adopted this code.
- BB. **Section 202 (Definitions — W) [Additional definition] WASTE OIL** is a Class III-B waste liquid resulting from the use of Class III-B combustible liquids such as waste motor oil, hydraulic oil, lubricating oil, brake fluids and transmission fluids.
- CC. **Section 504.1.1 Marking of Exterior Building Openings [Additional subsection].** Where exterior doorways are not otherwise marked with identification such as building addresses, room/suite numbers or business names which identify

the area(s) they provide access to, or a functional description for the space, such opening shall be provided with signs or labels indicating the areas they serve. Doorways to be marked shall include but are not limited to doors serving building circulation (such as stairwells/exit passageways), potential hazards (such as trash rooms), and building service and utility spaces (such as electrical, gas, HVAC and elevator machine rooms). Signs/labels shall be permanent, weather and sunlight resistant with lettering not less than 3/4" high with a 1/16" width stroke on a contrasting background. Such signs or labels shall be affixed to the door frame or wall above the door. Such signs and labels shall be maintained.

Exception: Doors associated with private dwellings, the main entrance to normally occupied spaces or when determined to be unnecessary by the fire code official.

DD. Section 705.2.5 Smoke- and heat-activated doors. [Amended subsection]

Smoke-activated doors shall be maintained to self-close or automatically close upon detection of smoke. Existing fusible-link-type automatic-door closing devices are permitted if the fusible-link rating does not exceed 135°F (57°C). Doors required for fire and smoke separation for interior exit stairways and floor separation in R-1 or R-2 occupancies shall not be maintained in an open position with fusible links.

EE. Section 903.2.10.1 Commercial parking garages [Amended subsection]. An automatic sprinkler system shall be provided throughout buildings used for storage of commercial motor vehicles ~~where the fire area exceeds 5,000 square feet (464 m²).~~

FF. Section 903.2.11.1 Stories without openings [Amended subsection]. An automatic sprinkler system shall be installed throughout all buildings having stories, including basements, of all buildings where the floor area exceeds 1,500 square feet (139.4 m²) and where the story does not comply with the following types of exterior wall openings:

1. Openings below grade that lead directly to ground level by an exterior stairway complying with Section 1011 or an outside ramp complying with Section 1012. Openings shall be located in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on not fewer than one side. The required openings shall be distributed such that the lineal distance between adjacent openings does not exceed 50 feet (15 240 mm).
2. Openings entirely above the adjoining ground level totaling not less than 20 square feet (1.86 m²) in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on not fewer than one side. The required openings shall be distributed such that the lineal distance between adjacent openings does not exceed 50 feet (15 240 mm) The height of the bottom of the clear opening shall not exceed 44 inches (1118 mm) measured from the floor.

GG. Section 903.2.11.2.Rubbish, Recycling and linen chutes. [Amended subsection] An automatic sprinkler system shall be installed at the top of rubbish and linen chutes and in their terminal rooms. Chutes shall have additional sprinkler heads installed at alternate floors and at the lowest intake. Where a rubbish chute

extends through a building more than one floor below the lowest intake, the extension shall have sprinklers installed that are recessed from the drop area of the chute and protected from freezing in accordance with Section 903.3.1.1. Such sprinklers shall be installed at alternate floors, beginning with the second level below the last intake and ending with the floor above the discharge. Access to sprinklers in chutes shall be provided for servicing. Activation of any fire sprinkler in a chute shall activate a separate water flow switch to indicate waterflow in the chute. All fire sprinklers in the chute shall be controlled by a separate, electrically supervised control valve with tamper switch.

HH. **Section 903.2.22 Structures in the Berkeley Marina Area [Additional subsection]** An automatic sprinkler system shall be installed in all structures located in the Berkeley Marina Area in accordance with NFPA 13 standards.

Exceptions: Gear lockers not designed to permit human entry, municipal restrooms unattached to other structures, the existing City of Berkeley Harbor Master's office, and any temporary construction site structures.

II. **Section 903.2.23 Public Self-Storage Buildings [Additional subsection]** An automatic sprinkler system shall be installed in any building erected or existing building that was converted and/or subdivided for public self-storage use on or after August 19, 1982, in accordance with NFPA 13 standards.

JJ. **Section 903.2.24 Environmental Safety - Residential District [Additional subsection]** *Reserved.*

KK. **Section 903.3.1.2 NFPA 13R sprinkler systems. [Amended subsection]**

Automatic sprinkler systems in Group R occupancies shall be permitted to be installed throughout in accordance with NFPA 13R *as amended in Chapter 80.*

1. Four stories or less above grade plane.
2. The floor level of the highest story is 30 feet (9144mm) or less above the lowest level of fire department vehicle access.
3. The floor level of the lowest story is 30 feet (9144mm) or less below the lowest level of fire department access.

The number or stores of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 of the *California Building Code* shall be measured from grade plane.

Exception: Sprinkler systems in residential / commercial mix-use buildings are to be in accordance with NFPA 13.

LL. **Section 903.3.9 Floor control valves. [Amended subsection]** Floor control valves and waterflow detection assemblies shall be installed at each floor where any of the following occur:

1. Buildings where the floor level of the highest story is located ~~more than~~ or more above the lowest level of fire department vehicle access.
2. Buildings that are ~~four~~ three or more stories in height.
3. Buildings that are two or more stories below the highest level of fire department vehicle access.

Exception: In Group R-3 and R-3.1 occupancies, floor control valves and waterflow detection assemblies shall not be required.

MM. Section 907.2 Where required—new buildings and structures [Amended subsection]. An approved fire alarm system installed in accordance with the provisions of this code and NFPA 72 shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.29 and provide occupant notification in accordance with Section 907.5, unless other requirements are provided by another section of this code.

Not fewer than one manual fire alarm box shall be provided in an approved location to initiate a fire alarm signal for fire alarm systems employing automatic fire detectors or water-flow detection devices. Where an automatic and manual, or a manual fire alarm system is required by this code or Berkeley local ordinance, other sections of this code allow elimination of fire alarm boxes is prohibited. ~~due to sprinklers or automatic fire alarm systems,~~ a single fire alarm box shall be installed at a location approved by the enforcing agency.

Exceptions:

- ~~1. The manual fire alarm box is not required for fire alarm control units dedicated to elevator recall control, supervisory service and fire sprinkler monitoring.~~
- ~~2. The manual fire alarm box is not required for Group R-2 occupancies unless required by the fire code official to provide a means for fire watch personnel to initiate an alarm during a sprinkler system impairment event. Where provided, the manual fire alarm box shall not be located in an area that is open to the public.~~
- ~~3. The manual fire alarm box is not required to be installed when approved by the fire code official.~~

NN. Section 907.2.1 Group A. [Amended subsection] A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group A occupancies where the occupant load due to the assembly occupancy is 300 or more, or where the Group A occupant load is more than 100 persons above or below the lowest level of exit discharge. Group A occupancies not separated from one another in accordance with Section 707.3.10 of the *California Building Code* shall be considered as a single occupancy for the purposes of applying this section. Portions of Group E occupancies occupied for assembly purposes *with an occupant load of less than 1000* shall be provided with a fire alarm system as required for the Group E occupancy.

Exception: ~~Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.~~

Every Group A building used for educational purposes shall be provided with a manual or automatic fire alarm system. This provision shall apply to, but shall not necessarily be limited to, every community college and university.

Exception: *Privately owned trade or vocational schools or any firm or company which provides educational facilities and instruction for its employees.*

OO. Section 907.2.2 Group B. [Amended subsection] A manual fire alarm system, which activates the occupant notification system in accordance with Section 907.5,

shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The fire area contains an ambulatory care facility.
4. *For Group B occupancies containing educational facilities, see Section 907.2.2.2.*

~~**Exception:** Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.~~

PP. **Section 907.2.4 Group F. [Amended subsection]** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group F occupancies where both of the following conditions exist:

1. The Group F occupancy is two or more stories in height.
2. The Group F occupancy has a combined occupant load of 500 or more above or below the lowest level of exit discharge.

~~**Exception:** Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.~~

QQ. **Section 907.2.7 Group M. [Amended subsection]** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group M occupancies where one of the following conditions exists:

1. The combined Group M occupant load of all floors is 500 or more persons.
2. The Group M occupant load is more than 100 persons above or below the lowest level of exit discharge.

Exceptions:

1. A manual fire alarm system is not required in covered or open mall buildings complying with Section 402 of the *California Building Code*.
2. ~~Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will automatically activate throughout the notification zones upon sprinkler water flow.~~

RR. **Section 907.2.8.1 Manual fire alarm system [Amended subsection].** A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-1 occupancies.

Exceptions:

1. ~~A manual fire alarm system is not required in buildings not more than two stories in height where all individual sleeping units and contiguous attic and crawl spaces to those units are separated from each other and public or common areas by not less than 1-hour fire partitions and each individual sleeping unit has an exit directly to a public way, egress court or yard.~~

~~2. Manual fire alarm boxes are not required throughout the building where all the following conditions are met:~~

~~2.1. The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~2.2. The notification appliances will activate upon sprinkler water flow.~~

~~2.3. Not fewer than one manual fire alarm box is installed at an approved location.~~

SS. Section 907.2.8.2 Manual and Automatic fire alarm systems ~~smoke detection system~~ [Amended subsection]. ~~An A manual and automatic smoke detection fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior corridors and common areas of Group R-1 occupancies. The detection device for this purpose shall be a smoke detector (or heat detector as approved), which is system connected and electronically supervised serving sleeping units.~~

Exception: ~~An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.~~

TT. Section 907.2.9.1 Automatic and Manual fire alarm system [Amended subsection]. ~~An automatic and manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where any of the following conditions apply:~~

- ~~1. The building is three or more stories in height and Any any dwelling unit or sleeping unit is located three or more stories above the lowest level of exit discharge.~~
- ~~2. Any dwelling unit or sleeping unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit.~~
- ~~3. The building contains more than 16 dwelling units or sleeping units.~~
- ~~4. Congregate residences with more than 16 occupants.~~

Exceptions:

- ~~1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by not less than 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, egress court or yard.~~
- ~~2. Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and the occupant notification appliances will automatically activate throughout the notification zones upon a sprinkler water flow.~~
- ~~3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2,~~

provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1027.6, Exception 3.

UU. Section 914.3.9 Fire Fighter Air Replenishment Systems [Additional subsection] New high-rise buildings shall install an approved Fire Fighter Air Replenishment System (FARS) or equivalent equipment or systems as determined by the fire code official to provide a breathing air supply for firefighting self-contained breathing air tanks. Such system or equipment shall provide adequate pressurized breathing air supply through a permanent piping system or other means acceptable to the fire code official for the replenishment of portable life sustaining air equipment carried by fire department, rescue and other personnel in the performance of their duties. Design, installation, testing and maintenance of such air replenishment systems shall be made in accordance with Appendix Chapter F of the California Plumbing Code. Each property owner shall be responsible for maintaining such equipment or systems including annual air sampling and testing.

Exceptions:

1. Buildings equipped with Firefighter Access Elevators as required by Berkeley Building Code section 403.6.1
2. Where an alternate method of supplying breathing air replenishment is approved by the fire code official.

VV. Section 1103.5 Sprinkler systems. [Amended subsection] An automatic sprinkler system shall be provided in existing buildings in accordance with Section 1103.5.1 through 1103.5.5-6.3

WW. Section 1103.5.6 Automatic Sprinkler Requirements for Existing Hotels [Additional subsection]

XX. Section 1103.5.6.1 Definitions [Additional subsection]. For the purposes of this Section, the following terms shall be defined as follows:

1. "Hotel" shall mean any building, including motels, dormitories, rooming houses, fraternity houses and sorority houses, which contain six or more rooms which were intended or designed to be used, or which are used, for the purposes of renting, hiring or letting to residential occupants for sleeping purposes but shall not include apartment buildings as defined in this code.
2. "Story" is as defined in the Berkeley Building Code.
3. "First Story" is as defined in the Berkeley Building Code.
4. "Basement" is as defined in the Berkeley Building Code.
5. "Balcony, Exterior Exit" shall mean a landing or porch projecting from the wall of a building which serves as a required exit. The long side shall be at least 50 percent directly open to the exterior, and the open area above the guardrail shall be so configured as to prevent the accumulation of smoke or toxic gases.

Application: This section shall apply to every hotel in which the rooms used for sleeping are rented or let above the ground floor, if the hotel was built prior to 1992, and also meets one of the following two conditions:

The height of the hotel is three or more stories or two stories plus an inhabited basement, which is used for purposes other than exclusively servicing the maintenance and other needs of the building; or the hotel contains 20 or more rooms, or regularly accommodates 20 or more residential occupants.

Exception: No hotel in which the exits from sleeping rooms lead either to the outside of the building either directly or via approved exit balconies with approved exterior stairways(s) in accordance with the requirements of the Berkeley Building Code is required to comply with this section.

YY. **Section 1103.5.6.2 Types of Fire Sprinklers [Additional subsection].** In the sleeping units of the building, only residential or quick response sprinkler heads shall be used.

ZZ. **Section 1103.5.6.3 Supervision of fire sprinkler systems [Additional subsection].** All automatic sprinkler systems installed under this subsection shall be monitored for supervision and alarms in accordance with Section 903.4.

Section 1103.7 Fire Alarm Systems [Amended subsection]. An approved fire alarm system shall be installed in existing buildings and structures in accordance with Sections 1103.7.1 through 1103.7.6 and provide occupant notification in accordance with Section 907.5 unless other requirements are provided by other sections of this code. Existing high-rise buildings shall comply with Section 1103.7.9. Where an automatic and manual or a manual fire alarm system is required by this code or Berkeley local ordinance, elimination of fire alarm boxes in buildings equipped with an approved sprinkler system is prohibited.

Exception: Occupancies with an existing, previously approved fire alarm system.

AAA. **Section 1103.7.5.1 Group R-1 hotels, and motels, and congregate residences manual and automatic fire alarm system [Amended subsection].** A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in existing Group R-1 hotels, and motels, and congregate residences ~~more than with~~ three or more stories or with more than 20 or more sleeping units.

Exceptions:

- ~~1. A manual fire alarm system is not required in buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by 1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, egress court or yard.~~
- ~~2. A manual fire alarm system is not required in buildings not more than three stories in height with not more than 20 sleeping units and equipped throughout with an automatic sprinkler system installed in accordance with Sections 903.3.1.1 or 903.3.1.2.~~
- ~~3. Manual fire alarm boxes are not required throughout the building where the following conditions are met:~~
 - ~~3.1. The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~
 - ~~3.2. The notification appliances will activate upon sprinkler water flow.~~

3.3. ~~Not less than one manual fire alarm box is installed at an approved location.~~

BBB. Section 1103.7.6 Group R-2 [Amended subsection]. A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in existing Group R-2 occupancies three or more stories in height or with 16 or more dwelling or sleeping units. Congregate residences shall retrofit existing manual-only fire alarm systems with manual and automatic fire detection. Other types of R-2 occupancies (such as apartment buildings) shall retrofit existing manual-only fire alarm systems with manual and automatic fire detection when the existing fire alarm control unit is replaced for any reason. Automatic detection shall be accomplished by use of a smoke detector (or heat detector as approved), which is system connected and electronically supervised. Detectors shall be installed in all interior corridors and common areas.

Exceptions:

1. Where each living unit is separated from other contiguous living units by fire barriers having a fire-resistance rating of not less than 3/4 hour, and where each living unit has either its own independent exit or its own independent stairway or ramp discharging at grade.
2. ~~A separate fire alarm system is not required in buildings that are equipped throughout with an approved supervised automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and having a local alarm to notify all occupants.~~
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open ended corridors designed in accordance with Section 1027.6, Exception 3.
4. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units, do not exceed three stories in height and comply with both of the following:
 - 4.1. Each dwelling unit is separated from other contiguous dwelling units by fire barriers having a fire-resistance rating of not less than ¾ hour.
 - 4.2. Each dwelling unit is provided with smoke alarms complying with the requirements of Section 907.2.11.

CCC. Section 1103.7.10 Monitoring of Group R Occupancies [Additional subsection] All existing R occupancies that are required to provide both a fire alarm and fire suppression system shall have the system monitored by a central station, remote supervising station, or proprietary supervising station.

DDD. Section 4902.1 General [Amended subsection]. *For the purpose of this chapter, certain terms are defined as follows:*

DIRECTOR. *Director of the California Department of Forestry and Fire Protection (CAL FIRE).*

FIRE PROTECTION PLAN [Amended definition]. A document prepared for a specific premises, project or development, either existing or proposed for a Wildland-Urban Interface (WUI) Fire Area. It describes ways to minimize and mitigate potential for loss from wildfire exposure.

FIRE HAZARD SEVERITY ZONES. Geographical areas designated pursuant to California Public Resources Codes, Sections 4201 through 4204 and classified as Very High, High, or Moderate in State Responsibility Areas or as Local Agency Very High Fire Hazard Severity Zones designated pursuant to California Government Code, Sections 51175 through 51189.

The California Code of Regulations, Title 14, Section 1280 entitles the maps of these geographical areas as "Maps of the Fire Hazard Severity Zones in the State Responsibility Area of California."

FIRE ZONE ONE [Additional definition] shall encompass the entire City of Berkeley except for Fire Zones Two and Three.

FIRE ZONE TWO [Additional definition] encompasses those areas designated as Combined Hillside District in the Official Zoning map of the City of Berkeley and those areas designated as Very High in the official Fire Hazard Severity Zones (FHSZ) map of the California Department of Forestry and Fire Protection (CAL FIRE), as they may be amended from time to time. The following properties, not part of the Combined Hillside District, are included in Fire Zone Two under the Very High designation of the FHSZ map: the eastern section of the University of California, Berkeley main campus, block number 2042 (Alameda County Assessor’s parcel numbering (APN) system), to the east city line; all of the Clark-Kerr campus, block number 7690, to the east city line; all of block number 7680 in the City of Berkeley; portions of block number 1702 in the City of Berkeley. These additional parcels and their assigned street address are established in Section 19.28.030 of the Berkeley Municipal Code, Berkeley Building Code and are specified in Table 4902.1.

Table 4902.1

Parcels Added to the Berkeley Combined Hillside District	
Parcel Number (APN)	Address
<u>048-7680-001-02</u>	<u>3 Tanglewood Road</u>
<u>048-7680-002-01</u>	<u>5 Tanglewood Road</u>
<u>048-7680-031-00</u>	<u>7 Tanglewood Road</u>
<u>048-7680-019-00</u>	<u>11 Tanglewood Road</u>
<u>048-7680-014-00</u>	<u>19 Tanglewood Road</u>
<u>048-7680-032-01</u>	<u>25 Tanglewood Road</u>
<u>048-7680-027-00</u>	<u>29 Tanglewood Road</u>
<u>054-1702-067-00</u>	<u>10 Tanglewood Road</u>
<u>054-1702-068-00</u>	<u>18 Tanglewood Road</u>
<u>054-1702-069-00</u>	<u>22 Tanglewood Road</u>
<u>054-1702-070-00</u>	<u>28 Tanglewood Road</u>
<u>054-1702-063-00</u>	<u>2701 Belrose Avenue</u>
<u>054-1702-076-00</u>	<u>2715 Belrose Avenue</u>
<u>054-1702-075-00</u>	<u>2721 Belrose Avenue</u>
<u>054-1702-074-00</u>	<u>2729 Belrose Avenue</u>
<u>054-1702-073-00</u>	<u>2737 Belrose Avenue</u>
<u>054-1702-112-00</u>	<u>2801 Claremont Boulevard</u>

<u>054-1702-123-01</u>	<u>2811 Claremont Boulevard</u>
<u>054-1702-122-00</u>	<u>2815 Claremont Boulevard</u>
<u>054-1702-120-01</u>	<u>2821 Claremont Boulevard</u>
<u>054-1702-114-01</u>	<u>2816 Claremont Avenue</u>
<u>054-1702-115-00</u>	<u>2820 Claremont Avenue</u>
<u>054-1702-072-00</u>	<u>3005 Garber Street</u>
<u>054-1702-071-00</u>	<u>3015 Garber Street</u>
<u>054-1702-113-00</u>	<u>3020 Garber Street</u>
<u>054-1702-116-00</u>	<u>3017 Avalon Avenue</u>

Fire Zone Two is declared as a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface fire area.

FIRE ZONE 3 [Additional definition] encompasses those areas designated as Environmental Safety - Residential Districts on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time. Fire Zone Three is declared as a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface fire area.

FIRE-RESISTANT VEGETATION. *Plants, shrubs, trees and other vegetation that exhibit properties, such as high moisture content, little accumulation of dead vegetation, and low sap or resin content, that make them less likely to ignite or contribute heat or spread flame in a fire than native vegetation typically found in the region.*

[Note: The following sources contain examples of types of vegetation that can be considered fire-resistant vegetation (Fire-resistant Plants for Home Landscapes, A Pacific Northwest Extension publication; Home Landscaping for Fire, University of California Division of Agriculture and Natural Resources; Sunset Western Garden Book)].

IGNITION-RESISTANT MATERIAL. [Amended definition] *A type of building material that complies with the requirements in Section 704A.2 in the California Berkeley Building Code.*

LOCAL RESPONSIBILITY AREAS (LRA). *Areas of the state in which the financial responsibility of preventing and suppressing fires is the primary responsibility of a city, county, city and county, or district.*

STATE RESPONSIBILITY AREA (SRA). *Lands that are classified by the Board of Forestry pursuant to Public Resources Code Section 4125 where the financial responsibility of preventing and suppressing wildfires is primarily the responsibility of the state.*

WILDFIRE. *Any uncontrolled fire spreading through vegetative fuels that threatens to destroy life, property, or resources as defined in Public Resources Code, Sections 4103 and 4104.*

WILDFIRE EXPOSURE. *One or a combination of radiant heat, convective heat, direct flame contact and burning embers being projected by vegetation fire to a structure and its immediate environment.*

WILDLAND-URBAN INTERFACE FIRE AREA (WUI).[Amended definition] *A geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code, Sections 4201 through 4204, and Government Code, Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. Berkeley Fire Zones*

2 and 3 are designated as Wildland-Urban Interface Fire Areas. See Government Code Chapter 6.8 Very High Fire Hazard Severity Zones and Public Resources Code Article 9 Fire Hazard Severity Area for the applicable referenced sections.

EEE. **Section 4903.3 Submittal, approval and fees. [Additional subsection]** When required to submit a Fire Protection Plan or Vegetation Management Plan for any reason the responsible party shall prepare or cause to be prepared a Fire Protection Plan in accordance with the latest standards of the Berkeley Fire Department. The Fire Protection Plan shall be submitted to, reviewed and approved by the Berkeley Fire Department and shall be enforced and maintained by the responsible party or their designated agent. The Berkeley Fire Department may charge an appropriate fee for the review, approval and processing of the Fire Protection Plan in accordance with the hourly rate established by City Council resolution.

FFF. **Section 4904.4 Berkeley Fire Hazard Severity Zones [Additional subsection].**
FIRE ZONE TWO. Berkeley Fire Zone Two is designated a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface Fire Area. All requirements of Berkeley Fire Code Chapter 49 and Berkeley Municipal Code Section 19.28.030 (Berkeley Building Code, Chapter 7A) and shall apply.
FIRE ZONE THREE. Berkeley Fire Zone Three is designated a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface Fire Area. All requirements of Berkeley Fire Code Chapter 49 and Berkeley Municipal Code Section 19.28.030, Berkeley Building Code, Chapter 7A shall apply.

GGG. **Section 4905.2 Construction methods and requirements within established limits [Amended subsection].** *Within the limits established by law, construction methods intended to mitigate wildfire exposure shall comply with the wildfire protection building construction requirements contained in the California Building Standards Code Berkeley Building and Berkeley Residential Codes, including the following:*

1. *California Building Code, Chapter 7A.* Chapter 7A of the Berkeley Building Code (B.B.C), Berkeley Municipal Code Section 19.28.030.
2. *California Residential Code Section R337* of the Berkeley Residential Code (B.R.C.), Berkeley Municipal Code Section 19.29.050.
3. *California Referenced Standards Code, Chapter 12-7A.*

HHH. **Section 4906.5 Maintenance of existing vegetation [Additional subsection].** Maintenance and management of existing vegetation shall be in accordance with this Section and with Section 4907, "Defensible Space".

III. **Section 4906.5.1 Electrical Equipment Support Clearance [Additional subsection].** Persons owning, controlling, operating or maintaining electrical transmission or distribution lines shall have an approved program in place that identifies poles or towers with equipment and hardware types that have a history of becoming an ignition source, and provides a combustible free space consisting of a clearing of not less than 10 feet (3048 mm) in each direction from

the outer circumference of such pole or tower during such periods of time as designated by the fire code official.

Exception: Lines used exclusively as telephone, telegraph, messenger call, alarm transmission or other lines classified as communication circuits by a public utility.

JJJ. Section 4906.5.2 Electrical Distribution and Transmission Line Clearances [Additional subsection].

KKK. Section 4906.5.2.1 General [Additional subsection]. Clearances between vegetation and electrical lines shall be in accordance with this section.

LLL. Section 4906.5.2.2 Trimming clearance [Additional subsection]. At the time of trimming, clearances not less than those established by Table 4906.5.2 should be provided. The radial clearances shown below are minimum clearances that should be established, at time of trimming, between the vegetation and the energized conductors and associated live parts.

Exception: The fire code official is authorized to establish minimum clearances different than those specified in Table 4906.5.2.2 when evidence substantiating such other clearances is submitted to the fire code official and approved.

TABLE 4906.5.2.2 – MINIMUM CLEARANCES BETWEEN VEGETATION AND ELECTRICAL LINES AT TIME OF TRIMMING

<u>Line Voltage</u>	<u>MINIMUM RADIAL CLEARANCE FROM CONDUCTOR (feet) [x 304.8 mm]</u>
<u>400 – 71,999</u>	<u>4</u>
<u>72,000 – 109,999</u>	<u>6</u>
<u>110,000 – 299,999</u>	<u>10</u>
<u>300,000 or more</u>	<u>15</u>

MMM. Section 4906.5.2.3 Minimum clearance to be maintained [Additional subsection]. Clearances not less than those established by Table 4906.5.2.3 shall be maintained during such periods of time as designated by the fire code official. The site specific clearance achieved, at time of pruning, shall vary based on species growth rates, the utility company specific trim cycle, the potential line sway due to wind, line sway due to electrical loading and ambient temperature, and the tree’s location in proximity to the high voltage lines.

Exception: The fire code official is authorized to establish minimum clearances different than those specified by Table 4906.5.2.3 when evidence substantiating such other clearances is submitted to the fire code official and approved

TABLE 4906.5.2.3 – MINIMUM CLEARANCES BETWEEN VEGETATION AND ELECTRICAL LINES TO BE MAINTAINED

<u>Line Voltage</u>	<u>MINIMUM CLEARANCE (inches)</u>
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	[x 25.4 mm]
750 – 34,999	6
35,000 – 59,999	12
60,000 – 114,999	19
115,000 – 230,000	30-1/2

NNN. **Section 4906.5.3 Electrical power line emergencies [Additional subsection].** During emergencies, the utility company shall perform the required work to the extent necessary to clear the hazard. An emergency can include situations such as trees falling into power lines, or trees in violation of Table 4906.5.2.3.

OOO. **Section 4906.5.4 Correction of Condition [Additional subsection].** The fire code official is authorized to give notice to the owner of the property on which conditions regulated by Section 4906.5 exist to correct such conditions. If the owner fails to correct such conditions, the City of Berkeley is authorized to cause the same to be done and make the expense of such correction a lien on the property where such condition exists.

PPP. **Section 4906.5.5 Clearance of Brush or Vegetative Growth from Roadways [Additional subsection].** The fire code official is authorized to cause areas within 10 feet (3048 mm) from the edge of the pavement on each side of portions of highways, streets and private roads which are improved, designed or ordinarily used for vehicular traffic to be cleared of flammable vegetation and other combustible growth. The fire code official is authorized to enter upon private property to do so.

Exception: Specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

QQQ. **Section 4906.6 Unusual Circumstances [Additional subsection].** If the fire code official determines that difficult terrain, danger of erosion or other unusual circumstances make strict compliance with the clearance of vegetation provisions of Section 4906 undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided.

RRR. **Section 4906.7 Vegetation and combustible material hazards not otherwise regulated [Additional subsection].** No person who has any ownership or possessory interest in or control of a parcel of land shall allow to exist thereon any hazardous vegetation or combustible material which constitutes a fire hazard as determined by the Fire Code Official, regardless of the vegetation or material's proximity to structures.

SSS. **Section 4907.4 Specific requirements. [Additional subsection].** Persons owning, leasing, controlling, operating or maintaining buildings or structures in, or upon Wildland-Urban Interface Fire Areas shall at all times comply with the specific requirements set forth within the references listed in Section 4907.3, as well as the following minimum requirements.

Persons owning, leasing or controlling land adjacent to such buildings or structures that are in the Wildland-Urban Interface Fire Area, regardless of the status of their land as developed or undeveloped, shall at all times comply with the specific requirements set forth within the references listed in Section 4907.3, as well as the following minimum requirements. The minimum area(s) of these properties that are required to comply with Section 4907.3 and the following requirements are to be based on a 100-foot distance from structures on all adjacent lands, unless the fire code official determines that compliance with section 4907.4, Item 2 is required.

Property owners are not required or authorized by this code to enter the properties of another person to implement the requirements of this Section. Persons described above shall at all times:

1. Maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas within 100 feet of such buildings or structures, but not beyond the property line.

In accordance with Government Code Section 51182, the amount and intensity of fuels management may vary within the 100-foot perimeter of the structure as determined by the inspecting fire department personnel, with more intense fuel reduction being used between 5 and 30 feet around the structure, and an ember-resistant zone being required within 5 feet of the structure based on regulations promulgated by the State Board of Forestry and Fire Protection; and

Exception: Specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

2. Maintain additional fire protection or firebreak by removing brush, flammable vegetation and combustible growth located more than 100 feet from such buildings when the fire department determines that conditions exist which may cause a firebreak of 100 feet to be insufficient to provide reasonable fire safety against a wildfire burning under average weather conditions. This section does not require or authorize property owners to manage vegetation beyond their property lines; and.

Exception: Grass and other vegetation, located more than 30 feet (9144 mm) from buildings or structures, and less than four (4) inches (102 mm) in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

3. Remove portions of trees which extend within 10 feet (3048 mm) of the outlet of a chimney or stovepipe; and
4. Maintain trees, shrubs and other plants free of dead wood where such plants are adjacent to, below or overhanging a building, windows, or attached decks; and

5. Maintain the roof and gutters of a structure free of leaves, needles or other dead vegetative growth and debris; and
6. Brush and debris does not need to be completely removed, but may be chipped into pieces less than three (3) inches in length, provided that the resulting mulch is less than three (3) inches deep; and
7. The trunks of trees are to be maintained so that they are free of hanging bark and debris to a height of at least eight (8) feet. Where understory vegetation is present hanging bark and debris must be removed to a height equivalent to four times the height of the understory vegetation or eight (8) feet, whichever is greater.
8. Limb trees and shrubs by removing branches that are within eight feet (8 ft.) of the ground, or four times the height of the understory vegetation, whichever is greater. Where a tree / shrub is not adaptable to limbing to the height described above, use a combination of limbing and/or modify and remove fuels adjacent to and underneath the plant to provide clearance above grade that is equivalent to four times the height of the tallest understory fuel.
9. Relocate wood piles from within 30 feet of structures, or provide an alternative form of protection which will prevent the ignition of the pile or the transmission of fire to a structure.

TTT. **Section 4907.5 Corrective Actions [Additional subsection].** The fire department is authorized to take enforcement actions as necessary to achieve compliance with Chapter 49 of this code, including but not limited those actions specified in Sections 104.13 (“Authority to arrest and issue citations”), 112.4 (“Violation penalties”) and 114.7 (“Summary abatement”) of this code, and as authorized by Berkeley Municipal Code, Chapter 1.24, “Abatement of Nuisances”, and in accordance with all other applicable portions of the Berkeley Municipal Code. Corrective actions may also include the use of abatement warrants and the imposition of property liens as appropriate and in accordance with law.

UUU. **Section 4911 SUPPRESSION AND CONTROL OF WILDLAND-URBAN INTERFACE FIRE AREAS [Additional section]**

VVV. **Section 4911.1 Permit [Additional subsection].** The fire code official is authorized to stipulate conditions for permits. Permits shall not be issued when public safety would be at risk, as determined by the fire code official.

WWW. **Section 4911.2 Restricted Entry [Additional subsection].** The fire code official shall determine and publicly announce when Wildland-Urban Interface Fire Areas shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of Wildland-Urban Interface Fire Areas, except public roadways, inhabited areas or established trails and camp sites which have not been closed during such time when the Wildland-Urban Interface Fire Areas are closed to entry, is prohibited.

Exceptions:

- 1) Residents and owners of private property within Wildland-Urban Interface Fire Areas and their invitees and guests going to or being upon their lands;
- 2) Entry, in the course of duty, by peace officers, and other duly authorized public officers, members of a fire department and members of the United States Forest Service

XXX. Section 4911.3 Trespassing on Posted Property [Additional subsection]

YYY. Section 4911.3.1 General [Additional subsection]. When the fire code official determines that a specific area within a Wildland-Urban Interface Fire Areas presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to the public, such areas shall be closed until changed conditions warrant termination of closure. Such areas shall be posted as hereinafter provided.

ZZZ. Section 4911.3.2 Signs [Additional subsection]. Approved signs prohibiting entry by unauthorized persons and referring to this section shall be placed on every closed area.

AAAA. Section 4911.3.3 Trespassing [Additional subsection]. Entering and remaining within areas closed and posted is prohibited.

Exception: Owners and occupiers of private or public property within closed and posted areas, their guests or invitees, and local, state and federal public officers and their authorized agents acting in the course of duty.

BBBB. Section 4911.4 Smoking [Additional subsection]. Lighting, igniting or otherwise setting fire to or smoking tobacco, cigarettes, pipes or cigars in Wildland-Urban Interface Fire Areas are prohibited.

Exception: Places of habitation or within the boundaries of established smoking areas or campsites as designated by the fire code official.

CCCC. Section 4911.5 Spark Arresters [Additional subsection]. Chimneys used in conjunction with fireplaces, barbecues, incinerators or heating appliances in which solid or liquid fuel is used, upon buildings, structures or premises located within Wildland-Urban Interface Fire Areas shall be provided with a spark arrester. See Berkeley Building Code Section 705A.5 for specifications.

DDDD. Section 4911.6 Tracer Bullets, Tracer Charges, Rockets and Model Aircraft [Additional subsection]. Tracer bullets and tracer charges shall not be possessed, fired or caused to be fired into or across Wildland-Urban Interface Fire Areas. Rockets, model planes, gliders and balloons powered with an engine, propellant or other feature liable to start or cause fire shall not be fired or projected into or across Wildland-Urban Interface Fire Areas.

EEEE. **Section 4911.7 Explosives and Blasting [Additional subsection].** Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported or disposed of within Wildland-Urban Interface Fire Areas except by permit from the fire code official.

FFFF. **Section 4911.8 Fireworks [Additional subsection].** Fireworks shall not be used or possessed in Wildland-Urban Interface Fire Areas. The fire code official is authorized to seize, take, remove or cause to be removed fireworks in violation of this section.

Exception: Fireworks allowed by the fire code official under permit when not prohibited by applicable local or state laws, ordinances and regulations.

GGGG. **Section 4911.9 Apiaries [Additional subsection].** Lighted and smoldering material shall not be used in connection with smoking bees in or upon Wildland-Urban Interface Fire Areas except by permit from the fire code official.

HHHH. **Section 4911.10 Open-Flame Devices [Additional subsection].** See Berkeley Fire Code Sections 308.1.6 Open Flame Devices and 308.1.6.1 Signals and Markers.

IIII. **Section 4911.11 Outdoor Fires [Additional subsection].** Outdoor fires shall not be built, ignited or maintained in or upon Wildland-Urban Interface Fire Areas, except by permit from the fire code official.

Exception: Outdoor fires within habited premises or designated campsites, where such fires are built in a permanent barbecue, portable barbecue, outdoor fireplace, incinerator or grill and are a minimum of 30 feet (9144 mm) from a grass-, grain-, brush or forest-covered area.

Permits shall incorporate such terms and conditions, which will reasonably safeguard public safety and property.

Outdoor fires shall not be built, ignited or maintained in or upon Wildland-Urban Interface Fire Areas under the following conditions:

1. When high winds are blowing,
2. When a person age 17 or over is not present at all times to watch and tend such fire, or
3. When public announcement is made that open burning is prohibited.

Permanent barbecues, portable barbecues, outdoor fireplaces, fire pits or grills shall not be used if solid or liquid fueled.

JJJJ. **Section 4911.12 Incinerators and Fireplaces [Additional subsection].** Incinerators, outdoor fireplaces, fire pits, permanent barbecues and grills shall not be built, installed or maintained in Wildland-Urban Interface Fire Areas without prior approval of the fire code official. Existing incinerators, outdoor fireplaces, fire pits, permanent barbecues and grills shall be maintained in good

repair and in a safe condition at all times. Openings in such appliances shall be provided with an approved spark arrester, screen or door.

Exception: When approved, unprotected openings in barbecues and grills necessary for proper functioning shall be allowed.

KKKK. **Section 4911.13 Dumping [Additional subsection].** Garbage, cans, bottles, papers, ashes, refuse, trash, rubbish or combustible waste material shall not be placed, deposited or dumped in or upon Wildland-Urban Interface Fire Areas or in, upon or along trails, roadways or highways in Wildland-Urban Interface Fire Areas.

Exception: Approved public and private dumping areas.

LLLL. **Section 4911.14 Disposal of Ashes [Additional subsection].** Ashes and coals shall not be placed, deposited or dumped in or upon Wildland-Urban Interface Fire Areas.

Exceptions:

1. In the hearth of an established fire pit, camp stove or fireplace;
2. In a noncombustible container with a tight-fitting lid, which is kept or maintained in a safe location not less than 10 feet (3048mm) from combustible vegetation or structures;
3. Where such ashes or coals are buried and covered with 1 foot (304.8mm) of mineral earth not less than 25 feet (7620 mm) from combustible vegetation or structures.

MMMM. **Section 4911.15 Use of Fire Roads and Firebreaks [Additional subsection].** Motorcycles, motor scooters and motor vehicles shall not be driven or parked upon, and trespassing is prohibited upon, fire roads or firebreaks beyond the point where travel is restricted by a cable, gate or sign, without the permission of the property owner(s). Vehicles shall not be parked in a manner, which obstructs the entrance to a fire road or firebreak.

Exception: Public officers acting within their scope of duty. Radio and television aerials, guy wires thereto, and other obstructions shall not be installed or maintained on fire roads or fire breaks unless located 16 feet (4877 mm) or more above such fire road or firebreak.

NNNN. **Section 4911.16 Use of Motorcycles, Motor Scooters and Motor Vehicles [Additional subsection].** Motorcycles, motor scooters and motor vehicles shall not be operated within Wildland-Urban Interface Fire Areas, without a permit by the fire code official, except upon clearly established public or private roads. Permission from the property owner(s) shall be presented when requesting a permit.

OOOO. **Section 4911.17 Tampering with Fire Department Locks, Barricades and Signs [Additional subsection].** Locks, barricades, seals, cables, signs and markers installed within Wildland-Urban Interface Fire Areas, by or under the control of the fire code official, shall not be tampered with, mutilated, destroyed or removed. Gates, doors, barriers and locks installed by or under the control of the fire code official shall not be unlocked.

PPPP. **Section 4911.18 Liability for Damage [Additional subsection].** The expenses of fighting fires and securing emergencies, which result from a violation of this code, Chapter 6.15.030 of the Berkeley Municipal Code (“Unauthorized barbecues and fire on public property”), Sections 13000-13011 of the California Health and Safety Code, Sections 4421-4446 of the California Public Resources Code, or Sections 451, 451.5, 452 or 455 of the California Penal Code is a charge against the person(s) whose violation of the code section(s) caused the fire. Damages caused by such fires shall constitute a debt of such person(s) and shall be collectable by the fire code official in accordance with Section 107.7 of this code.

QQQQ. **Section 5001.7 Hazardous materials transportation restrictions [Additional subsection]** No vehicle containing hazardous materials, including a hazardous materials transportation tank truck, trailer, semi-trailer or tank wagon containing flammable or combustible liquids, hazardous chemicals, liquefied petroleum gases, poisonous gases, or cryogenic fluids, shall be operated on any city street without a permit from the fire code official. A map showing the proposed route of the vehicle shall accompany applications for such permits. If a permit is granted, the map shall be carried at all times in the vehicle and the vehicle shall not deviate from the approved route as shown on the map. Such a permit may contain conditions, including restrictions on the hours within which certain routes may be used and limitations on the size of the vehicle allowed to travel the approved route. No route shall be approved that includes passage over or adjacent to subway entry or vent structures, through the Northbrae Tunnel, in any area designated an environmental safety residential district by the City of Berkeley's Zoning Ordinance, or in an area which may be designated as a hazardous fire area. Departure from the approved route, travel outside the permitted hours, and violation of any vehicle size limitation imposed, or failure to carry a map showing route approval shall constitute a violation of this Code. The transportation of extremely hazardous materials may, in the discretion of the fire code official, require both a permit and accompaniment by a Fire Department or Police Department convoy. The following streets contain purge chamber openings which lead directly into the subway section of the Bay Area Rapid Transit (BART) System in Berkeley and their use by tank vehicles or trailers for transportation or delivery of flammable or combustible liquids, hazardous chemicals, liquefied petroleum gases, poisonous gases, or cryogenic fluids is prohibited and a violation of this Code:

- a. On Addison Street between Martin Luther King Jr. Way and Oxford Street;
- b. On Shattuck Avenue between University Avenue and Dwight Way;
- c. On Virginia Street between Franklin and Sacramento Streets;
- d. On Sacramento Street between Virginia Street and Hearst Avenue;

- e. On Hearst Avenue between McGee Avenue and Milvia Street;
- f. On Adeline Street between Ward and Stuart Streets; and
- g. On Adeline Street between Ashby Avenue and Woolsey Street

RRRR. **5601.1.3 Fireworks. [Amended subsection]** The possession, manufacture, storage, sale, handling and use of fireworks, including fireworks which are classified as Safe and Sane fireworks by the California State Fire Marshal's Office, are prohibited within the jurisdiction.

Exceptions:

- ~~1. Storage and handling of fireworks as allowed in Section 5604.~~
- ~~2. Manufacture, assembly and testing of fireworks as allowed in Section 5605 and Health and Safety Code Division 11.~~
- ~~31. The use of fireworks for fireworks displays, *pyrotechnics before a proximate audience and pyrotechnic special effects in motion pictures, television, theatrical or group entertainment productions as allowed in Title 19, Division 1, Chapter 6 Fireworks reprinted in Section 5608 and Health and Safety Code Division 11* when stored, transported, handled and used under the required fire department permit(s) and in accordance will all applicable requirements of Chapter 56.~~
42. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks where allowed by applicable laws, ordinances and regulations, provided that such fireworks and facilities comply with NFPA 1124, CPSC 16 CFR Parts 1500 and 1507, and DOTn 49 CFR Parts 100–185, as applicable for consumer fireworks *and Health and Safety Code Division 11.*

SSSS. **Section 5604.1 General. [Amended subsection]** The storage and handling of explosives within City of Berkeley limits is prohibited. Storage of explosives and explosive materials, small arms ammunition, small arms primers, propellant-actuated cartridges and smokeless propellants in magazines shall comply with the provisions of this section

Exception: Where expressly permitted by applicable laws, ordinances or regulations provided such storage and handling of explosives and explosive materials, small arms ammunition, small arms primers, propellant-actuated cartridges and smokeless propellants in magazines is conducted in accordance with Section 5604 and all applicable provisions of Chapter 56.

TTTT. **Section 5701.4.1 Transfer of flammable and combustible liquids.**

[Additional subsection] Transfer to or from containers or mobile tanks, above ground or underground tanks of flammable and combustible liquids shall not be made from or on the street or public way except by written approval by the fire code official.

Exceptions:

1. Transfer of not more than 5 gallons flammable or combustible liquids using a listed or approved portable fuel container of not more than 5 gallons capacity.

2. The transfer of combustible liquids to or from approved, fixed mechanical or electrical system equipment such as a Standby or Emergency electric power generator when the transfer is completed by a commercial fuel vendor using approved dispensing equipment via a previously approved, fixed tank filling port which met code requirements at the time of installation.

UUUU. **Section 5704.2.11.1 Restrictions on underground storage tanks** **[Additional subsection]** The storage of flammable and combustible liquids in underground tanks is prohibited in all areas zoned solely for residential occupancies, closely built commercial properties, and any other area deemed unsafe by the fire code official.

VVVV. **Section 5704.2.13.1.4 Tanks abandoned in place [Amended subsection].** Tanks may be abandoned only under permit and following City of Berkeley Fire Department procedures. The owner shall demonstrate to the satisfaction of the City of Berkeley Toxics Division that no unauthorized release has occurred. If the soil is contaminated, mitigation must be completed to the satisfaction of the Toxics Division. A notice shall be placed in the deed to the property. This notice shall describe the precise location of the closed underground storage tank, the hazardous substances that it contained, and the closure method. Tanks abandoned in place shall be as follows:

1. Flammable and combustible liquids shall be removed from the tank and connected piping.
2. The suction, inlet, gauge, vapor return and vapor lines shall be disconnected.
3. The tank shall be filled completely with an approved inert solid material.
4. Remaining underground piping shall be capped or plugged.
5. A record of tank size, location and date of abandonment shall be retained.
6. All exterior above-grade fill piping shall be permanently removed when tanks are abandoned or removed.

WWWW. **Section 5704.2.14 Removal and disposal of tanks [Amended subsection].** Removal and disposal of tanks shall comply with Sections 5704.2.14.1 and 5704.2.14.2. Removal of all tanks shall be authorized under a fire permit, abiding by City of Berkeley Fire Department procedures. The applicant shall submit the following:

1. **A site plan showing the location of the tanks.**
2. **A detailed description of the scope of work.**
3. **A site safety plan.**
4. **A vicinity map to the closest hospital, in an event of an emergency.**
5. **Proof of workers compensation insurance.**

The owner shall demonstrate to the satisfaction of the City of Berkeley Toxics Division that no unauthorized release has occurred. If the soil is contaminated, mitigation must be completed to the satisfaction of the Toxics Division or the California Water Board.

XXXX. **Section 6104.1.1 Restrictions on storage of LP-gas containers [Additional subsection]** It shall be unlawful to store any liquefied petroleum gas cylinder with a capacity greater than 2-1/2 lbs. water capacity or a portable tank within

any structure or building with an occupancy classification of A, R-1, R-2 or R-4, unless specifically authorized by this Code.

YYYY. Section B105.2 (Appendix B), Table B105.2, “Required Fire-Flow For Buildings Other Than One- And Two-Family Dwellings, Group R-3 And R-4 Buildings And Townhouses” [Amended Table]

**TABLE B105.2
REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND
TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES**

AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE-FLOW (gallons per minute)	FLOW DURATION (hours)
No automatic sprinkler system	Value in Table B105.1(2)	Duration in Table B105.1(2)
Section 903.3.1.1 of the <i>California Fire Code</i>	2550% of the value in Table B105.1(2) ^a	Duration in Table B105.1(2) at the reduced flow rate
Section 903.3.1.2 of the <i>California Fire Code</i>	2550% of the value in Table B105.1(2) ^b	Duration in Table B105.1(2) at the reduced flow rate

For SI: 1 gallon per minute= 3.785 Lit.

a. The reduced fire-flow shall be not less than 1,000 gallons per minute.

b. The reduced fire-flow shall be not less than 1,500 gallons per minute.

ZZZZ. Section L104.5.1 Stored pressure air supply. (Amended subsection) A stored pressure air supply shall be designed based on Appendix Chapter F of the California Plumbing Code Chapter 24 of NFPA 1901 except that the provisions applicable only to mobile apparatus or not applicable to system design shall not apply. A stored pressure air supply shall store not less than 5,000 Standard Cubic Feet (SCF) of air or be capable of refilling not less than 50 empty breathing air cylinders of a size and pressure used by the fire department, whichever is greater.

Section 19.48.030 Validity Should any section, paragraph, sentence or word of this Chapter or of the Code or Standards be declared invalid, all other portions of this Chapter shall remain in effect.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on November 15, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**ADOPTION OF THE 2022 CALIFORNIA FIRE CODE WITH LOCAL
AMENDMENTS**

The public may participate in this hearing by remote video or in-person.

Notice is hereby given that on **DECEMBER 6, 2022 at 6:00 P.M.** at the Berkeley Unified School District Board Room located at 1231 Addison Street, Berkeley CA 94702, the City Council will conduct a public hearing to consider the adoption of the 2022 California Fire Code with Local Amendments as proposed by the Berkeley Fire Department. The adoption will include the non-structural provisions as provided in the 2021 International Fire Code.

A copy of the agenda material for this hearing will be available on the City’s website at <https://berkeleyca.gov/> as of November 23, 2022. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact **Steven Riggs**, Fire Marshal, Berkeley Fire Department at (510) 981-5585.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council 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 the City Council, 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. 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 City Clerk at (510) 981-6900 or clerk@cityofberkeley.info for further information.

Published: November 18 and November 25, 2022 – The Berkeley Voice

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on November 23, 2022.

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Mark Numainville, City Clerk







Office of the City Manager

PUBLIC HEARING

December 6, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department  
Lisa Warhuus, Director, Health, Housing and Community Services Department

Subject: Citywide Affordable Housing Requirements

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance to amend the Berkeley Municipal Code Chapter 23.328, updating the citywide Affordable Housing Requirements (AHR) in the Zoning Ordinance and repealing existing administration and zoning code sections that refer to affordable housing requirements, BMC Section 22.20.065, and Section 23.312.040(A)(6) (**Attachment 1**), to become effective on April 1, 2023.
2. Adopt a Resolution establishing regulations for a voucher program and establishing an in-lieu fee pursuant to BMC Section 23.328.020(A)(2) (**Attachment 2**) upon the effective date of contemporaneously adopted amendments to BMC Section 23.328, and rescind Resolution No. 68,074-N.S. related to fees, exemptions, and administration of inclusionary affordable housing and in-lieu programs upon the effective date of contemporaneously adopted amendments to BMC Section 23.328 (**Attachment 2**).

SUMMARY

The proposed amendments to affordable housing requirements have been developed in response to City Council referrals and State laws that govern affordable housing requirements. In particular, Assembly Bill 1505 in 2017 reauthorized inclusionary housing requirements on rental properties, allowing for the proposed consolidation of most of the City's affordable housing requirements for rental and ownership properties.

Key elements of the proposed amendments include: establishing a new in-lieu fee calculated on a per square foot basis; setting the same per square foot fee for rental and ownership projects; providing new options by which requirements can be met; and various administrative changes. The revised regulations are designed to be easier to understand, make it easier for applicants to comply, simplify administration and oversight, and increase transparency by consolidating most affordable housing

requirements in one place in the municipal code, eliminating conflicting requirements, and standardizing and simplifying certain fees and requirements.

### FISCAL IMPACTS OF RECOMMENDATION

The proposed \$45 per square foot in-lieu fee is roughly equivalent to the 2020 Affordable Housing Mitigation Fee (AHMF) of \$39,746 per rental unit. Since 2015, the City of Berkeley has collected approximately \$38 million in Affordable Housing Mitigation Fees towards the Housing Trust Fund Program. It is challenging to predict future affordable housing fee revenue trends given the variables that are outside of the City's control (e.g., how individual project applicants choose to comply with the City's affordable housing requirements, changes in state law, and broader housing market trends). However, if overall housing development and affordable housing compliance plan trends continue, staff projects generating a similar amount over the next Housing Element cycle (8 years).

### CURRENT SITUATION AND ITS EFFECTS

The City's affordable housing requirements for new development are codified in several sections of the Berkeley Municipal Code, including:

- BMC 21.28: Condominiums and Other Common Interest Subdivisions
- BMC 22.20: Mitigations and Fees—Conditions of Approval for Development Projects
- BMC 23.326: Demolition and Dwelling Unit Controls
- BMC 23.328: Inclusionary Housing
- BMC 23.312: Live/Work
- BMC 13.76: Rent Stabilization and Eviction for Good Cause

Prior to 2009, Berkeley had a single Inclusionary Zoning Ordinance (BMC Chapter 23C.12) which applied to both ownership and rental projects. In 2009, a Court of Appeals decision in *Palmer/Sixth Street Properties LP v. City of Los Angeles* (the "Palmer decision") prevented California jurisdictions from enforcing inclusionary housing requirements on rental properties. In response, Berkeley and many other cities adopted an Affordable Housing Mitigation Fee (AHMF). The AHMF ordinance requires payment of a fee and allows the provision of on-site units as an alternative. This approach allowed Berkeley to achieve its policy goals without violating the restrictions imposed by the Palmer decision. Although the provisions of the Inclusionary Housing Ordinance that applied to rental housing remained in the Berkeley Municipal Code, they were unenforceable and superseded by the AHMF ordinance. Inclusionary provisions related to condominiums remained enforceable.

In 2018, the California Legislature passed AB1505 which effectively overturned the Palmer decision and authorized the implementation of inclusionary housing requirements applied to rental properties, subject to a development feasibility analysis.

This legislation has allowed the City to update its programs to combine rental and ownership requirements under a single inclusionary housing ordinance and make other changes that respond to City Council referrals.

The proposed changes are informed by a memorandum prepared by Street Level Advisors, a firm that assists cities across the nation to develop programs and policies to facilitate equitable development, and by feedback provided by the Planning Commission, Housing Advisory Commission and the Council in 2021 (**Attachment 3**).<sup>1</sup> Updating the City's Affordable Housing Requirements is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

### Key Elements of Proposed Ordinance and Resolution

**1. Consolidation of Affordable Housing Requirements.** As authorized by Assembly Bill 1505, the proposed amendments impose "inclusionary" or on-site affordable housing requirements and allow the payment of an in-lieu fee, among other options, instead of the current rules which impose a mitigation fee and allow for the provision of on-site units in-lieu of the fee.<sup>2, 3</sup> The proposed ordinance consolidates the City's existing regulations by addressing both rental and ownership projects in an amended BMC Chapter 23.328, renamed as "Affordable Housing Requirements", thus allowing for the deletion of the sections of the BMC where these topics were formerly addressed (BMC Sections 22.20.065, and 23.312.A6). The proposed ordinance would become effective on April 1, 2023. Development projects for which either a Building Permit was issued or a preliminary application was submitted on or before April 1, 2023 shall be subject to this Chapter's requirements that were in place as of the preliminary application's submittal date, but shall otherwise be exempt from this Chapter (see section 23.328.050.F of proposed ordinance). The City's inclusionary requirement remains the same: at least 20% of the Residential Units of a Housing Development Project must be Affordable Units (as defined in BMC Section 23.238).

**2. Establishment of a Per Square Foot In-lieu Fee.** Instead of the existing method of calculating fees on a per-unit basis, the proposed resolution sets the affordable housing in-lieu fee at \$45 per square foot of Gross Floor Area for the residential portion of a Housing Development Project,<sup>4</sup> collected at the time of

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<sup>1</sup> See Background section for more information on the project methodology and public process.

<sup>2</sup> Street Level Advisors Memorandum (Jan. 2022): Recommendation 1.1, 1.2, 1.3 (as noted above, condo conversion requirements will be addressed in a separate process in the future), 1.4 and 1.5.

<sup>3</sup> Bill Text - AB-1505:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB1505](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1505)

<sup>4</sup> BMC 23.106.030 (Floor Area, Gross) and BMC 23.238.020E.

Certificate of Occupancy. This fee level is roughly equivalent to the 2020 AHMF for projects with typically sized units.<sup>5</sup> As is the case with the existing AHMF, the proposed In-Lieu Fee would be automatically adjusted every two years based on the California Construction Cost Index (CCCI).

Over the last two years, the CCCI has increased sharply, with a cumulative increase of 16.2%, as compared to increases of approximately 2-4% each year between 2016 and 2020. Effective July 1, 2022, the AHMF increased from \$39,746 to \$46,185 per rental unit (see referenced document list at end of this report). This significant increase is reflective of the escalating costs in construction and inflation affecting housing prices throughout the state. Despite the recent increase, City staff are recommending that the City Council set the new per square foot based in-lieu fee based on the fee level of 2020, which was the basis for the financial feasibility analysis prepared by Street Level Advisors.

City staff will be initiating a new feasibility study later this fiscal year, in accordance with the recommendations of both the Planning and Housing Advisory Commissions. This new study will analyze the feasibility of smaller building development types (e.g., “missing middle” housing), monitor the effects of the newly adopted fees and inclusionary requirements, and establish whether adjustments should be made to the fee level or cost structure. There may be reasons to raise or lower the per square foot fee: to adjust the sliding scale for smaller projects, better align the developer cost of the inclusionary versus fee options, or to make other changes to reflect market conditions as the city emerges from the pandemic and faces inflationary, recessionary, and other market influences.

**3. Incentive to Increase Affordable Units Serving Extremely Low-Income Households (30% of AMI).** The City’s current rules require that 40% of all Very Low Income (VLI) units be offered first to Housing Choice voucher holders, and 40% be offered first to Shelter+Care voucher holders. The proposed changes would require that all of the required VLI units be offered to voucher holders (50% to Housing Choice voucher holders and 50% to Shelter+Care voucher holders) before being marketed to other income-eligible households. This change, along with the way that the City’s requirements interact with the State Density Bonus, will serve to slightly increase the share of ELI tenants served, without adding layers of complexity to the program, since voucher holders in both programs generally have incomes well below 30% AMI.<sup>6</sup>

**4. Standardization of Ownership and Rental Fees.** The feasibility analysis prepared by Street Level Advisors found that the City’s existing requirements for ownership/condominium projects resulted in an equivalent per square foot fee

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<sup>5</sup> SLA Jan. 2022 Memo, Recommendations 2.1 and 3.1.

<sup>6</sup> See SLA Recommendation 4.1.

ranging from \$54 to \$75, which is considerably higher than the equivalent per square foot fees estimated for rental projects (\$45 per square foot). The imposition of a higher fee discourages development of new home ownership projects. Setting the fee at \$45 per square foot for both rental and ownership projects would “level the playing field” and still generate substantial in-lieu fees per unit, since ownership units tend to be larger than rental units. The proposed ordinance authorizes the City Council to set fees, and the proposed resolution sets the affordable housing in-lieu fee at \$45 per gross residential square foot for both rental and ownership projects. This approach will be revisited as part of the new feasibility study.<sup>7</sup>

**5. Standardization of Live-Work Requirements.** The proposed ordinance consolidates the affordable housing requirements for live/work units from BMC 23.312 into BMC 23.328 and removes the exemption from inclusionary and fee requirements for live/work projects. The same requirements would apply to live/work projects as any other project. Live/work projects would also retain the existing marketing provision, to proactively ensure that the developer reaches out to income-eligible persons performing a work activity appropriate to the unit and district where the property is located<sup>8</sup>.

**6. Land Dedication Option.** The proposed ordinance adds an option for project applicants to dedicate land, if authorized by the City Manager, for an approved non-profit housing developer (see proposed ordinance Section 23.328.030.C). Donated land must be equal or greater in value than the in-lieu fee that otherwise would be required.<sup>9</sup>

**7. Family-Sized Units Option.** During the process of developing the recommendations, policymakers expressed interest in promoting the development of affordable units that are suitable for families, but actively discourage units with high bedroom counts. The draft ordinance adds an option for project applicants to propose an alternative mix of affordable unit types whose total size is at least 20% of the residential Gross Floor Area (rather than a unit-for-unit equivalent), in order to achieve a mix of Affordable Units including two- and three-bedroom units. Review and approval of the proposal would be at the discretion of the City Manager or their designee.<sup>10</sup> This option has been further revised from the original proposals, which provided a similar option by right if a project applicant provided Affordable Units including a specified level of two-or three-bedroom units. The current option better addresses staff implementation concerns by establishing a process by which a

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<sup>7</sup> See SLA Recommendation 6.1.

<sup>8</sup> SLA Jan. 2022 Memo: Recommendations 7.1.

<sup>9</sup> SLA Jan. 2022 Memo: Recommendation 8.1.

<sup>10</sup> SLA Jan. 2022 Memo: Recommendation 9.1.

proposal can be reviewed holistically to ensure that unit size, unit mix and overall number of units provided and households served meet the intent of the ordinance.

**8. Removal of Exemption for Most Group Living Accommodation (GLA) Projects and Prohibition of On-Site Affordable Units in GLAs.** The proposed ordinance would remove the current exemption for GLAs from inclusionary and fee requirements. Fraternities, sororities and other specially designated units recognized by the University of California would retain their exemption. The proposed ordinance would also prohibit affordable units from having more than three bedrooms in order to reduce administrative burdens.<sup>11</sup>

**9. Eliminate Exemption for Small Projects and Establish Tiered Fees.** The proposed resolution eliminates the exemption for projects of one to four units and replaces it with a tiered fee for projects with less than 12,000 square feet in residential Gross Floor Area (BMC 23.106.030), by reducing the fee by \$2 per square foot for each 1,000 square foot increment less than 12,000 sf.<sup>12</sup>

**Table 1. Proposed Tiered Square Foot Based Fee**

| Gross Floor Area<br>(Residential) | Fee per Square Foot |
|-----------------------------------|---------------------|
| 12,000+                           | \$45                |
| 11,000-11,999                     | \$43                |
| 10,000-10,999                     | \$41                |
| 9,000-9,999                       | \$39                |
| 8,000-8,999                       | \$37                |
| 7,000-7,999                       | \$35                |
| 6,000-6,999                       | \$33                |
| 5,000-5,999                       | \$31                |
| 4,000-4,999                       | \$29                |
| 3,000-3,999                       | \$27                |
| 2,000-2,999                       | \$25                |
| 1,000-1,999                       | \$23                |
| <1,000                            | \$21                |

**11. Cap Annual Rate of Rent Increases.** As recommended by the Housing Advisory Commission (HAC), the proposed ordinance stipulates that any increase in rent of an affordable unit offered for rent shall be no greater than 65% of the increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending

<sup>11</sup> SLA Jan. 2022 Memo: Recommendations 11.1 and 11.2.

<sup>12</sup> SLA Jan. 2022 Memo: Recommendations 12.1 and 12.2.

the previous December 30, but not to exceed 65% of the corresponding increase in AMI for the same calendar year.<sup>13</sup> This is consistent with how the Rent Stabilization Board calculates rent increases, but is a change from the existing requirements, which ties rent increases to the increase in Area Median Income (AMI) only. When the affordable units are vacant and re-rented, the property owner can increase the rent based on the affordability category of the unit.

The Planning Commission recommended that rent increases be tied to AMI two years after adoption of ordinance. Staff do not recommend this approach because annual rent adjustments are typically smaller and therefore more manageable for tenants. Increasing rents based on AMI after two years may create a larger rent increase that is more difficult for tenants to predict/budget. This is reflective of staff experience managing properties that have “banked” increases in the past and implement multiple year increases at once.

The goal is to ensure that rent increases do not result in a high housing cost burden or displacement of existing tenants. Over the past decade, annual increases in AMI are generally higher than the average increase in income of lower income households, resulting in unintended adverse impacts to tenants. Although CPI-U has traditionally been more stable than AMI, this may change given the current inflationary cycle. Staff recommend tying rent increases to the lesser of annual increases in CPI-U or AMI.

**12. Administrative Changes.** The proposed ordinance also recommends four administrative changes:<sup>14</sup>

- a. Affordable Housing Compliance Plan. The proposed ordinance language was clarified to better define the enforceable agreement (the “Affordable Housing Compliance Plan”) that applicants are required to submit and when such a plan must be submitted to the City. The Compliance Plan must specify how an applicant will comply with City affordable housing requirements, including the number and type of Affordable Units, the amount of In-Lieu Fees, and/or the parcels of land (or portions thereof) that will be provided and/or paid, and must be submitted to the Zoning Officer at the time of application.
- b. Authorization of administrative citations. The proposed ordinance explicitly authorizes the creation of a proposed schedule of fines for monitoring and compliance violations to be included in the program guidelines.
- c. Deduction of required fees/costs from gross rent. The proposed ordinance requires that any other mandatory fees imposed by the property-owner as a condition of tenancy in addition to tenant-paid utilities be included in the determination of whether a unit is affordable to Very Low-Income or Low-Income Households.
- d. Increase administrative set-aside from 10% to 15%. The proposed ordinance states that 15% of In-Lieu Fees collected may be used to pay for

<sup>13</sup> SLA Jan. 2022 Memo: Recommendation 13.

<sup>14</sup> SLA Jan. 2022 Memo: Recommendation 14.1 - 14.4.

administration of the In-Lieu Fee or the Housing Trust Fund program, due to the increasing size and complexity of the City's portfolio of HTF units. This also allows staff to better budget for administrative expenses given the unpredictable nature of market-based fee revenue. At least 85% of In-Lieu Fees collected shall be deposited into the City's Housing Trust Fund program.

### **Other Policy Considerations**

Staff are also advancing proposed changes to the City's regulation of demolitions (BMC Chapter 23.326). Demolition requirements help protect existing rental-controlled housing by regulating and compensating for the elimination of such units which occurs through modifications to existing housing stock (e.g., removing kitchens, combining units). The modifications currently under consideration retain, modify and expand existing requirements for the replacement of protected units and the provision of relocation benefits for displaced tenants, while bringing the local ordinance into better alignment with recent updates to state law. Staff anticipate bringing revisions to the demolition requirements to City Council in early 2023, subsequent to additional review by the 4x4 Committee and Planning Commission.

In addition, a number of proposed changes to the City's condominium conversion regulations were presented in the memorandum prepared by Street Level Advisors. These included simplifying the calculation of the required fee, reducing the fees under certain circumstances and allowing flexibility in the use of the fees. These recommendations require additional consideration and may require additional nexus and feasibility analyses. Changes to BMC Chapter 21.28, Condominiums and Other Common Interest Subdivisions, will be considered in a future, separate item.

### **BACKGROUND**

The City of Berkeley has a strong history of programs and initiatives to retain existing affordable and rent controlled tenant housing, protect tenants from displacement, and create new affordable housing, including deed-restricted income-qualified housing. City Council has adopted multiple, interrelated referrals to explore revisions to the City's affordable housing requirements for new development that are currently codified in several sections of the Berkeley Municipal Code (Attachment 4).

There have also been changes to State laws that govern affordable housing requirements, streamlining, dwelling unit replacement, and density bonus incentives. There are also numerous locally adopted implementing resolutions that set fee amounts and exemptions. In addition, the City has administrative guidelines and practices to implement the State and local requirements.

The City engaged the consulting firm Street Level Advisors to evaluate existing regulations and potential changes in order to comprehensively update the City's affordable housing requirements. The work to date has included:



- **October 2020:** Street Level Advisors presented a range of identified policy issues and solicited feedback from the public and stakeholders including affordable housing developers and advocates, market-rate developers, Planning Commission, Housing Advisory Commission, Zoning Adjustments Board, and Rent Stabilization Board.
- **May 2021:** Street Level Advisors prepared a memorandum analyzing 14 categories of potential changes to the City's affordable housing requirements based on Council referrals and stakeholder and public feedback. Staff and Street Level Advisors presented the proposed changes to the Planning Commission and at a City Council worksession to inform drafting of the ordinance and resolution.<sup>15</sup>
- **March 2022:** Staff presented the proposed resolution and ordinance to the Planning Commission and the Housing Advisory Commission and requested a recommendation to bring to the City Council.

Both Commissions approved the staff recommendations with a few modifications, including the following recommendations:

- **Update feasibility analysis.** Both Commissions recommended new evaluations of the in-lieu fee within one to two years (HAC and PC, respectively), including tracking distribution of fees, on-site units, mixed compliance projects, small project and ownership projects, including co-housing/community housing. As noted above, staff will be initiating a new feasibility study later this fiscal year.
- **Cap annual rent increases for inclusionary units.** The Planning Commission recommended that rent increases should be tied to Area Median Income after two years of ordinance adoption. The Housing Advisory Commission (HAC) recommended that rent increases should be tied to 65% of Consumer Price Index (CPI), which is consistent with the manner in which the Rent Stabilization Board calculates rent increases. The proposed ordinance was revised to tie rent increases to 65% of CPI.
- **Ensure definitions of terms are included in the chapter and/or in the zoning ordinance glossary.** As recommended by the Planning Commission, the proposed draft ordinance and the draft resolution have been revised for clarity. Staff have revised the drafts to include definitions and clearer references regarding how the proposed in-lieu fee would be applied and calculated.
- **Require Very Low Income units to be first offered to voucher holders.** The Planning Commission recommended that the existing regulations remain in place such that 80% of Very Low Income units be required to be offered to voucher holders (40% to Shelter+Care and 40% to Section 8 voucher holders) instead of

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<sup>15</sup> May 18, 2021 Council Worksession Report: <https://berkeleyca.gov/sites/default/files/documents/2021-05-18%20WS%20Item%2002%20Updating%20Citywide%20Affordable.pdf>

proposed ordinance increase to 100% (50% to Shelter+Care and 50% to Section 8 voucher holders). The HAC agreed with the draft ordinance as proposed by staff.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Infill affordable housing may reduce greenhouse gas emissions when located near transit, job centers, and other amenities. The proposed changes are intended to continue to facilitate on-site affordable housing units and fees available to the Housing Trust Fund for affordable housing developers in order to support the provision of affordable housing and housing support services for our City's most vulnerable community members.

### RATIONALE FOR RECOMMENDATION

The recommended changes are primarily in response to policy referrals from City Council related to affordable housing development. The new ordinance is intended to maintain or increase the number of on-site affordable housing units and the amount of fees available to the Housing Trust Fund, while addressing a number of other policy considerations and concerns regarding the complexity of existing regulations, and maintaining the overall feasibility of housing development in Berkeley.

### ALTERNATIVES CONSIDERED

The Planning Commission and Housing Advisory Commission each discussed the merits of setting the fee at a level either higher or lower than the recommended \$45 per square foot.

Staff considered raising the proposed per square foot in-lieu fee by 16.2% to match the recent automatic adjustment to the existing Affordable Housing Mitigation Fee on July 1, 2022, which would be equivalent to \$52 per square foot. Street Level Advisors recommended considering adjustments to the fee once the housing market had stabilized following the fluctuations that resulted from the pandemic, and to concurrently conduct an updated feasibility analysis within the next three years to determine what fee level typical projects could support. Given the recent increase in construction costs and inflation overall, it seems prudent to base further increases in fees on updated feasibility analyses prior to adjusting the level of the fee.

Staff also considered introducing a limited local density bonus program for small projects and Group Living Accommodations (where individuals generally lease bedrooms and not apartments). The program would prohibit the provision of on-site affordable units in these types of projects, and allow additional development as would be allowed under the State Density Bonus in exchange for payment of a fee (instead of on-site units). After further review and consideration, staff have concluded that the proposed tiered fee for small projects (less than 12,000 sf), and the definition of

Affordable Units being limited to three bedrooms or less, serve to address the goal of incentivizing smaller projects to select the in-lieu fee option.

The Council could also consider no changes to the current structure of having an Affordable Housing Mitigation Fee and an in-lieu inclusionary requirement.

#### CONTACT PERSON

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Margot Ernst, Housing Division Manager, Health Housing and Community Services, [mernst@cityofberkeley.info](mailto:mernst@cityofberkeley.info).

#### Attachments:

- 1: Draft Ordinance
- 2: Draft Resolution
- 3: Updating Affordable Housing Requirements for the City of Berkeley: Analysis and Recommendations. Prepared by Street Level Advisors, Revised February 2022.
- 4: Summary of Council Referrals Related to Affordable Housing Requirements
- 5: Public Hearing Notice

#### Links to Referenced Documents:

- 1: Off-Agenda Memo Regarding Bi-annual Increase to Affordable Housing Mitigation Fee, July 13, 2022:  
[https://berkeleyca.gov/sites/default/files/documents/Affordable%20Housing%20Mitigation%20Fee%20Increase%20071322\\_0.pdf](https://berkeleyca.gov/sites/default/files/documents/Affordable%20Housing%20Mitigation%20Fee%20Increase%20071322_0.pdf)
- 2: City Council Worksession Report: Citywide Affordable Housing Requirements Update, May 18, 2021:  
<https://berkeleyca.gov/sites/default/files/documents/2021-05-18%20WS%20Item%2002%20Updating%20Citywide%20Affordable.pdf>
- 3: Planning Commission Report: Citywide Affordable Housing Requirements Update, May 5, 2021:  
<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-03-02%20PC%20Agenda%20Packet.pdf>

ORDINANCE NO. -N.S.

AFFORDABLE HOUSING REQUIREMENTS; AMENDING BERKELEY MUNICIPAL  
CODE TITLES 22 AND 23

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 22.20.065, and Section 23.312.040(A)(6) are hereby repealed.

Section 2. That Berkeley Municipal Code Chapter 23.328 is repealed and re-enacted to read as follows:

**23.328.010 Findings.**

A. The State of California has established a Regional Housing Needs Allocation (RHNA) process under which it allocates a “fair share” of the regional housing need, updated periodically, to each local jurisdiction. The “fair share” allocated to Berkeley increased significantly based on the regional housing needs determination finalized in late 2021. The sixth cycle of the RHNA for the San Francisco Bay Area allocates to Berkeley a “fair share” that calls for adequate sites for 8,934 housing units for the period from 2023 to 2031, including sites for 2,446 Very Low-Income units, 1,408 Lower-Income units, and 1,416 Moderate Income units. Under the state Housing Element Law, the City must update its Housing Element to provide adequate sites for its updated “fair share” allocation by 2023.

B. The Bay Area suffers from a shortage of affordable housing. As the Bay Area region experiences increased economic growth and a high demand for housing, housing prices continue to rise, which leads to displacement of low-income residents and exacerbates the shelter crisis that has led to unacceptably high rates of homelessness in the City of Berkeley and the Bay Area region.

C. In 1990, the City established the Housing Trust Fund program to pool available funding for affordable housing development. The Housing Trust Fund program is funded

by federal, state, and local revenues, including by in-lieu and mitigation fees paid by developers of market-rate housing projects under the City's existing affordable housing ordinances.

D. The City Council hereby finds that there is a legitimate public interest in the provision of affordable housing to address the crises of displacement, homelessness, and lack of housing affordability in the City, and that there is a significant and increasing need for affordable housing in the City to meet the City's regional share of housing needs under the California Housing Element Law.

E. The City Council further finds that the public interest would best be served if new affordable housing were integrated into new market-rate residential developments to facilitate economically diverse housing, while also providing alternative options to the on-site construction of affordable housing such as the payment of fees to replenish the City's Housing Trust Fund program and allowing for the construction of affordable housing on land dedicated by market-rate housing developers.

**23.328.020 Definitions.**

A. "Affordable Unit" means a Residential Unit that is in perpetuity affordable to Very Low-Income Households or Lower-Income Households, as defined in California Health and Safety Code sections 50052.5 and 50053.

B. "Affordable Housing Compliance Plan" means an enforceable commitment by an Applicant to comply with the requirements of this Chapter that identifies the number and type of Affordable Units, the amount of In-Lieu Fees, and/or the parcels of land (or portions thereof) that will be provided and/or paid by the Applicant to comply with those requirements.

C. "AMI" means the area median income applicable to the City of Berkeley, as defined by the U.S. Department of Housing and Urban Development, or its successor provision, or as established by the City of Berkeley in the event that such median

income figures are no longer published by the U.S. Department of Housing and Urban Development.

D. "Applicant" means any individual, person, firm, partnership, association, joint venture, corporation, entity, combination of entities or authorized representative thereof, who undertakes, proposes and/or applies to the City for any residential development.

E. "Housing Development Project" means a development project, including a mixed-use project, involving the new construction or title conversion of at least one Residential Unit. Projects with one or more buildings shall be considered as a sole Project and not as individual buildings.

F. "Housing Trust Fund" means the program to finance low- and moderate-income housing established by Resolution No. 55,504-N.S., or any successor fund established for the same purpose.

G. "Lower-Income Household" means a household whose income does not exceed the low-income limits applicable to Alameda County, as defined in California Health and Safety Code section 50079.5 and published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

H. "Regulatory Agreement and Declaration of Restrictive Covenants" means, for the purposes of this Chapter, a legally binding agreement recorded against the property to codify the requirements and conditions of a Housing Development Project providing Affordable Units.

I. "Residential Unit" means, for purposes of this Chapter, any Dwelling Unit, any Live-Work Unit, or any bedroom of a Group Living Accommodation (GLA) except a GLA in a University-recognized fraternity, sorority or co-op; provided, however, that for purposes of this Chapter, "Residential Unit" shall not include any Accessory Dwelling Unit or Junior Accessory Dwelling Unit.

J. "Very Low-Income Household" means a household whose income is no more than 50% of AMI, as defined in California Health and Safety Code section 50105.

**23.328.030 Affordable Housing Requirements.**

A. Requirement to Construct Affordable Units

1. Except as otherwise provided in this Chapter, no permit for the construction of any Housing Development Project shall be issued unless at least 20% of the Residential Units are Affordable Units, which shall on average be the same size as and contain the same number of bedrooms as other Residential Units in Housing Development Project (provided, however, that no Affordable Unit may have more than three bedrooms). When the calculation results in a fractional unit an Applicant will round up to the nearest whole unit. When there is an uneven number of Affordable Units provided under this Chapter, the majority of Affordable Units shall serve Very Low-Income Households, up to a maximum requirement of 10% of the total units in the Housing Development Project if the project provides more Affordable Units than are otherwise required by this Chapter.

2. In lieu of providing Affordable Units pursuant to Paragraph 1, an Applicant may propose an alternative mix of unit-types to comply with this Chapter by providing Affordable Units that comprise at least 20% of the Gross Floor Area of the residential portion of the Housing Development Project in order to achieve a mix of Affordable Units including two-bedroom or three-bedroom units. The City Manager or their designee may approve the proposed alternative mix of unit-types that meet the requirements of this section.

3. Affordable Units shall be (a) reasonably dispersed throughout the Housing Development Project; and (b) comparable to other Residential Units in the Housing Development Project in terms of appearance, materials, and finish quality. Residents of Affordable Units shall have access to the same common

areas and amenities that are available to residents of other Residential Units in the Housing Development Project.

4. At least 50% of the required Affordable Units in the Housing Development Project shall be offered for rent at a rent that is affordable to Very Low-Income Households, up to a maximum requirement of 10% of the total units in the Housing Development Project if the project provides more Affordable Units than are otherwise required by this Chapter.

5. In determining whether a unit is affordable to Very Low-Income or Low-Income Households, maximum allowable rent for any affordable unit shall be reduced by an amount equal to the value of the City-published utility allowance provided for Tenant-paid utilities and any other mandatory fee imposed by the property owner as a condition of tenancy.

6. Any increase in rent of an occupied Affordable Unit shall be no greater than 65% of the increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending the previous December 30 but not to exceed 65% of the corresponding increase in AMI for the same calendar year.

7. All Affordable Units shall be subject to a recorded affordability restriction requiring in perpetuity that each Affordable Unit be sold at an affordable sales price or offered for rent at an affordable rent, as defined this Chapter.

8. The City Manager or their designee shall adopt rules and regulations (a) establishing the affordable sales price or affordable rent for each Affordable Unit, consistent with the requirements of Health and Safety Code sections 50052.5 and 50053; and (b) ensuring that Affordable Units are sold or rented to Very Low-Income and Lower-Income Households, consistent with the requirements of this Chapter.



9. Affordable Units designated for Very Low-Income Households shall be offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*), or any similar state or federally funded rent subsidy program prior to being offered to other potential tenants. The Council may establish related program requirements by resolution.

10. Affordable Live-Work Units shall be proactively marketed by the developer of a project to income-eligible persons performing a work activity permitted in the district where the project is located whose type of work causes them to have a requirement for a space larger in size than typically found in residential units.

11. The owner of any Affordable Unit offered for rent must report to the City annually the occupancy and rents charged for each Affordable Unit, and any other information required pursuant to rules and regulations adopted by the City Manager or their designee.

12. An Affordable Unit that is constructed to qualify for a density bonus under Government Code section 65915 that otherwise meets the requirements of this Chapter shall qualify as an Affordable Unit under this Chapter.

B. Option to Pay In-Lieu Fee

1. In lieu of providing some or all of the Affordable Units required under this Chapter (including any fractional units), an Applicant may elect to pay a fee, the amount of which the City Council may establish by resolution (“In-Lieu Fee”). The City Council may by resolution differentiate among types, classes, and locations of Housing Development Projects to the extent permitted by law; may establish separate fees and criteria for the provision of units that are affordable to Very Low-Income Households and units that are affordable to Low-Income Households; and may establish the method for calculation of the In-Lieu Fee.

2. In-Lieu Fees shall be assessed at the time of first building permit.
3. In-Lieu Fees shall be paid prior to the issuance of the first Certificate of Occupancy, or if no Certificate of Occupancy is required, prior to the initial occupancy of the Housing Development Project.
4. Up to 15% of In-Lieu Fees collected may be used to pay for administration of the In-Lieu Fee or the Housing Trust Fund program. At least 85% of In-Lieu Fees collected shall be deposited into the City's Housing Trust Fund program.

C. Land Dedication Option

1. The requirements of this Chapter may be satisfied by the dedication of land in lieu of constructing Affordable Units within the Housing Development Project if the City Manager or their designee determines that all of the following criteria have been met:
  - a. Marketable title to the site is transferred to the City, or an affordable housing developer approved by the City, prior to the commencement of construction of the Housing Development Project pursuant to an agreement between the Applicant and the City.
  - b. The site has a General Plan designation that authorizes residential uses and is zoned for residential development at a density to accommodate at least the number of Affordable Units that would otherwise be required under Paragraph A.
  - c. The site is suitable for development of the Affordable Units, taking into consideration its configuration, physical characteristics, location, access, adjacent uses, and applicable development standards and other relevant planning and development criteria including, but not limited to, factors such as the cost of construction or development arising from the nature, condition, or location of the site.

d. Infrastructure to serve the dedicated site, including, but not limited to, streets and public utilities, are available at the property line and have adequate capacity to serve the maximum allowable residential density permitted under zoning regulations.

e. The site has been evaluated for the presence of hazardous materials and for the presence of geological hazards and all such hazards are or will be mitigated to the satisfaction of the City prior to acceptance of the site by the City.

f. The value of the site upon the date of dedication is equal to or greater than the in-lieu fee that would otherwise be required under Paragraph A.

2. The City shall solicit proposals from affordable housing developers to construct restricted income units on the site dedicated to the City, but if the City is unable to obtain a qualified affordable housing developer to construct a viable affordable housing development on the property within two years of its solicitation or to commence construction within five years, the City may sell, transfer, lease, or otherwise dispose of the dedicated site for any purpose. Any funds collected as the result of a sale, transfer, lease, or other disposition of sites dedicated to the City shall be deposited shall be deposited into a fund designated for use in the City's Housing Trust Fund program.

**23.328.040 Waiver or Modification of Affordable Housing Requirements.**

A. The City Manager or their designee may waive or modify the requirements of this Chapter at their sole discretion where any of the following conditions are established:

1. A project providing low- or moderate-income housing is funded in whole or in part by the City's Housing Trust Fund program;

2. The implementation of the requirements of this Chapter would violate the rights of any person under the California or United States Constitutions, any federal law, or any state law governing a matter of statewide concern and applicable to a charter city; or

3. The benefits of the project to the City outweigh the detriment of foregoing the provision of Affordable Housing or the contribution of In-Lieu fees to the Housing Trust Fund program. In weighing the benefits and detriment to the City, the following factors may be considered:

- a. The impact of the requirements of this Chapter on the feasibility of a Housing Development Project;
- b. Other economically beneficial uses of the Applicant's property;
- c. The burdens the Housing Development Project places on the City in terms of increased demand for affordable housing, childcare, public facilities or amenities, or other impacts which reasonably may be anticipated to be generated by or attributable to the Housing Development Project; and
- d. The impact on the Housing Trust Fund program of foregoing the payment of any In-Lieu fee that would otherwise be made.

B. The Applicant shall bear the burden of proof to establish eligibility for a waiver or modification of the requirements of this Chapter.

**23.328.050 Implementation.**

A. The Applicant for any Use Permit or Zoning Certificate for a Housing Development Project shall submit an Affordable Housing Compliance Plan to the Zoning Officer at the time of application. The Affordable Housing Compliance Plan shall be incorporated as a condition of approval of any Use Permit or Zoning Certificate issued

to the Applicant. No Building Permit may be issued for the project until the Affordable Housing Compliance Plan is approved.

B. The Applicant must execute a Regulatory Agreement and Declaration of Restrictive Covenants to regulate all Affordable Units provided in a Housing Development Project. No Building Permit may be issued for the project until the Regulatory Agreement and Declaration of Restrictive Covenants are executed.

C. The Affordable Housing Compliance Plan and/or Regulatory Agreement and Declaration of Restrictive Covenants may be amended administratively, provided that the Zoning Officer finds them to be in full compliance with the provisions of this ordinance and State law, prior to issuance of Certificate of Occupancy.

D. The City Manager or their designee may promulgate additional rules and regulations consistent with the requirements of this Chapter.

E. The City Council may by resolution establish fees for the implementation and administration of this Chapter and may establish administrative penalties for violations of this Chapter.

F. Exemptions.

1. A Housing Development Project for which either a Building Permit was issued on or before April 1, 2023 or a preliminary application including all of the information required by subdivision (a) of California Government Code section 65941.1 was submitted on or before April 1, 2023 shall be subject to this Chapter's requirements that were in place as of the preliminary application's submittal date but shall otherwise be exempt from this Chapter. This exemption shall expire upon the occurrence of any of the circumstances defined in paragraphs (2), (6), or (7) of subdivision (o) of California Government Code section 65589.5 or in subdivision (d) of California Government Code section 65941.1.

2. A Residential Unit that replaces a unit existing as of April 1, 2023 that has been destroyed by fire, earthquake or other disaster.
3. A Residential Unit existing as of April 1, 2023 that is expanded, renovated, or rehabilitated.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

RESOLUTION NO. \_\_\_\_\_

ADOPTING REGULATIONS FOR VOUCHER PROGRAM AND ESTABLISHING AN IN-LIEU FEE TO SUPPORT THE PROVISION OF AFFORDABLE HOUSING PURSUANT TO BERKELEY MUNICIPAL CODE SECTION 23C.12.030.B AND RESCINDING RESOLUTION 68,074-N.S.

WHEREAS, Berkeley Municipal Code (“BMC”) Section 23.328 establishes a requirement that 20% of Residential Units (as defined) in market-rate developments be offered for rent or sale at affordable rents or prices, as defined (“Affordable Units”); and

WHEREAS, BMC Section 23.328 authorizes the City Council to establish by resolution preferences for renting Affordable Units offered for rent to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f), the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*), or similar state or federally funded rent subsidy program; and

WHEREAS, BMC Section 23.328 authorizes developers of market-rate housing to pay a fee in lieu of complying with the requirement to provide on-site affordable housing (“In-Lieu Fee”); and

WHEREAS, BMC Section 23.328 authorizes the City Council to establish the In-Lieu Fee by resolution, and further authorizes the Council to differentiate among types, classes, and locations of Housing Development Projects to the extent permitted by law; to establish separate fees and criteria for the provision of units that are affordable to Very Low Income Households and units that are affordable to Low Income Households; and to establish the method for calculating the In-Lieu Fee; and

WHEREAS, the City retained Street Level Advisors to provide analysis and recommendations for updating the City’s affordable housing requirements, the scope of which included a financial feasibility study of the City’s affordable housing mitigation fees; and

WHEREAS, Street Level Advisors prepared a Financial Feasibility Analysis dated April 27, 2021, which determined that an In-Lieu Fee of \$45 per square foot of the residential Gross Floor Area (as defined in BMC 23.106.030) would be financially feasible; and

WHEREAS, Street Level Advisors recommended certain modifications to the \$45 per square foot affordable housing fee that would not adversely impact the financial feasibility of housing development projects, such as charging a lower / tiered fee for smaller projects.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

1. All Affordable Units shall be offered to tenants in accordance with Council-adopted

eligibility preference criteria. All Very Low-Income Units, comprising a portion of the Affordable Units authorized and provided for by BMC Section 23.328, must be offered to tenants receiving assistance under the Section 8 Program (42 U.S.C. Section 1437f) or the Shelter Plus Care Program (42 U.S.C. Section 11403 *et. seq.*) before being marketed to other income-eligible households. The allocations shall be divided equally between the Section 8 Program (50%) and the Shelter Plus Care Program (50%). The majority of the Very Low-Income Units shall be designated for the Shelter Plus Care Program when there is an uneven number of units.

2. The initial In-Lieu Fee authorized and provided for by BMC Section 23.328 shall be \$45 per square foot of the Gross Floor Area (BMC 23.106.030) for the residential portion of the Housing Development Project, as defined in BMC Section 23.328.020 and shall be automatically adjusted biennially based on changes to the California Construction Cost Index unless otherwise provided for by BMC Section 23.328 or by this Resolution.
3. Housing Development Projects subject to BMC Section 23.328 may provide less than the required number of Affordable Units in the Housing Development Project and pay a proportionately reduced In-Lieu Fee, calculated as follows: the fee per square foot multiplied by the total Gross Floor Area (BMC 23.106.030) of the residential portion of the Housing Development Project, multiplied by the percentage of the applicable requirement remaining after accounting for the Gross Floor Area of any on-site Affordable Units provided. Projects that provide no on-site Affordable Units will have an applicable requirement multiplier of one.
4. For Housing Development Projects having a Gross Floor Area (of the residential portion of the Housing Development Project) of less than 12,000 square feet, the In-Lieu Fee shall be calculated as follows:

| Gross Floor Area (Residential) | Fee per Square Foot |
|--------------------------------|---------------------|
| 12,000+                        | \$45                |
| 11,000-11,999                  | \$43                |
| 10,000-10,999                  | \$41                |
| 9,000-9,999                    | \$39                |
| 8,000-8,999                    | \$37                |
| 7,000-7,999                    | \$35                |
| 6,000-6,999                    | \$33                |
| 5,000-5,999                    | \$31                |
| 4,000-4,999                    | \$29                |
| 3,000-3,999                    | \$27                |
| 2,000-2,999                    | \$25                |
| 1,000-1,999                    | \$23                |
| <1,000                         | \$21                |



5. Applicability. Any Housing Development Project subject to BMC Section 23.328 that has not obtained its first building permit or demolition permit shall be subject to the fees, rules and regulations outlined in this Resolution.
6. Notwithstanding anything to the contrary, the City Manager or their designee may waive all or part of the In-Lieu Fee adopted by this Resolution pursuant to BMC Section 23.328.

BE IT FURTHER RESOLVED, Resolution No. 68,074-N.S. is hereby rescinded and is of no force or effect on any Housing Development Project that obtains a building permit after the effective date of this resolution, but shall continue to apply to those projects that were approved and subject to its provisions or the provisions of predecessor resolutions and ordinances addressing the same subject matter.

BE IT FURTHER RESOLVED, the rescission of Resolution No. 68,074-N.S. and effective date of this Resolution shall be April 1, 2023.



**Street Level Advisors**

**Updating Affordable Housing Requirements for  
The City of Berkeley, CA  
Analysis and Recommendations**

**Revised February 2022<sup>1</sup>**

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<sup>1</sup> Previous version: 4/27/21. See 5/5/21 PC Meeting - Item 9 – Attachment 1:  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Planning/2021-05-05\\_PC\\_Item%209\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-05-05_PC_Item%209(1).pdf)

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## Summary of Proposed Changes

|                             | CURRENT                                                                                                                                                                                                  | PROPOSED OPTION(S)                                                                                                                                                                                 |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ordinance                   | <b>Rental:</b> Affordable Housing Mitigation Fee (BMC 22.20.065)                                                                                                                                         | Affordable Housing Requirements Ordinance (one ordinance that addresses requirements for rental, ownership and live/work units)                                                                    |
|                             | <b>Ownership:</b> Inclusionary Housing Requirements (BMC 23C.12)                                                                                                                                         |                                                                                                                                                                                                    |
| On-site Unit Income Targets | <b>Rental:</b> 10% of total units @ 50% of AMI, 10% of total units at 80% of AMI                                                                                                                         | No change                                                                                                                                                                                          |
|                             | <b>Ownership:</b> 20% of total units @ 80% of AMI                                                                                                                                                        |                                                                                                                                                                                                    |
| Base Fee                    | <b>Rental:</b> \$39,746 per market rate unit                                                                                                                                                             | \$45 per gross residential square foot                                                                                                                                                             |
|                             | <b>Ownership:</b> 62.5% of the difference between market and affordable price for inclusionary unit.                                                                                                     |                                                                                                                                                                                                    |
| VLI Incentive               | 40% of VLI units marketed to Housing Choice Voucher holders, 40% to Shelter+Care holders.                                                                                                                | All VLI Units must be offered to voucher holders first (50% to Housing Choice and 50% to Shelter + Care).                                                                                          |
| Mixed Compliance Incentive  | Projects that provide less than 20% on-site receive the same reduction in fee whether units are VLI or LI                                                                                                | More expensive/higher need VLI units reduce remainder fee by more than LI units.                                                                                                                   |
| Live Work and GLA           | Live Work Ordinance (BMC 23E.20) exempts projects from IH and AHMF, requires 20% of live work units be affordable at 80% of AMI. Units with Group Living Accommodations (GLA) occupancy are also exempt. | Remove special exemption for Live Work and GLA units. Affirmative marketing of Live Work units to artists/others who need larger units still required.                                             |
| Land Dedication             | None                                                                                                                                                                                                     | Create new Land Dedication Option                                                                                                                                                                  |
| Family Size Unit Incentive  | None                                                                                                                                                                                                     | Projects that provide 2 and 3-bedroom BMR units may choose to provide 20% of total Residential Square Feet instead of 20% of units.                                                                |
| Condo Conversion            | Nexus Fee calculation or 8% of market value. 50% reduction in fee for owner occupied units                                                                                                               | 8% of market value. 50% reduction expanded to include tenants who buy units at conversion, and nonprofit/cooperative/cohousing projects                                                            |
| Maximum Unit Size           | None                                                                                                                                                                                                     | Projects with average unit size >3BR may not choose on-site unit option                                                                                                                            |
| Small Project Exemption     | Projects with <5 units are exempt                                                                                                                                                                        | Exemption removed; Reduced fee for projects with fewer than 12,000 gross residential square feet, phased in as size increases. Offer a local density bonus to projects providing <5 BMR units that |

|                       |                                                           |                                                                       |
|-----------------------|-----------------------------------------------------------|-----------------------------------------------------------------------|
|                       |                                                           | choose in lieu fee.                                                   |
| Cap on rent increases | BMR Unit rents increase along with HUD Area Median Income | Limit annual rent increases to the change in the Consumer Price Index |

## Overarching Goals for Updating Requirements:

### Center racial and economic equity by reversing exclusionary zoning

Berkeley has committed to pioneering policies that attempt to undo some of the harm caused by exclusionary zoning practices. In addition to its rent control and tenant protection policies, the City's Inclusionary Housing requirements are central to its efforts to build a more racially and economically integrated future.

Two key goals of the program are to ensure that affordable housing is included in all parts of the City and to promote the inclusion of affordable units within market-rate housing.

There has been quite a bit of academic research into the benefits of economic integration and the emerging consensus is that the location of affordable housing matters.<sup>2</sup> Much of the City's affordable housing is concentrated in neighborhoods with the greatest health and safety challenges and the least economic opportunity. Integrating affordable housing into every neighborhood offers significant health and economic advantages, particularly for low-income children. While the same research has consistently not found additional benefits from locating affordable units in the same buildings as market rate housing (beyond the neighborhood benefits), requiring affordable units in new market rate buildings has been a key way that cities have succeeded in locating affordable housing in certain 'high opportunity' neighborhoods.

Currently, both the Affordable Housing Mitigation Fee (AHMF) and Inclusionary Housing Requirements (IHO) ordinances allow developers to choose to either provide on-site units or pay a fee into the City's Affordable Housing Trust Fund program. Several recent Council referrals have focused on either reducing or eliminating the fee option in order to encourage more on-site affordable housing units in mixed income buildings. Other council referrals have called on the City to encourage payment of fees, which allow investment in non-profit owned 100% affordable projects. These projects leverage outside affordable housing funding to build more units at deeper levels of affordability and also offer critical social services.

While increasing the share of on-site affordable units continues to be an important community goal, it is important to note that this is not the only way that Berkeley is achieving the goal of

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<sup>2</sup> The Urban Institute compiled a very helpful summary of several dozen research studies on the benefits of mixed income communities. [urban.org/uploadedpdf/412292-effects-from-living.pdf](http://urban.org/uploadedpdf/412292-effects-from-living.pdf)

overcoming the legacy of segregation. Most of Berkeley falls into what is generally considered a moderate- to high-opportunity area, in part because the City offers high-quality schools to students regardless of which neighborhood they live in. At the same time, Berkeley has been successful in locating nonprofit affordable housing in most parts of the City. These broader realities reduce the pressure on the City's inclusionary housing policy to produce affordable units on-site in every building and allow the City to pursue a balanced strategy of private and publicly sponsored provision of affordable housing in every neighborhood. An appropriate goal might be for the City to target a mix of on-site units in most market rate buildings while maintaining the collection of critical fees to support nonprofit affordable properties.

Though our analysis confirmed that Berkeley's current rules appear to strongly favor payment of the fee, the actual record of projects over the past few years paints a different picture and shows that Berkeley's current policy is already achieving this kind of mix, with the majority of projects providing on-site units and paying a prorated fee.

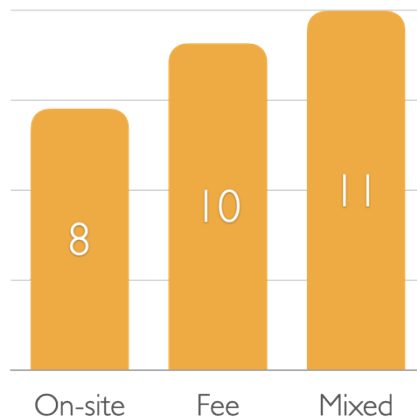
Currently, providing an on-site affordable unit is generally far more costly to a developer than paying the associated fee. Just as an example, Street Level Advisors calculated that for a hypothetical Berkeley rental property, providing one on-site Very Low Income unit would reduce the resale value of a building by about \$483,000. One on-site Low Income unit would reduce the building value by \$340,000. Opting out of providing either of those units would require payment of an Affordable Housing Mitigation Fee totaling only \$198,730.<sup>3</sup> While the specifics differ for each building based on the local market rents, in this example on-site costs more than twice as much as paying the current fee.

We estimate that the current AHMF costs roughly \$45 per gross residential foot, and the on-site requirements cost a typical project roughly \$114 per foot.

In spite of this, between 2012 and 2020 nearly two-thirds of Berkeley's projects have included some affordable units on-site and just under one-third have fully complied through the on-site option. Figure 3 shows that the mixed compliance option (some units plus some fee) has been the most popular option. There are likely several reasons for this, including political pressures, but one clear factor is the State Density Bonus (SDB). The State requires cities to allow developers who include affordable units to build more units on a site than would otherwise be allowed and to take advantage of certain planning and zoning concessions which make it easier to get projects built. Under the current rules, projects that provide at least 11% of their base project units affordable to Very Low-Income residents qualify for the maximum benefit under the Density Bonus. These benefits cause many Berkeley projects to include 11% affordable units on-site and pay the fee for the remaining units. A recent change to state law will allow a 50% density bonus to projects that provide 15% VLI units (among other options). This change should result in even more on-site units in Berkeley even under the current City ordinance.

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<sup>3</sup> Because Berkeley requires \$39,746 per unit or 1 on-site unit for every 5 units (20%), every on-site unit that is included reduces the fee by 5 times \$39,746.

**FIGURE 1: Compliance Option Selected 2012 - 2020**

### Encourage a mix of units and fees

The changes proposed below clarify Berkeley's policy to make on-site affordable units the preferred default requirement for both rental and ownership projects but allow payment of a fee as an alternative in order to:

- 1) continue to generate significant fee revenue to support nonprofit affordable housing projects throughout the City, and
- 2) offer flexibility for projects to choose between multiple compliance options depending on different circumstances.

Ideally, the proposed changes will encourage a mix of fees and units over time with fees coming primarily from projects where on-site units would be less feasible (e.g. due to economies of scale) or more difficult to monitor.

The proposed Affordable Housing Requirements ordinance would be structured so that providing on-site units is the default requirement for nearly all projects, with an exception for small projects and co-living type projects which would be encouraged to pay the fee. It might be possible to remove the fee option entirely, but state law requires cities to offer multiple compliance options such as a fee in their inclusionary housing ordinances. Ideally, the program would be structured such that the cost to a project of providing units on-site is more similar to the cost of paying the fee. This would maintain flexibility but reduce the incentive to pay the fee rather than provide units.

Over time, strong demand for housing in Berkeley should mean that higher fees are practical, but our analysis of current market conditions suggests that 2021 is a particularly risky time to raise Berkeley's housing fees. The Covid-19 pandemic has created uncertainty in the real estate market and led to falling rents throughout the region. The multi-family rental prototypes we studied earned returns that were just barely above the minimums required for financial feasibility. The recommendations below call for restructuring the fee to be calculated on a per square-foot basis but setting it, for the moment, at a level which is financially comparable to

the current fee for most projects. Once the housing market has recovered from the effects of the pandemic, we recommend evaluating a fee increase which would bring the cost of the fee option closer to the cost of on-site compliance.

More immediately, the proposed changes recognize the growing popularity of mixed compliance based on the State Density Bonus and aim to increase the number of on-site units primarily by increasing the prevalence of these mixed compliance projects. Together these changes should increase the number of affordable units provided on-site within market rate projects throughout Berkeley without dramatically reducing the affordable housing fee revenue that the City's HTF program receives.

### **Continue Berkeley's legacy of value capture**

A key goal of Berkeley's inclusionary housing ordinance and Affordable Housing Mitigation Fee has been to ensure that new real estate development projects in Berkeley contribute benefits for the whole community. This principle of Public Value Capture (or Land Value Capture) calls on the City to closely evaluate the profitability of real estate projects and set its housing requirements at a level which captures a share of the profits to support housing for our lowest income residents. Careful value capture requires close attention to the financing and economic realities of development in order to ensure that the City is capturing the appropriate amount of financial returns.

Appendix A contains a detailed description of Street Level Advisors financial feasibility study. Building on past studies conducted in support of Berkeley's Affordable Housing Mitigation Fee, we analyzed a single hypothetical rental and a single condominium building prototype in order to better understand the financial feasibility of these projects under the current program and under the proposed changes described below.

For rental projects, our model suggests that most projects would not be able to feasibly comply with the current 20% on-site requirement but that projects that choose to pay the fee or access the State Density Bonus by providing some units on-site and paying a partial fee would both earn returns that are just barely above the threshold we identified for feasibility (5% yield on cost). The returns for density bonus projects are comparable to the fee alternative because the additional cost of providing some units on-site is offset by the additional benefit of building more units on the same site.

For our rental prototype (described in Appendix A), the proposed fee of \$45 per gross square foot results in a virtually identical return to what the project would see under the current fee. A higher fee (\$55 per square-foot) would result in a marginal return. The proposed approach of providing more 'credit' for projects that provide on-site VLI units than those that provide LI units results in modest increases in the returns available to mixed compliance projects that take advantage of the State Density Bonus. While this small difference is not critical for this prototype, it is likely that there would be projects where this difference would result in on-site



affordable units in projects that would otherwise have paid the fee entirely (or not moved forward at all).

**Figure 2: Comparison of Returns - Rental**

| Scenario                              | Base Units | Bonus Units | LI Units | VLI Units | Fee \$      | Yield on Cost | % of Base | % of Total |
|---------------------------------------|------------|-------------|----------|-----------|-------------|---------------|-----------|------------|
| <b>Current Policy</b>                 |            |             |          |           |             |               |           |            |
| \$39,746 Per Unit Fee                 | 72         | 0           | 0        | 0         | \$2,861,712 | 5.08%         | 0%        | 0%         |
| Onsite Units                          | 72         | 0           | 7        | 7         | \$0         | 4.94%         | 19%       | 19%        |
| Mixed Compliance - 11% VLI            | 72         | 25          | 0        | 8         | \$2,265,522 | 5.07%         | 11%       | 8%         |
| Mixed Compliance - 15% VLI            | 72         | 36          | 0        | 11        | \$2,106,538 | 5.10%         | 15%       | 10%        |
| <b>Proposed Alternatives</b>          |            |             |          |           |             |               |           |            |
| \$45 Per Foot Fee                     | 72         | 0           | 0        | 0         | \$2,967,750 | 5.07%         | 0%        | 0%         |
| \$55 Per Foot Fee                     | 72         | 0           | 0        | 0         | \$3,627,250 | 4.99%         | 0%        | 0%         |
| Mixed Compliance (Weighted) - 11% VLI | 72         | 25          | 0        | 8         | \$2,350,809 | 5.10%         | 11%       | 8%         |
| Mixed Compliance (Weighted) - 15% VLI | 72         | 36          | 0        | 11        | \$2,184,925 | 5.12%         | 15%       | 10%        |

For ownership projects, there is no Yield on Cost metric; feasibility is generally evaluated based on the profit from sales as a percent of the total development cost. Because there have been very few recent condo projects in Berkeley, it is not possible to identify the exact threshold for feasibility. One common benchmark considers projects that earn more than 10% profit to be “feasible.” We found that neither the current fee nor the current on-site requirement resulted in profit as a percent of development cost above this 10% threshold. The proposed switch to a \$45 per square-foot fee would result in profit just above 10% while a higher \$55 per square-foot fee would result in profit closer to 9%.

**Figure 3: Comparison of Returns - Ownership**

| Scenario                           | Total Units | LI Units | Fee \$      | Profit % of Cost |
|------------------------------------|-------------|----------|-------------|------------------|
| <b>Current Policy</b>              |             |          |             |                  |
| Current Fee (based on sale prices) | 56          | 0        | \$3,810,847 | 8.00%            |
| Onsite Units                       | 56          | 11       | \$0         | 1.13%            |
| <b>Proposed Alternatives</b>       |             |          |             |                  |
| \$45 Per Foot Fee                  | 56          | 0        | \$2,767,050 | <b>10.88%</b>    |
| \$55 Per Foot Fee                  | 56          | 0        | \$3,381,950 | 9.16%            |

## Continue progress on housing goals

The Bay Area and the Berkeley community need more housing. Rapidly rising housing costs and growing displacement pressures are the result of a systemic shortage of housing. While building more housing alone would not be sufficient to address the current inequities, we cannot

overcome our housing challenges without building significantly more housing. The Regional Housing Needs Allocation (RHNA) requires Berkeley to permit nearly 9,000 new homes at all income levels during the period from 2023 to 2031.

To meet this historic challenge, Berkeley's affordable housing policies must balance two critical but competing goals.

- 1) We must set affordable housing requirements high enough to produce meaningful levels of affordable housing, and
- 2) We must ensure that they are not too high for developers to accommodate.

If Berkeley sets its requirements too low, it may see construction that only serves to further existing inequity and racial exclusion. But if requirements are set too high, the result could be that little or no new housing is built, which would itself perpetuate the inequities which drive ongoing displacement of existing residents and push prices and rents up to levels which effectively prevent new low- and moderate-income households, including many households of color, from moving to Berkeley.

Berkeley's current affordable housing requirements (both the on-site requirements and the fee options) are somewhat higher than other East Bay jurisdictions (see Figure 6 below). But in spite of the relatively high costs, construction is continuing in Berkeley. Even during the pandemic, builders continue to undertake new residential projects. This suggests that Berkeley's requirements do not dramatically overburden development. However, Street Level Advisors' feasibility analysis (Appendix A) finds that the current requirements are only marginally financially feasible in today's environment. This suggests that Berkeley could see more building overall - including more affordable housing development - by slightly reducing the cost of compliance for some projects.

The proposed changes include many small adjustments to current requirements intended to make it easier for developers to understand and comply with program rules and for the City to oversee and administer. This will also facilitate transparency for the community at large. These changes are explicitly intended to make it easier to build the new housing that Berkeley desperately needs. However, the proposed changes attempt to achieve this while simultaneously maintaining or increasing the overall contribution that new market-rate housing makes to the provision of affordable housing in Berkeley.

Under the proposed changes, some types of projects are asked to contribute more and others less (relative to the existing inclusionary requirements), but the goal is to maintain or increase the number of on-site units and the amount of fees available to the HTF program. The proposed changes do this by reducing the fee assessed to projects with relatively smaller units and increasing the fee on projects with large or extra large units. They will also slightly reduce the fee due from projects that provide some units on-site. These changes should encourage more projects to build some units on-site while also improving overall feasibility so that more housing projects are able to move forward.

## **Work within the City's existing administrative capacity**

Berkeley's current affordable housing requirements are among the most complex in the region, but the City has fewer administrative staff than many other jurisdictions. HHCS currently has a total of 1.3 FTE to implement the BMR program:

- 0.20 FTE to work on new projects (apply requirements, meet with applicants, draft and execute regulatory agreements);
- 1.0 FTE monitor for completed projects, funded by an annual monitoring fee on BMR units; and
- 0.10 FTE related policy work and program supervision.

Adopting changes to the City's affordable housing requirements that increase administrative requirements would only be possible if new General Funds could be identified to support the implementation. As the City's BMR portfolio expands, funding for an additional monitor should be a consideration as well. Implementing local affordability requirements is not an eligible use of federal funds, so local funds are required to support this activity.

The proposed changes described below add complexity to the rules in several places but attempt to offset the complexity by streamlining and eliminating administrative challenges in several other places. The goal is to design a program which the City can successfully implement with existing staffing resources.

## Proposed Changes in Detail:

### 1. Consolidate Affordable Housing Requirements into a single framework

#### Proposed Changes:

- 1.1. Combine the requirements of the Affordable Housing Mitigation Fee (AHMF) and Inclusionary Housing (IH) ordinances into a single “Affordable Housing” ordinance which would impose on-site affordable housing requirements for both ownership and rental projects.
- 1.2. The fee would be structured as an “in lieu fee” offered as an alternative to on-site units, rather than as a mitigation fee.
- 1.3. The new ordinance would also replace the affordable housing requirements sections of the Condo Conversion and Live/Work ordinances.
- 1.4. To the extent possible, standardize the requirements that are applied to different projects to simplify implementation of the program.
- 1.5. The new ordinance would apply to all new project applications received after a date specified several months after adoption.

#### Background and Analysis:

Prior to 2009, Berkeley had a single Inclusionary Zoning Ordinance (BMC Chapter 23C.12) which applied to both ownership and rental projects. In 2009, a Court of Appeals decision known as *Palmer/Sixth Street Properties LP v. City of Los Angeles* prevented California jurisdictions from enforcing inclusionary housing requirements on rental properties. Like many other cities, Berkeley responded by adopting an Affordable Housing Mitigation Fee (AHMF) (BMC section 22.20.065). Instead of requiring on-site units and then offering an in lieu fee as an alternative, the AHMF ordinance requires payment of a fee and allows the provision of on-site units as an alternative. This approach allowed Berkeley to achieve its policy goals without violating the restrictions imposed by the Palmer decision. But it created a situation in which the City had two different ordinances that attempt to impose similar requirements. The provisions of the Inclusionary Housing Ordinance that applied to rental housing remained in the Berkeley Municipal Code but were unenforceable and superseded by the AHMF ordinance.

In 2018, the California Legislature passed AB1505 which effectively overturned the Palmer decision and authorized the implementation of inclusionary housing requirements applied to rental properties. This legislation has allowed a number of cities to update their programs to combine rental and ownership requirements under a single inclusionary housing ordinance.

For example, in June 2019, the Mountain View City Council completed a two-phase process to update its Below Market Rate Program requirements. Mountain View now requires any new residential development, whether rental or ownership, to provide 15% of its units at affordable

rents.<sup>4</sup> Similarly, after suspending its inclusionary rental housing requirement in 2011 to comply with the Palmer decision, the City of Menlo Park updated its Below Market Rate Housing Program to subject all new residential developments to its affordable housing requirements.<sup>5</sup>

Berkeley's new Affordable Housing Requirements (AHR) ordinance would address both rental and ownership projects (including Live/Work and Group Living Accommodations) and would impose an on-site affordable housing requirement for both while allowing payment of an in lieu fee.

## 2. Calculate the fee on a per square-foot basis

### Proposed Change:

- 2.1. Calculate affordable housing fees on a per square-foot basis instead of per unit. Initially set the fee at \$45 per gross residential square foot, which is roughly equivalent to the current fee for projects with typically sized units. Collect the fee at the time of Certificate of Occupancy eliminating the current discount for earlier payment. Increase the fee amount automatically based on the change in the California Construction Cost Index.

### Background and Analysis:

Some stakeholders have expressed concerns that projects that propose units with large numbers of bedrooms are not being required to pay an appropriate fee. Because Berkeley charges its AHMF on a per unit basis, a project that chooses to include a number of 5-bedroom units for example, would pay far less proportionally than a similarly sized project with studio, 1- and 2-bedroom units. It is not clear whether this savings is enough to cause developers to choose much larger bedroom configurations since these large unit 'co-living' projects are a trend nationwide. But it is clear that Berkeley's ordinance creates an incentive for projects that select this configuration and there does not seem to be a public policy reason for Berkeley to prefer these extra-large units. While there are benefits to projects that include 'family sized' 2 and 3-Bedroom units (discussed in proposed change #9 below), beyond 3 bedrooms, new units are generally housing multiple unrelated individuals rather than families.

A number of cities have changed to calculating in lieu fees on a per square-foot basis. San Francisco and Santa Barbara both made this change in 2019 and San Jose made a similar change in early 2021. Instead of charging a flat fee per unit, the City would charge the fee for each square foot of residential space in the building regardless of how the building is divided up into

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<sup>4</sup> City of Mountain View, Below Market Rate Program, <https://www.mountainview.gov/depts/comdev/preservation/homebuying/bmrhousing/default.asp>

<sup>5</sup> City of Menlo Park, BMR Requirements for Residential Developers, <https://www.menlopark.org/DocumentCenter/View/1493/BMR-Requirements-for-Residential-Developers>

units. As an example, a 25,000 square foot building would pay the same fee whether it was split up into 50 small studios or 15 multi-bedroom co-living units.

Currently, in Berkeley, every rental project would pay \$39,746 per unit (assuming that they provided no units on-site). For a typical project, this is equivalent to a fee of \$45 per gross residential square foot, as illustrated in the table below.

“Gross Square Feet – Residential” is defined as all of the square footage of a new building (as defined in BMC 23F.04.010 ) minus any exclusively commercial space or indoor parking area. In a typical project, the gross square footage is roughly 1.25 times the net square footage.

We conducted a market analysis in order to estimate a per square-foot fee which would be equivalent to the current AHMF. We collected data on the unit sizes of 18 recent Berkeley projects. We then multiplied the average unit sizes by 1.25 to estimate the gross square footage of each of these projects. For each project, we calculated an ‘equivalent per square-foot fee’ by dividing the fee that the project would have paid under the current rules (assuming no on-site units) by the gross square footage. The equivalent per square-foot fees ranged from \$38 to \$65. The typical fee was approximately \$45 which corresponds to an average unit size of 705 square feet.<sup>6</sup> Figure 4 shows the distribution of average unit sizes and equivalent square foot fees.

**Figure 4: Impact of unit size on equivalent square foot fee calculation**

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<sup>6</sup> This excludes several outlier projects with very large or very small units.

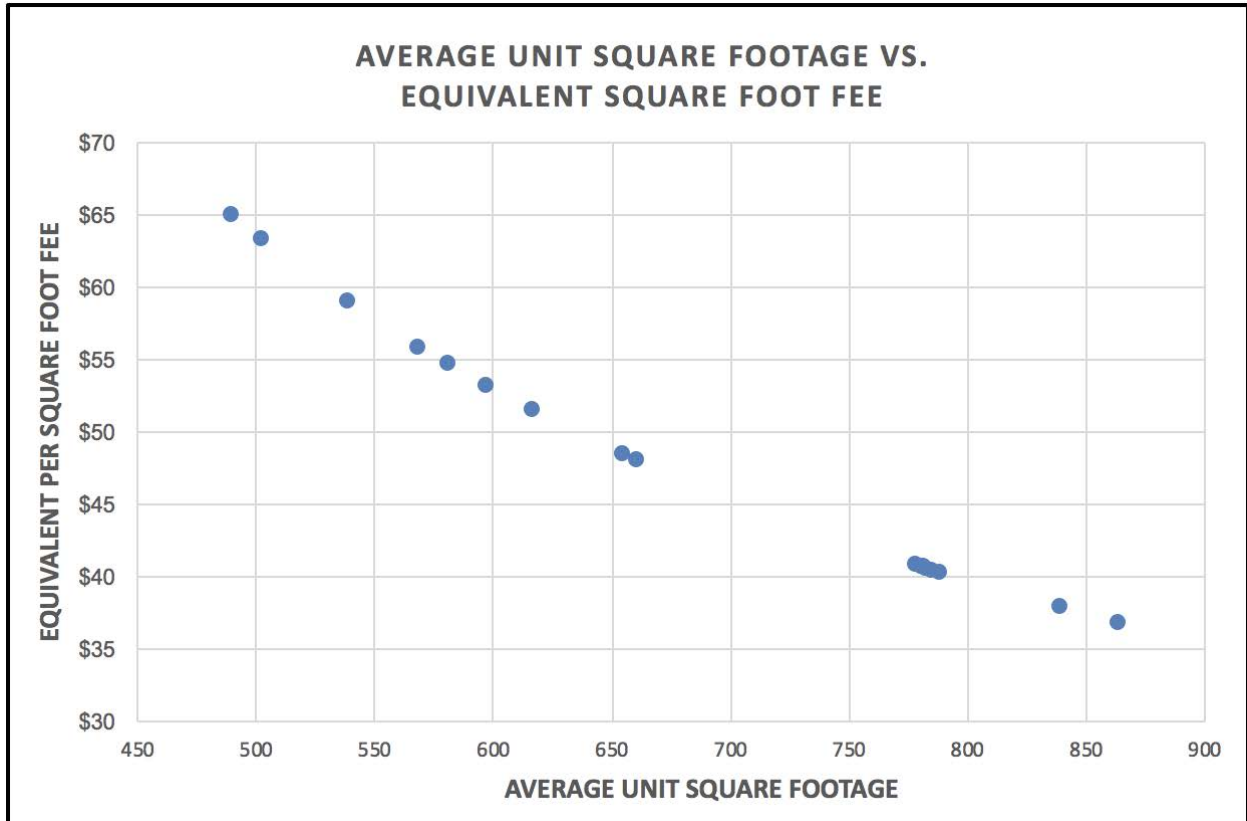


Figure 5 shows a sample of recent projects in order to illustrate the impact of switching to a per square-foot fee. Under the current per unit fee, projects that have the same number of units like Avalon and Hillside Village would pay the same amount of fee. The equivalent per square-foot fees (\$37.91 vs. \$48.14) show that Avalon is getting a much better deal by paying less relative to its size.

The per square-foot fee adjusts for the difference in project sizes. If Berkeley switched to a standard fee of \$45 per square-foot, projects with small units such as the Delaware Apartments would pay a lower total fee while projects with large units such as Higby would pay higher total fees.

**Figure 5: Equivalent per foot fees for recent projects - Examples**

| Project Name     | Total Units | Average Unit Square Footage | Current Fee (Assuming \$39,746 per unit) | Equivalent Per square-foot Fee | Projected Fee (assuming \$45/sq.foot) |
|------------------|-------------|-----------------------------|------------------------------------------|--------------------------------|---------------------------------------|
| Higby            | 98          | 864                         | \$3,895,108                              | \$36.82                        | \$4,760,145                           |
| Avalon           | 94          | 839                         | \$3,736,124                              | \$37.91                        | \$4,434,615                           |
| Stonefire        | 98          | 782                         | \$3,895,108                              | \$40.65                        | \$4,311,900                           |
| Hillside Village | 94          | 661                         | \$3,736,124                              | \$48.14                        | \$3,492,405                           |
| The Dwight       | 99          | 617                         | \$3,934,854                              | \$51.57                        | \$3,433,680                           |
| The Delaware     | 51          | 581                         | \$2,027,046                              | \$54.72                        | \$1,667,025                           |

For comparison, Figure 6 provides fee levels for nearby jurisdictions.

**Figure 6: Comparison of Inclusionary Housing Requirements and Fee Levels for Other Jurisdictions**

| City                | % Affordable Housing Required On-site                                 | Fee                                                                                   | Notes                                                   |
|---------------------|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------|---------------------------------------------------------|
| Alameda             | 15% for all multifamily projects                                      | \$20,342 Per Unit                                                                     | No alternative to fee for buildings of 9 or fewer units |
| Emeryville          | 20% for all multifamily projects                                      | \$31,032 Per Unit                                                                     |                                                         |
| Fremont             | 12.9% for rental                                                      | \$27.00 Per Residential Square Foot                                                   |                                                         |
| Hayward             | 6% for rental, 10% for ownership                                      | \$19.37 Per Residential Square Foot                                                   | Lower fees for high-density condos                      |
| Livermore           | 10% downtown, 15% everywhere else                                     | \$29.23 Per Residential Square Foot                                                   | Projects with 10 or more units may not pay fee          |
| Oakland             | 10% if low- or moderate- income units, 5% if very low-income units    | For multi-family: \$22,000 per unit in Zone 1, \$17,750 in Zone 2, \$12,000 in Zone 3 |                                                         |
| Pleasanton          | 15% for all multifamily projects                                      | \$45,083 per unit                                                                     |                                                         |
| San Francisco       | 20% for small projects, 25% for large rental, 33% for large ownership | \$199.50 Per Gross square foot times affordable percent                               | Equivalent to \$60 per square-foot for many projects.   |
| San Jose (proposed) | 15% for all multifamily projects                                      | Moderate Market Areas: \$18.26 per net residential foot<br>Strong Market Areas: \$43  |                                                         |



The current AHMF ordinance allows developers to choose between paying a higher fee (currently \$39,746) at the Certificate of Occupancy when a project is nearly complete or a reduced fee (currently \$36,746 ) earlier when a project receives a building permit. Nearly all projects have selected the higher fee because of the high value that developers place on the ability to pay the fee later. Paying later reduces their financing costs and lowers their overall financial risk. Removing the option to pay early would recognize this reality and eliminate an additional element of administrative complexity and communication challenge.

The existing Affordable Housing Mitigation Fee is automatically adjusted by the annual percentage change in the California Construction Cost Index published by the California Department of General Services, every other year. The automatic adjustment is applied to all projects that have not received final approval by the City of Berkeley prior to the date of the automatic adjustment. This automatic adjustment ensures that the fee keeps pace (roughly) with what it costs the City and its nonprofit partners to construct new affordable housing using the fee revenue. This method should remain in place.

### **3. Evaluate the potential for higher fees when the market is stronger**

#### **Proposed Change:**

- 3.1. In order to encourage more on-site units, phase in a slightly higher fee once the housing market has stabilized. Conduct an updated feasibility analysis within 3 years, increase the per square-foot fee if the analysis shows that typical projects could support the higher fee.

#### **Background and Analysis:**

Under current market conditions, Berkeley's on-site compliance option (20%) is significantly more costly for most projects relative to the cost of the Affordable Housing Mitigation Fee or In-lieu Fee. This creates an incentive for projects to choose to pay the fee instead of providing units on-site. In spite of this incentive, the majority of projects have provided some level of on-site units because the State Density Bonus provides an even stronger incentive to include affordable units on-site, and the units count against the fee obligation as well.

Ideally, the on-site unit and in-lieu fee requirements would be more closely aligned so that they represented similar costs for most projects. This kind of alignment would likely result in a higher number of on-site units without entirely eliminating the fee revenue which is critical to Berkeley's HTF program. Aligning the economics of these two options would require either raising the fee or lowering the on-site requirement considerably.

In rough terms, the on-site requirement would need to be lowered to about 15% in order to represent a cost to most rental projects that was equivalent to the cost of the current AHMF. However, none of the local stakeholders we spoke with suggested that there would be public support for lowering Berkeley's on-site requirement.

A number of stakeholders, on the other hand, suggested raising the fee. This seems to be the more obvious path to aligning the cost of the two options and increasing the share of units on-site. However, our feasibility analysis (Appendix A) suggests that 2021 would be a particularly risky time to raise the affordable housing fee. The Covid-19 pandemic has created uncertainty in the real estate market. Rents in Berkeley have fallen significantly and rents in high-cost newly constructed buildings may have fallen more than the average. At the same time, construction costs have not (yet) fallen leaving most multi-family housing developments in a precarious position. Builders are still moving forward with new rental buildings in Berkeley but the City's volume of new applications has fallen relative to recent years. It seems likely that Berkeley will continue to be a desirable location for new housing over the long term but it is not yet clear whether there will be a protracted slow down in new building throughout the region following the pandemic.

While the level of local fees, including affordable housing fees, is just one small factor that developers consider when they decide whether or not to move forward with a project, Berkeley already charges more than most other East Bay jurisdictions and increasing the fee at this time could contribute to a greater slow down in new building.

For this reason, we are recommending that Berkeley allow for a period of housing market recovery before considering an increase in the Affordable Housing Fee. The City could plan on an update to the feasibility analysis in one to three years or wait for evidence that either rents have begun increasing or that construction costs have begun to fall before reconsidering the level of the fee.

#### **4. Incentivize Extremely Low-Income (30% of AMI) units**

##### **Proposed Changes:**

- 4.1. Require all VLI Units to be offered to voucher holders (50% to Housing Choice Voucher Holders and 50% to Shelter + Care Voucher Holders) before being marketed to other income eligible households.

##### **Alternative:**

- 4.2. Retain the current rules which require 40% of VLI units be offered first to Housing Choice Voucher Holders and another 40% be offered first to Shelter + Care Voucher Holders.

**Background and Analysis:**

A number of local stakeholders have expressed a desire to see Berkeley's program provide relatively more units to serve Extremely Low-income (ELI) households (below 30% of Area Median Income) who face the most acute housing challenges.

Some cities achieve this by creating a formula which allows developers to substitute a smaller number of units targeting Extremely Low Income residents for some portion of otherwise required on-site BMR units. Los Angeles's Transit Oriented Communities (TOC) program requires affordable units in exchange for a significant density bonus. The TOC program allows developers to choose between providing a greater number of low-income units or a smaller number of more deeply affordable Extremely Low Income units. Even though the rents on the ELI units are much lower, many developers have chosen this option because they can provide fewer affordable units (and more market rate units). Between 30% and 50% of the BMR units produced through the program have targeted ELI households and this program has driven a significant increase in the total number of income restricted ELI units produced in LA. In 2020, 34% of new BMR units in LA were restricted to ELI tenants.

While this type of approach might increase the number of ELI units in Berkeley, it is worth noting that Berkeley is already a national leader in serving ELI households through inclusionary housing. *Currently 29% of Berkeley's BMR tenants have incomes below 30% of AMI* and the share of ELI tenants is likely to increase noticeably under current rules. Berkeley's AHMF requires that at least half of BMR units must target 50% of AMI and, *of those*, 40% must be offered first to Housing Choice voucher holders from the Housing Authority and another 40% must be offered first to Shelter Plus Care voucher holders managed by the City's Housing and Community Services division. Voucher holders in both programs generally have incomes well below 30% of AMI. And because of the acute shortage of inexpensive market rate housing, most of the households that receive vouchers in Berkeley are unable to use them in the market. This approach has benefits for developers as well. The City allows the property to receive the contract rent offered by the subsidy program as long as the tenant's share of rent is below the BMR limit. The contract rents are generally far below the market rent for brand new buildings but also quite a bit higher than the BMR affordable rent for 50% AMI units. Because of the voucher, the ELI tenants, on the other hand, generally pay much less than the 50% AMI affordable rent.

In addition, because of the way Berkeley's requirements interact with the State Density Bonus (SDB), developers tend to favor the 50% AMI units. As a result, 77% of Berkeley's BMR units approved since 2012 have been regulated as 50% AMI units. If this pattern continues and, going forward, 80% of these units are reserved for voucher holders, then we would expect voucher holders to make up 62% of new BMR tenants.

A 2020 State law (AB 2345) expands the SDB beginning in January 2021. Developers will now be allowed to build 50% more units if they provide at least 15% VLI units (among other options). This new law should result in a greater number of on-site VLI units and, as a result, a greater number of ELI/voucher tenants. At some point, it is likely that the City would exhaust

the supply of unused vouchers and some of these units would ultimately be leased to Very low Income tenants (below 50% of AMI) instead.

In addition to its success in serving ELI tenants in BMR units, the City currently requires that at least 20% of units in all projects funded with the Housing Trust Fund be affordable to ELI tenants.

Requiring that all VLI units first be offered to voucher holders would slightly increase the share of ELI tenants housed going forward while also removing an element of complexity from the program and simplifying otherwise complex rounding issues.

## 5. Adjust the residual fee for mixed compliance projects

### Proposed Change:

- 5.1. Encourage more mixed compliance projects by changing the calculation of the remaining fee due when projects provide less than 20% affordable units on-site. Restructure the remainder fee so that providing VLI (50% AMI) units reduces the fee due by more than providing LI (80% AMI) units.

### Alternative:

- 5.2. Continue the current practice of providing the same reduction in fee for any units, whether they serve VLI tenants or LI tenants.

### Background and Analysis:

Currently rental projects that provide 20% affordable units on-site are exempt from the Affordable Housing Mitigation Fee (AHMF). Half of these units must be for Very Low Income (VLI) residents earning less than 50% of AMI and half must be for Low Income (LI) residents earning less than 80% of AMI. When a developer provides a portion of the required units on-site, the City has a formula that is used to determine the remaining fee. For example, if a project provides half of the required on-site units, they also owe half of the fee that would have been due. In order to access the benefits of the State Density Bonus, the majority of recent projects have selected this mixed compliance option.

Under the current rules, providing any on-site affordable housing unit reduces the fee that is due by the same amount regardless of whether the unit provided is a LI or a VLI unit. But because the VLI units rent for much less, they are much more costly to provide on-site. When a developer agrees to provide any permanently affordable unit, they will receive less rental income from that unit throughout the life of the project than they would from a market-rate unit. As a result, each affordable unit in a project decreases the value of a building - the amount that a building could be sold for. Street Level Advisors estimated the cost of providing these units on-site for a hypothetical six story project and found that a VLI unit reduces the value by \$483,000 while a LI unit reduces value by \$340,000.

One way to encourage more projects to provide some units on-site would be to restructure the remainder fee so that providing VLI (50% AMI) units reduces the fee due by more than providing LI (80% AMI) units. Based on the relative affordable rents, providing 10% VLI units could relieve the developer of \$30 of the \$45 per square-foot remainder fee, while providing 10% LI units could relieve them of only \$15 of the \$45 per square-foot fee. Projects providing fewer than the 10% of units required in either category would pay a fee adjusted proportionally.<sup>7</sup>

**Figure 7: Examples to illustrate partial compliance - 100 unit project**

| <b>Example</b> | <b>VLI units</b> | <b>LI Units</b> | <b>Fee</b> |
|----------------|------------------|-----------------|------------|
| On-site Only   | 10               | 10              | \$0        |
| Fee Only       | 0                | 0               | \$45       |
| Only VLI       | 10               | 0               | \$15       |
| Only LI        | 0                | 10              | \$30       |
| Half Each      | 5                | 5               | \$22.50    |
| 11% VLI        | 11               | 0               | \$12       |
| 15% VLI        | 15               | 0               | \$0        |

This change would increase the feasibility of the mixed compliance options and should result in on-site units from some projects that would have otherwise selected to pay the fee. However it is important to note that this mixed compliance option is already the most popular option and appears to be financially feasible without this change.

## 6. Standardize ownership fees

### Proposed Change:

- 6.1. Apply the same per square-foot fee for both rental and ownership units. Continue to require different income targeting for ownership units.

<sup>7</sup> The formula for calculating the reduction in fee could be  $(\text{Full Fee} * 1.33 / 20) * (\text{actual \% of VLI units}) + (\text{Full Fee} * .67 / 20) * (\text{actual \% of LI units})$ . If the full fee is \$45 per square-foot, then each 1% of VLI units would reduce the fee due by \$3 per square-foot and each 1% of LI units would reduce the fee by \$1.50 per square-foot.

**Alternative:**

- 6.2. Charge any project that chooses to record a Condominium Map a higher fee of \$55 per square-foot.

**Background and Analysis:**

Many local stakeholders are under the impression that Berkeley's current Inclusionary In-Lieu Fee for ownership projects is higher than the Affordable Housing Mitigation Fee for rental projects. Berkeley has seen very few ownership projects in recent years, so it is difficult to directly compare, but our analysis suggests that this is true, both on a per unit and per square-foot basis.

In lieu of each affordable unit, the current Inclusionary Housing Ordinance allows payment of a fee equal to 62.5% of the difference between the market price and the "affordable" price. To estimate the equivalent per square-foot fee that this rate yields, we used proprietary data from Property Radar to calculate average square footages and market values for Berkeley condos, shown in Figure 8.

**Figure 8: Condo pricing estimates**

| Berkeley Condo Sales 2021 |          |           | Prototype (New Building) |
|---------------------------|----------|-----------|--------------------------|
| Unit Size                 | Avg Sqft | Avg Value | Projected Value          |
| Studio                    | 646      | \$620,752 |                          |
| 1-BR                      | 814      | \$703,556 | \$725,000                |
| 2-BR                      | 1117     | \$853,125 | \$925,000                |
| 3-BR                      | 1571     | \$995,797 | \$1,100,000              |

It is likely that newly built condos would sell for higher than average prices but there have not been enough Berkeley condo projects in recent years to calculate appropriate projections for new buildings only. We have assumed sale prices for newly built condo units would be roughly 5 to 10% higher than the citywide average condo sales prices.

The IHO defines the affordable price for the purpose of calculating the fee as three times (3x) the Area Median Income (AMI) adjusted for household size. We used those prices to estimate in lieu fees. We then multiplied those numbers by 20% to yield the equivalent per unit fee, which range from \$48,000 to \$85,000. This suggests that the fees required for ownership projects in the IHO are indeed higher than the \$39,746 per unit currently required for rental

projects under the AHMF. Our estimates for the equivalent per square-foot fees for ownership projects range from \$54 to \$75, which is higher than the typical equivalent per square-foot fees that we found for rental projects. Projects with very high cost condo units would face even higher fees.

**Figure 9: Estimated BMR Ownership Fees 2021**

| Unit Size | Sq Ft | Market Price | Affordable Price | In Lieu Fee | In Lieu Fee Per Unit | In Lieu Fee per Sq Ft |
|-----------|-------|--------------|------------------|-------------|----------------------|-----------------------|
| Studio    | 646   | \$620,752    | \$234,960        | \$241,120   | \$48,224             | \$75                  |
| 1BR       | 814   | \$703,556    | \$250,650        | \$283,066   | \$56,613             | \$70                  |
| 2BR       | 1117  | \$853,125    | \$282,000        | \$356,953   | \$71,391             | \$64                  |
| 3BR       | 1571  | \$995,797    | \$313,200        | \$426,623   | \$85,325             | \$54                  |

Note that the median condo value in Berkeley has risen dramatically in recent years, from a low of \$364,000 in 2012 to \$900,000 in January 2021.<sup>8</sup> Because prices have risen much faster than income, the in lieu fee has risen too.

We analyzed the financial feasibility of the current fees for hypothetical affordable ownership projects (Appendix A) and found that the current fees resulted in profits that fall below commonly used benchmarks for necessary profit. High cost condos might be able to pay the fee and earn the minimum required profit but projects with sales prices closer to Berkeley's average condo prices were not. However, under current conditions, more typically priced condos were able to pay the proposed rental fee of \$45 per square-foot and remain financially feasible. While there have not been enough condo projects in Berkeley recently to draw strong conclusions, this exercise lends support to the assertion that the relatively high level of Berkeley's fee for ownership projects is contributing to developer's choice to build rental rather than ownership housing.

The current policy appears to discourage homeownership development. Some local stakeholders have expressed an interest in adjusting the policy to give developers, and ultimately Berkeley residents, more choice between rental and homeownership housing. Setting the fee at \$45 per square-foot for both types of project would level the playing field considerably. The typical ownership unit would still pay more because ownership units tend to be larger. As an alternative, many cities charge homeownership units slightly more. Setting

<sup>8</sup> Zillow Home Value Index for Condos/Co-ops, <https://www.zillow.com/berkeley-ca/home-values>

Berkeley's fee at, for example, \$55 per square-foot for ownership projects would slightly disincentivize ownership but by less than the current fee approach.

***Addressing rental projects that record condo maps***

Another reason to consider standardizing the fee between rental and ownership projects stems from the fact that a growing number of new multi-family buildings are recording condominium maps but opening initially as rental housing projects. This gives project owners the flexibility to later sell the rental units as condos if housing market conditions change. The added flexibility makes it easier for developers to access project financing or to access financing on better terms.

For projects that provide on-site affordable rental units, the City records restrictions which require that the BMR units remain affordable rentals for the life of the project. But the potential for projects that are initially rental and pay the AHMF but later convert to ownership is not addressed in Berkeley's current code. Projects that paid the AHMF as rental projects and later sold condo units would owe an additional fee, but monitoring and collecting this fee is administratively and legally challenging.

Some cities have responded to this trend by requiring projects that record a condo map when they are first built to pay a higher affordable housing fees that would be due for ownership projects even if the building is initially operated as rental housing. This would not be practical under Berkeley's current approach because the ownership in lieu fee is set based on the actual sale price of units but those may not be determined for many years (if ever). Setting a single in lieu fee that would be applied to both rental and ownership projects at the time of development would eliminate this complexity. Alternatively, setting a higher fee per square-foot for projects with a Condo Map would also provide a practical alternative, though it might increase costs on rental projects that are not likely to ever actually convert to ownership but need the Condo Map in order to access certain financing sources.

## **7. Standardizing Live Work and GLA requirements**

**Proposed Change:**

- 7.1. Remove the exemption for Live / Work projects from IHO/AHMF ordinances; apply the same requirements to Live / Work projects as any other project except for the "affirmative marketing" provision
- 7.2. Remove the exemption for units with Group Living Accommodations (GLA) tenancy (and consider retaining an exemption for University-recognized GLAs)

**Background and Analysis:**

A 2018 Council Referral (2018-09-12, Item 17) called for the elimination of the affordable housing requirements in the Live Work Ordinance and removal of the live/work exemptions



from both the IHR and AHMF ordinances. This action would simply apply the Inclusionary Housing or AHMF ordinances to Live Work exactly as they are applied to other projects.

Live/Work units are currently exempt from both the Inclusionary zoning ordinance and the Affordable Housing Mitigation fee. Instead, Berkeley's Live Work Ordinance (Berkeley Municipal Code 23E.20) requires projects that create 5 or more Live/Work units to include 1 inclusionary unit affordable to 80% of AMI for every 5 Live/Work units created. The inclusionary requirements in the Live/Work ordinance differ from the requirements applied to other projects. Affordable units under the Live/Work ordinance are all targeted to 80% of AMI. In addition, the Live Work Ordinance specifically allows inclusionary Live/Work units to be smaller, have lesser finishes and be located anywhere in a project while both the IHR and AMHF ordinances require units to be the same size, have comparable finishes and be distributed throughout a project.

There is one provision of the Live/Work ordinance which is specific to Live/work affordable units which it would make sense to retain or move to the new ordinance. Inclusionary live/work units must be affirmatively marketed to "income-eligible persons performing a work activity permitted in the District where the project is located whose type of work causes them to have a requirement for a space larger in size than typically found in residential units." The ordinance currently provides no standards for documenting tenants' need for live/work space or rules for waiving this requirement in the event that a tenant with this need cannot be found within a reasonable period.

The ordinance currently exempts Group Living Accommodations (GLA) units, but because this classification represents a type of tenancy rather than a specific type of unit, it would make sense to subject GLA units to the Affordable Housing Requirements like any other unit. Fraternities, sororities, and other specially designated units managed by the University would retain their exemption. Further study could be necessary to assess the impact of this change on project feasibility.

## **8. Add a land dedication option**

### **Proposed Change:**

- 8.1. Add a land dedication option which authorizes the City Manager to approve donation of land to the City or an approved nonprofit housing developer. Donated land must be appraised for a value of at least 75% of the in lieu fee which would otherwise be due, be sufficiently sized and zoned to support multifamily housing development and otherwise be suitable for affordable housing development.

### **Alternative:**

- 8.2. Don't add a land dedication option - continue with two compliance options; on-site units or in lieu fee, though this would leave projects newly excluded from the on-site option with only one compliance option.

**Background and Analysis:**

Some stakeholders have suggested that the program would be stronger if Berkeley allowed developers to comply by providing off-site affordable projects, preserving existing ‘naturally occurring affordable housing’ or dedicating land for affordable housing development. We evaluated the feasibility of adding off-site and preservation options and concluded that Berkeley currently lacks the staff capacity necessary to effectively implement these complex options. However, it is worth noting that the City can and does use in lieu fee revenue collected to finance both off-site projects and preservation/rehabilitation projects. By collecting fees and then going through the existing procedures for the HTF and Small Sites programs, the City avoids the need to develop new detailed rules and closely monitor developer implementation of these alternatives.

The third option, land dedication, however, provides an outcome which the City cannot achieve on its own through the use of fee revenue. While this option also would require detailed rules to avoid abuse, it may be less challenging than off-site or preservation options and is likely to be used in far fewer cases.

Access to sites is one of the key barriers facing affordable housing developers. Market rate developers sometimes end up with control over sites which could be better used for affordable housing. Sometimes market rate projects are large enough to set aside a portion for affordable housing. In these, somewhat rare, cases, it is sometimes more affordable for the developer to donate land for affordable housing than to build on-site units or pay an in lieu fee. If the donated site is appropriate for affordable housing, it can save significant time and make new projects possible. Of course, if sites are not appropriate, land donation can result in a significant burden on City resources. If the policy were to include a land dedication option, the City would need to develop detailed guidelines which outlined site requirements and retain the option to only accept sites when there is a high probability that they will be developable for affordable housing including, for example, expressions of interest from local affordable housing developers.

**9. Provide a family sized units option****Proposed Change:**

- 9.1. In lieu of providing 20% of units at affordable prices, allow projects to provide affordable units comprising 20% of the Gross Residential Floor Area in the project provided that at least 50% of those units are in 2 or 3 bedroom units.

**Background and Analysis:**

Berkeley’s IHR and AHMF ordinances currently require that on-site BMR affordable units be of the same type and size as market rate units in the property. As the cost of construction has risen, there has been a trend for market rate projects to include smaller and smaller

apartments and this has meant that the BMR units have been shrinking as well. Some stakeholders have asked the City to consider ways to incentivize more ‘family sized’ units even in buildings where the market rate units are quite small. This request has been made at the same time that other stakeholders have called for the City to actively discourage units with high bedroom counts (i.e., co-living units).

It seems that in the current context the City should be encouraging 2 and 3-bedroom units but not larger ones. One way to achieve this is to require that projects set aside a given percentage of floor area for affordable housing instead of a percentage of units if the majority of those units are 2 and 3-bedroom units.

When New York City adopted their Mandatory Inclusionary policy for the first time in 2016, rather than requiring a percentage of units be affordable, they required that the affordable units make up a percentage of net residential floor area.<sup>9</sup> This allows developers to include larger or smaller affordable units. Projects offering smaller BMR units may need to provide more units and projects offering larger units would provide fewer units. Cambridge, MA, a city with size and demographic similarities to Berkeley, also switched to this method in 2017, but with the additional condition that large developments (30,000 square feet or more) are required to include 3-bedroom affordable units.<sup>10</sup> Both of these approaches would add considerable complexity to already complex rules in Berkeley. The proposed change would continue to require 20% of units for most Berkeley projects, but would add an alternative for projects that chose to offer mostly 2 and 3 bedroom BMR units.

## 10. Simplify the requirements for condominium conversions

### Proposed Changes:

- 10.1. Calculate the Condo conversion fee at 8% of the market value of converted units.
- 10.2. Reduce the conversion fee to 4% for any unit that is and has been occupied by an owner as his or her principal place of residence for at least 5 consecutive years immediately prior to the date that the fee is paid, including as a tenant in that unit immediately prior to ownership.
- 10.3. Also reduce the conversion fee to 4% for any co-housing unit, any unit that is part of a housing cooperative, or conversion undertaken by a nonprofit developer.
- 10.4. Continue to allow a further 25% discount in the fee if it is paid at the time of conversion rather than at the time of sale of condo units.
- 10.5. Add flexibility in the use of conversion fees. Allow up to 10% of conversion revenue to be used for Condominium Conversion program delivery and/or Housing Trust

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<sup>9</sup> New York City Mandatory Inclusionary Housing Program, <https://www1.nyc.gov/site/planning/plans/mih/mandatory-inclusionary-housing.page>

<sup>10</sup> City of Cambridge Inclusionary Housing, <https://www.cambridgema.gov/CDD/housing/inclusionaryhousing>

Fund program and project monitoring and enforcement or related program administrative costs with the remaining 80% placed into the Housing Trust Fund.

**Background and Analysis:**

Berkeley's Condominium conversion ordinance (CCO) (Berkeley Municipal Code [BMC] Chapter 21.28 et seq.) requires payment of an Affordable Housing Mitigation Fee at the time that rental properties are converted to condominium ownership. Between 1992 and 2009 this mitigation fee recaptured essentially the entire difference in affordability that resulted from conversion. This had the effect of discouraging conversions. In 2005, the state Court of Appeal held that cities could not prohibit conversion of rental units to Tenants in Common ownership (TIC). Since then, the City has sought to encourage conversion of rental units to condominiums rather than TICs because of difficulties that can arise for people who invest in TIC properties. It has done so by imposing a de facto cap on the affordable housing mitigation fee charged for conversion to condominiums since 2009.

**Nexus Fee Calculation:** Under the current ordinance the AHMF for condo conversions is calculated through a complex 'nexus formula' that considers costs of ownership, rental and mortgage rates. Alternatively, owners can choose to pay 8% of the sales price (or 4% for 2-unit buildings) instead of the Nexus Fee if they agree to limit rent increases for any existing tenants. This alternative calculation generally results in much lower fees. As a result, the nexus-based fee method has been used very rarely. We recommend that all condominium conversions be subject to the 8%/4% fee, and that all sitting tenants be provided protections and an opportunity to purchase.

Examples:

**Nexus Formula:** Rental Costs = \$1,500 per month x 12 months/year = \$18,000 annually  
 Ownership Cost (including principal, interest, taxes, insurance, and homeowners' association dues) = \$2,700 per month x 12 = \$32,400  
 Assume a mortgage rate of 6.5 percent. Increased housing cost due to ownership conversion of the unit = \$32,400 - \$18,000 = \$14,400  
 Mitigation Fee = \$14,400 / 0.065 = \$221,538

**Alternative Formula:** Sale price for converted unit = \$400,000. If owner agrees to limit rents to existing or future tenants. Mitigation fee = 8% x \$400,000 = \$32,000.

**Discount for Owner Occupants/Tenant Conversion:** Currently, the condo conversion ordinance provides a 50% reduction in the fee to owners who have lived in their units for the 5 prior years. However, only owners who resided in their units on June 30, 2010 are currently eligible.

*If the property contains three or more units, the affordable housing mitigation fee for a unit that is occupied by an owner as their principal place of residence for at least 5 consecutive years immediately prior to the date of sale, including as a tenant in that unit immediately prior to ownership, shall be reduced by 50 percent, but only if the owner owned and resided in the unit as of June 30, 2010.*

A Council referral had proposed to extend the 50% reduction to tenants in addition to owners who have lived in a unit for at least 5 years prior to conversion so long as the building was 4 or fewer units.

*If the property contains 4 units or fewer, the affordable housing mitigation fee for a unit that is and has been occupied by an owner as his or her principal place of residence for at least 5 consecutive years immediately prior to the date of conversion or sale, including as a tenant in that unit immediately prior to ownership, shall be reduced by 50 percent.*

It is not clear why this tenant conversion benefit should be limited based on building size. The current ordinance is limited to properties with 3 or more units while the referral was limited to 4 or fewer units. The proposed change would apply to owner occupied or tenant purchased units in buildings of any size.

Although instances of condominium conversion by nonprofits, in co-housing projects, or in housing cooperatives are quite rare, it makes sense to extend the fee reduction to these cases as well.

**Use of Fee Revenue:** The current condo conversion ordinance does not allow any of the Mitigation Fee revenue to be used for program administration, but the program can be staff-intensive to implement. The AMHF and IHR Ordinances allow a portion of fee revenue to be used for program administrative staffing.

## **11. Prohibit on-site units for Group Living Accommodation (GLA)**

### **Proposed Change:**

- 11.1. Prohibit projects with an average of more than 3 bedrooms per unit from selecting the on-site option in order to reduce administrative burdens.
- 11.2. Adopt a local density bonus that enables these projects to access the benefits of the State Density Bonus in exchange for an increased in lieu fee instead of on-site units.

### **Background and Analysis:**

**Group Living Projects:** It is challenging to regulate and monitor BMR units in co-living and group living projects where individuals generally lease bedrooms not apartments. It is difficult to find eligible households who can both qualify for and afford 4-bedroom or larger BMR units and the households that would most benefit from large BMR units might be less interested in living in a building that was primarily targeting students and young adults. Additionally, it is typical for groups of unrelated adults renting larger units together to change composition frequently, which makes maintaining current documentation of eligibility more complicated for owners and therefore compliance more difficult for the City to monitor.

Local Density Bonus: Berkeley cannot prevent developers from providing on-site affordable units in order to qualify for the benefits of the State Density Bonus (SDB). It would be possible for the City to simply require some projects to pay the full fee even if they provide on-site units for the purpose of accessing the density bonus but this would impact the feasibility of small projects and projects that provide large bedroom count units. An alternative would be for the City to adopt a limited local density bonus program for these projects that are not allowed to provide on-site units under the City's ordinance. This local bonus could provide access to all of the benefits of the State Density Bonus (including additional density and other planning concessions) in exchange for a fee rather than on site units. We calculated that, for a typical rental project, providing 11% (of base units) on-site increases the cost of compliance relative to paying the fee only by \$10 per square-foot. If a local density bonus offered the benefits of 35% increased density and other concessions to projects that paid \$55 per square-foot (instead of \$45) this option would be no more or less attractive to developers than the current State Density Bonus option. In other words, if a co-living project could access the density bonus in exchange for a fee of \$55 per square-foot they would generally choose that option rather than provide on-site units.

## 12. Change requirements for small projects/missing middle projects

### Proposed Changes:

- 12.1. Eliminate exemption for 1-4 unit projects and replace it with a tiered fee that steps up gradually for projects with less than 12,000 gross residential square feet, by reducing the fee by \$2 per square-foot for each 1000 square foot increment less than 12,000.
- 12.2. Offer a local density bonus, equal to the State Density Bonus, to projects providing <5 BMR units that choose the in lieu fee.

### Alternative:

- 12.3. Eliminate exemption for 1-4 unit projects and expect even very small projects to contribute the full fee.

### Background and Analysis:

Currently both the AHMF and the Inclusionary housing ordinance exempt buildings with 1-4 units. Presumably this exemption was motivated by a sense that very small projects would have a harder time absorbing the cost of including affordable housing into their budgets. While this is often, but not always true, there is no reason to think that suddenly at 5 units a project budget can easily afford to comply. There is a much wider range of "missing middle"-type projects that may be feasible in Berkeley at a small scale which may also struggle to meet the City's requirements. Many of these projects may be larger than 5 units.

At the same time there has been significant concern in Berkeley about the potential that developers may segment larger projects into several smaller 4-unit projects in order to circumvent the inclusionary housing or AHMF ordinance. By exempting very small projects but

then suddenly imposing the full requirement at a certain point, the current ordinance creates an incentive to build projects in 4-unit increments.

One approach to this challenge would be to impose the fee (at some level) on every project (with the exception of Accessory Dwelling Units), but to reduce the fee for small projects. Many cities just impose a lower fee for smaller projects. San Jose just amended their program to set the fee at a level that is 50% lower for projects with fewer than 20 units. However, this approach still creates a big step up at 20 units. An alternative is to gradually phase in higher fees as the size of the project increases. Figure 10 shows the schedule that would result from a \$2 decrease in the fee for each increment of 1000 gross residential square feet below 12,000.

**Figure 10: Proposed schedule for small project phase-in**

| Gross Residential Square Feet | Fee per square-foot |
|-------------------------------|---------------------|
| 12,000+                       | \$45                |
| 11,000-11,999                 | \$43                |
| 10,000-10,000                 | \$41                |
| 9,000-9,999                   | \$39                |
| 8,000-8,999                   | \$37                |
| 7,000-7,999                   | \$35                |
| 6,000-6,999                   | \$33                |
| 5,000-5,999                   | \$31                |
| 4,000-4,999                   | \$29                |
| 3,000-3,999                   | \$27                |
| 2,000-2,999                   | \$25                |
| 1,000-1,999                   | \$23                |
| <1,000                        | \$21                |

Reducing the fee for small projects would have an uncertain impact on Berkeley's future fee revenue. The City would collect less revenue from small projects with at least 5 units, but would begin collecting fees from 1 to 4 unit projects. Offering a local density bonus to projects providing less than 5 BMR units that choose the in lieu fee would likely reduce the number of projects with a small number of on-site BMR units that need to be monitored while also increasing total fee revenue.

Small projects pose a special challenge for program administration and monitoring. Monitoring compliance for a building with one or two regulated units requires a similar investment of staff time as a project with 20 BMR units. Often the owners of smaller buildings have fewer resources and less outside professional property management support and as a result, they often find the burdens of compliance more challenging, and require relatively more intervention and training from City staff.

Many cities address this by encouraging developers of small properties to select the fee or other option rather than providing on-site BMR units which may prove difficult to monitor.

Redwood City prohibits the on-site units option for projects with fewer than 20 total units, effectively requiring these projects to pay the in lieu fee.

In Berkeley, however, because so many projects select mixed-compliance, there is a real risk that projects with more than 20 total units could end up including only a very small number of on-site BMR units. For example a 40 unit project selecting on-site compliance (20%) would provide 8 BMR units but if they chose to only provide 10% on-site and pay a fee for the remainder they would only provide 4 BMR units on-site. Removing the on-site option for projects that would result in fewer than 5 BMR units would force these projects to either pay the fee entirely or fully comply through the on-site option. Either option would simplify monitoring enormously.

### **13. Cap the annual rate of rent increases**

#### **Proposed Change:**

13.1. Limit the annual increase in BMR affordable rents for occupied units to no more than the annual change in the Consumer Price Index. Allow rents to be marked up to the maximum 'affordable' rents based on HUD AMI calculations whenever units turn over.

#### **Alternative:**

13.2. Limit the annual rent increase to no more than 10% in any single year.

#### **Background and Analysis:**

Sudden increases in the Area Median Income can result in large changes in the allowable affordable rent which can negatively impact BMR tenants. Similarly, some property owners fail to annually adjust rents as allowed by the current ordinance. They are allowed to 'catch up' by raising the rents by a larger amount later but this too can cause sudden shocks in rent for vulnerable tenants.

Limiting the amount that rent can be increased for occupied BMR units would provide stability and predictability for tenants. This change, however, will have a real impact on the operating budgets of projects with on-site BMR units. The current rules tie rents to changes in the Area Median Income (AMI). Over the past several decades the AMI has risen quite a bit faster than the Consumer Price Index. While the AMI is generally a measure of what people in the area earn, the rapid increase in the AMI has been driven, in part, by the growth of high paying jobs and the influx of higher income residents throughout the Bay Area rather than a rise in the wages and other income that lower-income residents earn. As a result, 'affordable' rents have risen faster than what many low-income tenants can comfortably 'afford.'

Limiting the rate of rent increases will have a real impact on the operating budgets of buildings that include on-site units. As long as units remain occupied, the rents may rise



more slowly than building operating costs. It is likely that this change in policy will make the on-site option slightly less attractive to developers and increase the likelihood of projects selecting to pay the fee in lieu. However, a growing number of Berkeley projects are including on-site VLI units and then filling those units with residents who hold housing vouchers. The policy should continue to allow these properties to collect the full voucher payment standard which might increase faster than CPI without impacting affordability for the residents. This reliance on vouchers should mean that many density bonus projects would not be impacted by a rule tying rent increases to CPI.

## 14. Administrative changes

### a. Require compliance plans

#### **Proposed Change:**

14.1. Require developers of new projects to submit a simple Affordable Housing Compliance Plan at the time of Building Permit application indicating their proposed strategy for complying with the requirements of the AHR ordinance. Allow revisions to this plan at any time prior to the Certificate of Occupancy.

#### **Background and Analysis:**

Currently developers can wait until their projects are built and applying for a Certificate of Occupancy to inform the City of their intended strategy for complying with the AHMF or Inclusionary Housing Ordinance, including whether they intend to pay the fee or provide some or all of the required on-site units. Requiring developers to indicate a proposed strategy earlier in the process a) allows city staff to make plans for monitoring units or project fee revenue so that it can be invested quickly and b) ensures that developers are fully understanding Berkeley's requirements early in the development. Many cities provide a simple fill in the blanks template for this purpose and allow projects to change their plans at a later date by simply submitting a revised plan.

### b. Authorize administrative citations

#### **Proposed Change:**

14.2. Explicitly authorize the creation of a proposed schedule of fines for monitoring and compliance violations to be included in the program guidelines.

#### **Background and Analysis:**

Other jurisdictions have found that having the ability to impose monetary fines is an effective tool for encouraging developer and property manager compliance with

monitoring requirements. Explicitly authorizing citations in the ordinance might help clarify staff's authority to impose these penalties.

***c. Authorize annual monitoring fee for ownership units***

**Proposed Change:**

14.3. Explicitly authorize the City to charge a fee annually to BMR Homeowners to offset monitoring costs. The fee would be assessed only on new owners going forward. The fee would be included as a housing cost in calculation of the affordable sales prices so that buyers will pay less for their units in order to make the fee affordable.

**Background and Analysis:**

The City currently charges owners of rental properties an annual monitoring fee but no fee is charged to BMR homeowners.

***d. Deduct required fees/costs from gross rent***

**Proposed Change:**

14.4. Clarify this language in the ordinance to make it clear that mandatory fees or costs must be deducted from the maximum allowable rent for BMR rental units.

**Background and Analysis:**

Currently the AHMF ordinance calls for reduction in the maximum rent based on the anticipated cost of tenant paid utilities. Some properties impose other mandatory costs such as renter's insurance or administrative fees. Current practice is to deduct any cost which is mandatory for BMR tenants from the maximum gross rent to calculate the affordable rent but this requirement is not currently outlined in the ordinance.

# Appendix A: Financial Feasibility Analysis

## Overview:

The City of Berkeley retained Street Level Advisors to recommend changes to its existing affordable housing requirements. Our policy recommendations are intended to increase the construction of affordable units while maintaining the financial feasibility of market-rate development. We conducted a financial feasibility study in order to understand the current housing development environment and predict how our recommended policies might affect this environment. Our study relies on a static pro forma analysis to estimate the return on investment that can be generated by typical residential developments in Berkeley.

For the rental prototype, we used a common measure of return known as yield on cost (YOC), or a project's net operating income divided by the total development cost. Based on a review of current market conditions in Berkeley and the East Bay, we concluded that projects earning a yield of at least 5.0% would be "feasible" meaning that they would likely be able to secure investment. Projects earning slightly less (between 4.5% and 5%) would be considered "marginal" meaning that some projects in this category might be able to obtain financing while others might not. Projects earning less than a 4.5% yield we considered "infeasible."

For ownership projects, the Yield on Cost cannot be calculated so we used a different measure of profitability: Profit as a percent of development cost, also called Return on Cost. Because of the lack of recent condo projects in Berkeley, we were unable to objectively determine the minimum necessary profit as a percent of cost for local ownership projects. As a point of reference, a common rule of thumb used in other studies considers projects "feasible" when profit exceeds 10-15% of development cost.

Our rental prototype is a 6-story, 72-unit development with a small amount of commercial space on the ground floor and one parking space for every two housing units. We estimate that under current conditions, rental projects that choose to pay Berkeley's Affordable Housing Mitigation Fee (AHMF) earn a Yield on Cost of 5.08% - just barely above the feasibility threshold. Projects that provide on-site units earn a yield of 4.94% just under the threshold into the marginal category. However, economic conditions are in flux due to the COVID-19 pandemic, and new projects could become more feasible in the near future.

Our prototype, revenue, and cost assumptions are based on prior studies, comparable projects, and other market research. The remainder of this memo describes these assumptions and our methodology in more detail.

### **Prior Studies:**

Over the past decade, the City of Berkeley has evaluated the financial feasibility of its affordable housing requirements several times. Our analysis builds on the feasibility studies conducted by these consultants.

The 2015 Bay Area Economics Nexus Study contains one section that addresses the financial feasibility of new rental housing. BAE estimated the Return on Cost for a four-story, mixed-use development in the C-W zoning district at two different fee levels. In their simplified model, all 81 units are 900 square foot two-bedrooms. BAE's analysis suggested that the fee could be increased to \$34,000 while maintaining the minimum necessary return on cost.

The 2016 Strategic Economics Feasibility Analysis tested a wider range of fee levels. Using a four-story model that is almost identical to the BAE model, they estimated the Yield on Cost at six fee levels between \$0 and \$84,391. Strategic Economics considered Yield on Cost because it is a more accurate measure of feasibility for rental housing than Return on Cost. The minimum Yield on Cost required for feasibility in their analysis was 6.5% reflecting the higher interest rate environment in 2016. They found that new developments would be marginally feasible if the fee was \$45,000 and infeasible if the fee was any higher.

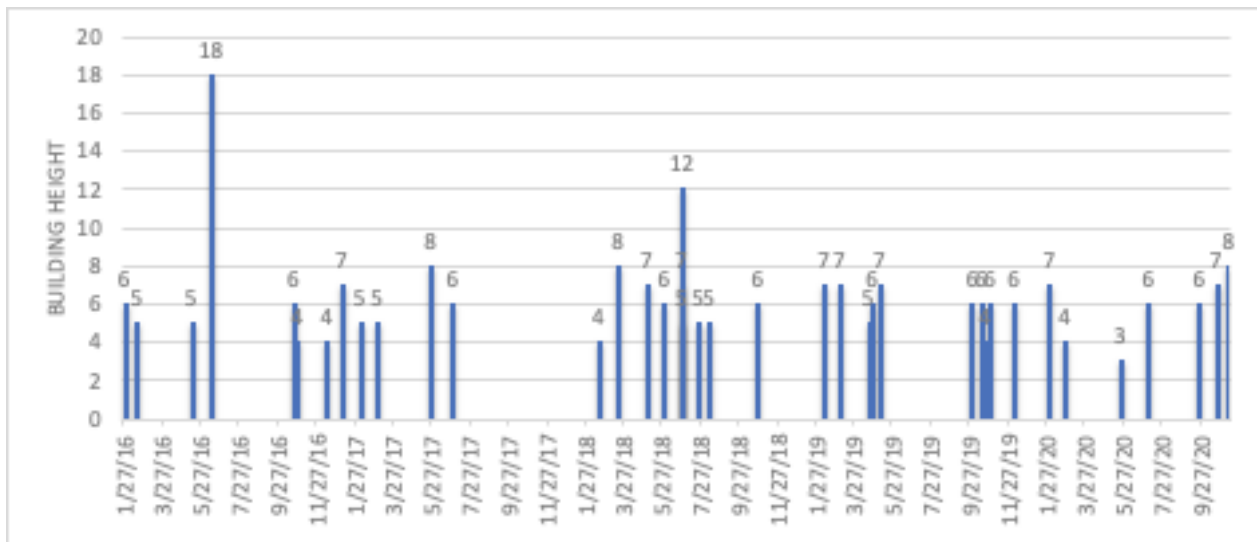
Together, the BAE and Strategic Economics analyses suggested that new rental development would be feasible at fee levels equivalent to and above the current level.

### **Prototypes Studied:**

Rents and construction costs have escalated dramatically since the Strategic Economics analysis was published. Our recent data shows that rents are over 30% higher and the construction costs per square-foot in our model below are nearly double those in the Strategic Economics report. Our specific revenue and cost assumptions are described in the next section.

Because of these trends, the type of development project that both BAE and Strategic Economics used as their example would no longer be financially feasible in Berkeley. Driven by these same trends, the types of development projects being undertaken in Berkeley have shifted. Developers have responded to rising construction costs by building smaller units, fewer parking spaces and taller buildings on smaller lots. Figure 1 shows that developers of multi-family buildings in Berkeley have been primarily proposing 5-8 story buildings in recent years.

**Figure 1: Permit applications for residential project with >20 units 2016 – 2020**



Following these trends, we have used a slightly different prototype to test feasibility in today’s market. Our prototype is a 6-story building with wood frame residential over a concrete podium. Where BAE and Strategic Economics assumed a 1-acre lot, we have assumed a half-acre. Our prototype includes 72 housing units and 3,000 square feet of commercial space (see Figure 2). Our model is taller but contains fewer units and less commercial space than the 4-story, 81-unit Strategic Economics prototype. The units in our model are also smaller than the units in the Strategic Economics analysis. Based on a detailed study of recent projects in Berkeley we have assumed a mix of 450 square-foot studios, 725 square-foot one-bedrooms, and 925 square-foot two bedrooms where Strategic Economics had assumed that all units would be 900 square-foot two-bedrooms.

Recent data also suggests that the capitalization rate for residential development is 4.0-4.25%, significantly lower than the cap rate of 5.0% which Strategic Economics used in 2016. Additionally, the parking ratio of 1 space per unit in the Strategic Economics study reflects the minimum parking requirements in much of the city at the time their study was published. As parking minimums have recently been eliminated, we assume a more modest parking ratio of 0.5 spaces per unit, consistent with observed occupancy rates.

Figure 2: Rental Prototype Details

| Prototype Feature              | Value                           |
|--------------------------------|---------------------------------|
| <b>Project</b>                 |                                 |
| Construction Type              | Wood Frame over Concrete Podium |
| Stories                        | 6                               |
| Site Area in Acres             | 0.5                             |
| Gross Sq Ft                    | 68,950                          |
| Residential Sq Ft              | 52,750                          |
| Common Area Sq Ft              | 13,200                          |
| Commercial Space Sq Ft         | 3,000                           |
| <b>Residential Units</b>       |                                 |
| Number of Units                | 72                              |
| Number of Studios              | 14                              |
| Number of 1BD Units            | 36                              |
| Number of 2BD Units            | 22                              |
| Studio Sq Ft                   | 450                             |
| 1BD Sq Ft                      | 725                             |
| 2BD Sq Ft                      | 925                             |
| <b>Parking</b>                 |                                 |
| Parking Ratio (Spaces / Units) | 0.5                             |
| Number of Spaces               | 36                              |

For the ownership prototype, we assumed larger average unit sizes. In order to facilitate comparison, we assumed a building of the same overall size (square feet) but with fewer units of larger size. We also assumed the same parking ratio (.5) as our rental prototype in order to facilitate comparison, though it is more likely that a condo project would provide 1 space per unit which would lower overall returns.

**Figure 3: Ownership Prototype Details**

| <b>Prototype Feature</b>        | <b>Value</b>                    |
|---------------------------------|---------------------------------|
| <b><i>Project</i></b>           |                                 |
| Construction Type               | Wood Frame over Concrete Podium |
| Stories                         | 6                               |
| Site Area in Acres              | 0.5                             |
| Gross Sq Ft                     | 61,490                          |
| Residential Sq Ft               | 52,290                          |
| Common Area Sq Ft               | 9,200                           |
| Commercial Space Sq Ft          | 0                               |
| <b><i>Residential Units</i></b> |                                 |
| Number of Units                 | 56                              |
| Number of 1BD Units             | 35                              |
| Number of 2BD Units             | 18                              |
| Number of 3BD Units             | 3                               |
| 1BD Sq Ft                       | 850                             |
| 2BD Sq Ft                       | 1,025                           |
| 3BD Sq Ft                       | 1,365                           |
| <b><i>Parking</i></b>           |                                 |
| Parking Ratio (Spaces / Units)  | 0.5                             |
| Number of Spaces                | 28                              |

**Revenue and Cost Assumptions:**

The revenue and cost assumptions used in our pro forma analysis are shown in Figure 4. The main inputs that influence project revenue are the residential rents. Our analysis of data from CoStar, RealPage, and Berkeley's Rent Stabilization Board led us to estimate that typical rents for newly built apartments in Berkeley would be approximately \$3,100 for studios, \$4,000 for one-bedrooms, and \$4,500 for two-bedrooms. Other revenues include commercial rents of \$3 per square-foot and parking revenue of \$200 per space per month. These assumptions reflect rents that would have been assumed by projects prior to the pandemic. During the pandemic, rents throughout the region have fallen dramatically with some estimates showing rent in Berkeley down by 5 to 10% along with significant increases in apartment vacancy rates. The best available evidence suggests that these decreases are likely temporary. Developers in

Berkeley are moving forward on construction of new apartments which would not be financially feasible if the pandemic rents and vacancy rates were permanent.

The key input driving costs is the construction cost estimate of \$400 per gross square foot. This assumption is based on actual construction costs for comparable East Bay projects and studies that estimate the construction cost inflation rate. Other important development cost assumptions include land at \$8,000,000 per acre and parking construction costs at \$50,000 per space. We assume that soft costs - which include architecture, engineering, and inspection fees – equal 22% of hard costs. Our estimates for land, parking, and soft costs rely on data from several comparable Berkeley projects but, of course, these figures vary quite a bit between actual projects. Financing costs include the construction loan interest rate of 4.5% and the initial construction loan fee of 1.0%. Our financing cost assumptions are based on independent estimates of prevailing interest rates and data from comparable Berkeley projects.

The current inclusionary housing rules require that 80% of on-site VLI units be offered first to housing voucher holders. Berkeley allows developers to charge the full Housing Authority Payment Standard rent for these units even when it exceeds the rent that could be charged to a VLI tenant with no voucher. We have assumed these slightly higher rents for 80% of any VLI units on-site.

Note: The COVID-19 pandemic caused an uncommon economic crisis that the US is only beginning to recover from. It is unclear what persistent impacts the pandemic will have on the housing development environment and consequently on our model. We cannot be certain how inputs such as construction costs and rents will change or how investors that finance development will respond to this uncertainty. Over the past year construction costs have continued to rise while rents have fallen across the Bay Area. This combination has made it harder for real estate projects to achieve feasibility, but these trends do not appear to be lasting. Our model reflects conditions as they were at the beginning of 2020.



Figure 4: Revenue and Cost Assumptions

| Revenue/Cost                    | Assumption  | Unit of Measure     |
|---------------------------------|-------------|---------------------|
| <b>Residential Revenue</b>      |             |                     |
| Studio Rent                     | \$3,100     | per unit per month  |
| 1BD Rent                        | \$4,000     | per unit per month  |
| 2BD Rent                        | \$4,500     | per unit per month  |
| <b>Ownership Revenues</b>       |             |                     |
| 1BD Price                       | \$725,000   | per unit            |
| 2BD Price                       | \$925,000   | per unit            |
| 3BD Price                       | \$1,100,000 | per unit            |
| <b>Other Revenues</b>           |             |                     |
| Commercial Rent                 | \$3.00      | per sq ft per month |
| Parking Revenue                 | \$200       | per space per month |
| <b>Development Costs</b>        |             |                     |
| Construction Costs              | \$400-\$415 | per gross sq ft     |
| Land Costs                      | \$8,000,000 | per acre            |
| Parking Costs                   | \$50,000    | per space           |
| Soft Costs                      | 20-22%      | of hard costs       |
| <b>Financing Costs</b>          |             |                     |
| Construction Loan Interest Rate | 4.5%        | annual rate         |
| Loan to Cost Ratio              | 70%         | of total cost       |
| Period of Initial Loan          | 24          | months              |
| Initial Construction Loan Fee   | 1.0%        | of loan             |
| Average Outstanding Balance     | 60%         | of loan             |
| <b>Operating Costs</b>          |             |                     |
| Rental Vacancy Rate             | 4%          | of units unoccupied |
| Rental Operating Cost           | 35%         | of revenues         |

### Policy Scenarios:

We built a financial model using the project prototypes described above in order to test the impact of potential changes to the City's affordable housing requirements on the feasibility of

residential development. We ran the model for the same hypothetical projects under a number of different policy assumptions. First, we established the returns that would be available under the current law depending on which performance option the project selected.

### **Current Program Scenarios**

#### **Rental**

**Current Fee:** Under this alternative, we assume the hypothetical project elects to pay Berkeley's current Affordable Housing Mitigation Fee (AHMF) of \$39,746 for each unit in the building. A project paying the fee would not be eligible for the density bonus.

**Current On-site Units:** Under this alternative, we imagine the project selecting instead to provide on-site units as provided under the current AMHF ordinance. The project would provide 7 Very Low Income (VLI) units (10%) and 7 Low Income (LI) units (10%). For the sake of comparison, we have assumed that the project does not access the density bonus though it would likely qualify.

**Current Mixed Compliance – 11% VLI:** The most common approach in recent years has been for projects to provide enough units on-site in order to maximize the benefits of the State Density Bonus and pay a fee to cover the remainder of their obligation under Berkeley's AHMF. Prior to 2021, projects that provided 11% of base units as restricted Very Low Income units on-site would receive the maximum 35% density bonus. We have assumed that our hypothetical project could increase the total number of housing units by 35% (from 79 to 97) with no increase in land costs<sup>11</sup>.

**Current Mixed Compliance – 15% VLI:** In 2020 the State Legislature approved an expansion of the State Density Bonus which allows greater increases in density in exchange for more affordable housing units on-site. Now a developer can request a 50% increase in residential density if they provide, for example, at least 15% Very Low Income units. We have analyzed the profitability of a hypothetical

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<sup>11</sup> Our analysis does not attempt to capture the full financial value of the density bonus. In addition to the right to build more housing units on a given site, state law allows developers to request a number of planning concessions based on the amount of affordable housing that they provide. These concessions clearly provide real value which can increase the profitability of projects. However, because the dollar value of concessions is abstract and highly dependent on the particular project, we have not attempted to include this in our financial modeling. As a result, our conclusions are likely to slightly understate the difference between the returns from density bonus and other types of projects.

project assuming a 50% increase in units with 15% of base units (10% of total units) restricted to VLI residents under current rules.

### Ownership

**Current On-site Compliance:** A for-sale project that elected to provide on-site affordable units would be required to provide 20% of units to be affordable to and occupied by Low Income households earning less than 80% of AMI.

**Current In Lieu Fee (Based on Sales Prices):** Alternatively, a developer may pay an in lieu fee calculated based on 62.5% of the difference between the market price and the affordable price. This approach results in a different level of fee for different projects depending on the market prices of units in the project. For the sake of illustration, we estimated a range of current market prices based on average condo sales prices listed on Zillow.com and calculated the fee which would be due.

**Figure 5: Condo Pricing Assumptions**

| Estimated BMR Ownership Fees 2021 |       |                        |                  |             |                      |                       |
|-----------------------------------|-------|------------------------|------------------|-------------|----------------------|-----------------------|
| Unit Size                         | Sq Ft | Estimated Market Price | Affordable Price | In Lieu Fee | In Lieu Fee Per Unit | In Lieu Fee per Sq Ft |
| 1BR                               | 814   | \$703,556              | \$250,650        | \$283,066   | \$56,613             | \$70                  |
| 2BR                               | 1117  | \$853,125              | \$282,000        | \$356,953   | \$71,391             | \$64                  |
| 3BR                               | 1571  | \$995,797              | \$313,200        | \$426,623   | \$85,325             | \$54                  |

### Alternative Policy Options

In addition to evaluating the performance of the prototype under the current policy rules, we considered several alternative scenarios based on the proposed policy changes.

### Rental

**\$45 Per square-foot Fee:** Under this alternative, we assumed that the City adopted a fee of \$45 per gross square foot (excluding parking and commercial space) and we evaluated the returns for a prototype project that elected to pay this fee in full with no on-site BMR units.

**\$55 Per square-foot Fee:** This alternative assumes full payment of a higher fee per square-foot.

**Mixed Compliance (Weighted)– 11% VLI:** In this alternative we have assumed a \$45 per square-foot fee is adopted along with an adjusted formula for determining the remainder fee for mixed compliance projects. We assumed that each 1% of VLI units provided would reduce the fee due by \$3 per square-foot and each 1% of LI units would reduce the fee by \$1.50 per square-foot. In this alternative, we assume a project that provides 11% of the base units (equivalent to 8% of total units) as VLI in order to receive a 35% density bonus.

**Mixed Compliance (Weighted)– 15% VLI:** In this alternative we assume a project that provides 15% of the base units (equivalent to 10% of total units) as VLI in order to receive a 50% density bonus under state law. As with the scenario above, this alternative assumes that the formula for calculating the remaining fee for mixed compliance provides greater reductions for projects that provide VLI units.

### Ownership

**\$45 Per Square-foot Fee:** In this scenario, we have assumed that the City adopts a single per square-foot rate of \$45 which would be applied to all projects whether rental or ownership.

**\$55 Per Square-Foot Fee:** This alternative assumes that the City adopts a higher per square-foot fee for ownership projects (or any project that records a condominium map).

### **Findings:**

For rental projects, our model suggests that most projects would not be able to feasibly comply with the current 20% on-site requirement but that projects that choose to pay the fee or access the State Density Bonus by providing some units on-site and paying a partial fee would both earn returns that are just barely above the threshold which we identified for feasibility (5% yield on cost). The returns for density bonus projects are comparable to the fee alternative because the additional cost of providing some units on-site is offset by the additional benefit of building more units on the same site.

For this prototype, the proposed fee of \$45 per gross square foot results in a virtually identical return. A higher fee (\$55 per square-foot) would result in a marginal but very close to feasible

return. The proposed approach of providing more ‘credit’ for projects that provide on-site VLI units than those that provide LI units results in modest increases in the returns available to mixed compliance projects that take advantage of the State Density Bonus. While this small difference is not critical for this prototype, it is likely that there would be projects where this difference would result in on-site affordable units in projects that would otherwise have paid the fee entirely (or not moved forward at all).

**Figure 6: Comparison of Returns - Rental**

| Scenario                              | Base Units | Bonus Units | LI Units | VLI Units | Fee \$      | Yield on Cost | % of Base | % of Total |
|---------------------------------------|------------|-------------|----------|-----------|-------------|---------------|-----------|------------|
| <b>Current Policy</b>                 |            |             |          |           |             |               |           |            |
| \$39,746 Per Unit Fee                 | 72         | 0           | 0        | 0         | \$2,861,712 | 5.08%         | 0%        | 0%         |
| Onsite Units                          | 72         | 0           | 7        | 7         | \$0         | 4.94%         | 19%       | 19%        |
| Mixed Compliance - 11% VLI            | 72         | 25          | 0        | 8         | \$2,265,522 | 5.07%         | 11%       | 8%         |
| Mixed Compliance - 15% VLI            | 72         | 36          | 0        | 11        | \$2,106,538 | 5.10%         | 15%       | 10%        |
| <b>Proposed Alternatives</b>          |            |             |          |           |             |               |           |            |
| \$45 Per Foot Fee                     | 72         | 0           | 0        | 0         | \$2,967,750 | 5.07%         | 0%        | 0%         |
| \$55 Per Foot Fee                     | 72         | 0           | 0        | 0         | \$3,627,250 | 4.99%         | 0%        | 0%         |
| Mixed Compliance (Weighted) - 11% VLI | 72         | 25          | 0        | 8         | \$2,350,809 | 5.10%         | 11%       | 8%         |
| Mixed Compliance (Weighted) - 15% VLI | 72         | 36          | 0        | 11        | \$2,184,925 | 5.12%         | 15%       | 10%        |

For ownership projects, we found that neither the current fee nor the current on-site requirement resulted in profit as a percent of development cost above the benchmark of 10%. The proposed switch to a \$45 per square-foot fee would result in profit just above 10% while a higher \$55 per square-foot fee would result in profit closer to 9%.

**Figure 7: Comparison of Returns - Ownership**

| Scenario                           | Total Units | LI Units | Fee \$      | Profit % of Cost |
|------------------------------------|-------------|----------|-------------|------------------|
| <b>Current Policy</b>              |             |          |             |                  |
| Current Fee (based on sale prices) | 56          | 0        | \$3,810,847 | 8.00%            |
| Onsite Units                       | 56          | 11       | \$0         | 1.13%            |
| <b>Proposed Alternatives</b>       |             |          |             |                  |
| \$45 Per Foot Fee                  | 56          | 0        | \$2,767,050 | <b>10.88%</b>    |
| \$55 Per Foot Fee                  | 56          | 0        | \$3,381,950 | 9.16%            |

### Sensitivity Analysis:

*Revenues and Costs:* The feasibility projections above are highly sensitive to assumptions about rents and construction costs. These assumptions are different from one project to the next and change in somewhat unpredictable ways over time. The heat table in Figure 8 below shows the

yields on cost that our model predicts for a range of different scenarios in regard to construction costs and rents for our prototype. This table shows returns for a 6-story rental project that selects the proposed \$45 per square-foot fee option. The axes indicate how these scenarios compare with current construction cost and rent levels. The (0%, 0%) cell in the center of the table represents the estimated yield on cost for projects given today’s rents and construction costs. The (-10%, 10%) cell in the top right represents the yield for projects if rents decrease 10% and construction costs increase 10% relative to current levels. Green cells represent situations in which projects will be feasible, with expected yields on cost at or above 5%. The redder a cell is, the less feasible projects will be. A rise in construction costs will increase the total development cost of a project, making it less feasible. A drop in market rents will decrease the rental income a project can expect, also making it less feasible.

**Figure 8: Yield on Cost Sensitivity to Rents and Construction Costs**

|       |      | Construction Costs |       |       |       |       |       |       |       |       |       |       |
|-------|------|--------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|       |      | -10%               | -8%   | -6%   | -4%   | -2%   | 0%    | 2%    | 4%    | 6%    | 8%    | 10%   |
| Rents | -10% | 5.07%              | 4.96% | 4.85% | 4.75% | 4.65% | 4.56% | 4.47% | 4.38% | 4.30% | 4.22% | 4.14% |
|       | -8%  | 5.18%              | 5.07% | 4.96% | 4.85% | 4.76% | 4.66% | 4.57% | 4.48% | 4.40% | 4.32% | 4.24% |
|       | -6%  | 5.29%              | 5.18% | 5.07% | 4.96% | 4.86% | 4.76% | 4.67% | 4.58% | 4.49% | 4.41% | 4.33% |
|       | -4%  | 5.40%              | 5.29% | 5.17% | 5.07% | 4.96% | 4.86% | 4.77% | 4.68% | 4.59% | 4.50% | 4.42% |
|       | -2%  | 5.52%              | 5.40% | 5.28% | 5.17% | 5.07% | 4.96% | 4.87% | 4.77% | 4.68% | 4.60% | 4.51% |
|       | 0%   | 5.63%              | 5.51% | 5.39% | 5.28% | 5.17% | 5.07% | 4.97% | 4.87% | 4.78% | 4.69% | 4.61% |
|       | 2%   | 5.74%              | 5.62% | 5.50% | 5.38% | 5.27% | 5.17% | 5.07% | 4.97% | 4.87% | 4.78% | 4.70% |
|       | 4%   | 5.85%              | 5.73% | 5.60% | 5.49% | 5.38% | 5.27% | 5.17% | 5.07% | 4.97% | 4.88% | 4.79% |
|       | 6%   | 5.97%              | 5.84% | 5.71% | 5.59% | 5.48% | 5.37% | 5.26% | 5.16% | 5.07% | 4.97% | 4.88% |
|       | 8%   | 6.08%              | 5.95% | 5.82% | 5.70% | 5.58% | 5.47% | 5.36% | 5.26% | 5.16% | 5.07% | 4.97% |
|       | 10%  | 6.19%              | 6.06% | 5.93% | 5.80% | 5.69% | 5.57% | 5.46% | 5.36% | 5.26% | 5.16% | 5.07% |

With current rents and construction costs, projects are just barely feasible with estimated yields of 5.07%. However, if rents rise by just 2% and construction costs remain flat, projects will become more feasible with expected yields of 5.17%. As expected, yields increase as rents rise and decrease as construction costs rise. Yield on cost is just slightly more sensitive to construction costs than rents. Construction costs falling by 10% will increase yields a bit more than rents rising by 10%.

*Parking:* The feasibility of new rental development in Berkeley is also highly sensitive to assumptions about the amount of parking provided. The parking ratio is the number of parking spaces divided by the number of residential units. Before 2021, Berkeley’s zoning regulations mandated projects in some districts to have parking ratios of at least 1. Berkeley recently eliminated minimum parking requirements, making parking ratios of 0 possible.

Figure 9 shows the yields on cost that our model predicts for a range of parking scenarios. In our model, parking ratios are used to describe the amount of parking provided by a project. Creating parking spaces is expensive and limits the area available for the project’s residential or amenity space. As a result, higher parking ratios reduce a project’s yield on cost and projected feasibility. Our model predicts that projects that provide no parking will be solidly financially feasible while projects that provide 1 space per unit are not currently feasible.

**Figure 9: Yield on Cost Sensitivity to the Parking Ratio**

| Parking Ratio |       |       |       |       |
|---------------|-------|-------|-------|-------|
| 0.00          | 0.25  | 0.50  | 0.75  | 1.00  |
| 5.34%         | 5.20% | 5.07% | 4.94% | 4.82% |

Even with strong financial incentives and no City parking requirements, most projects are likely to include significant amounts of parking. Depending on the location of the project, tenants may see parking as a necessary building amenity. In other cases, project investors insist on some level of parking. When Seattle eliminated parking requirements in many parts of the city, [one study](#) found that most projects still included parking. In areas with no parking requirement, nearly 30% of new buildings provided no parking after the mandate was removed. But the remaining 70% provided parking even though it was not required by the city. Figure 10 shows that the average project provided .49 parking spaces per unit.

**Figure 10: Seattle parking reform results**

| Minimum Number of Required Parking Spaces/Unit | Number of Development Projects | Average Parking Ratio | Buildings That Exactly Met Requirement | Buildings That Provide Parking Above Requirement |                     |                  |
|------------------------------------------------|--------------------------------|-----------------------|----------------------------------------|--------------------------------------------------|---------------------|------------------|
|                                                |                                |                       |                                        | <0.5 Spaces/Unit                                 | 0.5-1.0 Spaces/Unit | >1.0 Spaces/Unit |
| 0                                              | 570 (65.6%)                    | 0.49                  | 29.5%                                  | 24.2%                                            | 39.0%               | 7.4%             |

#### Attachment 4: Summary of Council Referrals Related to City Affordable Housing Requirements

| Referral                                                                                                                                                          | Short Description                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee (9/10/19)                                                        | A companion to 4/23/19 referral to analyze feasibility of ideas from Homeless Commission including:<br>-Requiring on-site units instead of a fee<br>-Requiring an increased number of inclusionary units<br>-Providing an incentive to build on-site instead or pay the fee (similar to the Adeline Corridor Specific Plan)<br>-Prohibit payment of fee in certain geographic areas<br>-Ensure access for extremely low-income persons and persons experiencing homelessness. |
| Refer to the City Manager and the Housing Advisory Commission to Consider Reforming the Affordable Housing Mitigation Fee (4/23/19)                               | Evaluate the possibility of changing the City's affordable housing fee structure, including converting the current per-unit calculation to a per-square foot fee, per-bedroom fees and/or whether to apply a different fee methodology in different parts of the city.                                                                                                                                                                                                        |
| Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation (2/19/19)                     | Close a loophole allowing avoidance of the affordable housing fees through lot line manipulation by requiring the fee from projects on contiguous lots under common ownership with the potential for 5 or more units across all lots. Modify the structure of the in lieu fee for ownership projects to a flat per unit fee similar to the rental fee. Evaluate the appropriateness of the fee level.                                                                         |
| Encourage Long Term Tenant Stability (11/27/18)                                                                                                                   | Modify the Berkeley Municipal Code (BMC Section 21.28.080) to allow tenants buying their units (through Tenancy-In-Common) to pay only 50% of the Affordable Housing Mitigation Fee at the time of conversion. This is the same benefit offered to owners who convert rental buildings that they also live in to ownership.                                                                                                                                                   |
| Rectify Discrepancy Regarding Inclusionary Units in Live/Work Housing (9/13/2018)                                                                                 | Eliminate the affordable housing requirements in the Berkeley Municipal Code (BMC Sections 23C.12 and 23E.20.080) and instead apply the Inclusionary Housing or AHMF ordinances to Live Work exactly as they are applied to other projects.                                                                                                                                                                                                                                   |
| Pilot Density Bonus Program for the Telegraph Avenue Commercial District to Generate Revenue to House the Homeless and Extremely Low-Income Individuals (5/30/17) | Create a new City Density Bonus policy for the Telegraph Avenue Commercial District to generate in-lieu fees instead of on-site affordable housing units.                                                                                                                                                                                                                                                                                                                     |

To read the reports from which these referrals derived, please visit the City of Berkeley's Records Online page, at <https://records.cityofberkeley.info/PublicAccess/paFiles/cqFiles/index.html> . For Search Type select "Public – Staff Report Query," for Meeting Body select "City Council," and for Doc Date put the date of the referral formatted MM/DD/YYYY (e.g. 09/10/2019). Other fields may be left blank. Click "Search" and the requested document should come up as one of a handful of listed results.

For further assistance searching Records Online, please contact the City Clerk Department at [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info).



**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**AMENDMENTS TO BMC CHAPTER 23.328 UPDATING THE CITYWIDE  
AFFORDABLE HOUSING REQUIREMENTS IN THE ZONING  
ORDINANCE; REPEAL OF BMC SECTIONS 22.20.065, AND SECTION  
23.312.040(A)(6); AND A RESOLUTION ADOPTING REGULATIONS  
FOR VOUCHER PROGRAM AND ESTABLISHING AN IN-LIEU FEE  
PURSUANT TO BMC SECTION 23.328.020(A)(2) AND RESCINDING  
RESOLUTION NO. 68,074-N.S.**

**The public may participate in this hearing by remote video or in-person.**

The Department of Planning and Development and Planning Commission of the City of Berkeley is proposing amendments to BMC Chapter 23.328, updating the citywide affordable housing requirements in the Zoning Ordinance; repeal of BMC Sections 22.20.065, and Section 23.312.040(A)(6); and a Resolution Adopting Regulations for Voucher Program and Establishing an In-Lieu Fee Pursuant to BMC Section 23.328.020(A)(2) and Rescinding Resolution No. 68,074-N.S.

Pursuant to CEQA Guidelines Section 15378(a) and 15060(c)(2), environmental review is not required because the proposed amendments do not meet the definition of a Project under CEQA Guidelines Section 15378(a), nor does it constitute an activity covered by CEQA under CEQA Guidelines Section 15060(c)(2) because passage of amendments do not constitute a direct physical impact on the environment, nor would it result in an indirect, reasonably foreseeable physical impact on the environment. The proposed amendments do not include any provisions that would exempt or otherwise reduce environmental review required under CEQA for individual development projects.

The hearing will be held on, **Tuesday, December 6, 2022 at 6:00 p.m.** at the Berkeley Unified School District Board Room located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City's website at <https://berkeleyca.gov/> as of **November 23, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact **Alisa Shen, Principal Planner** at (510) 981-7409.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council 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 the City Council, 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 City Clerk. 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 City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** November 25 and December 2, 2022 – The Berkeley Voice  
Per California Government Code Sections 65856(a) and 65090.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 23, 2022.

Mark Numainville, City Clerk



Office of the City Manager

INFORMATION CALENDAR

December 6, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Henry Oyekanmi, Director, Finance Department
 Subject: FY 2022 Fourth Quarter Investment Report: Ended June 30, 2022

SUMMARY

The City's investment policy requires that a quarterly investment report be submitted to the City Council on the status of the investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the types, values (par, book, and market), term, and yield of each security.

- The return on pooled investments for the quarter ended June 30, 2022 was 1.29%, 60 basis points more than the .69% earned by the State Local Agency Investment Fund (State LAIF), which is the benchmark for investment performance used by the City. The return on pooled investments of 1.29% for the quarter ended June 30, 2022 was 32 basis points more than the rate of .97% earned in the quarter ended March 31, 2022.
- The average return on all Retiree Medical Trust Fund investments was 4.40% for the quarter ended June 30, 2022.

CURRENT SITUATION AND ITS EFFECTS

Attached is a summary of quarterly reports for the fiscal year 2022 Fourth Quarter ending June 30, 2022 representing the status of the City's investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the values (par, book, and market), term, and yield of each security.

Summary information by type of security and detailed information on each security is provided on Exhibit 2-A. An evaluation of portfolio performance for this accounting period compared to the previous three accounting periods is also included in Attachment 1.

A. Portfolio Results

As a result of the differences in the investment policies of different cities, including responsible investing policies, maturity restrictions, investment restrictions, etc., it was difficult for the City of Berkeley to come up with a reasonable performance measure for pooled cash investments. In order to provide some measure of the relative performance of the City's investment returns, many years ago the City established the State Local Agency Investment Fund (LAIF) as the performance measure to be reported in the quarterly investment reports, since many local governments invested significant portions of their investment portfolios in LAIF.

LAIF was intended to be a reference point to compare the City's investment performance against, rather than a true performance measure, since most cities typically earn a yield higher than LAIF in normal interest rate environments, and because LAIF's average maturity of its investments is generally shorter than most cities. As a result, past City Councilmembers requested that information about the rates earned by other California cities be included in the quarterly investment reports for comparison purposes, despite the differences in the investment policies of the various cities.

1. Liquidity of Portfolio:

The average investment in the pooled portfolio matures in 1,386 days as of June 30, 2022. This is 34 days more than the 1,352 maturity days as of March 31, 2022.

2. Comparison of Results to Performance Measures – Pooled investments: Quarter Ended June 30, 2022

The City's yield on investments for the quarter ended June 30, 2022 was 1.29%, an increase of 32 basis points (.32%) from the .97 earned during the quarter ended March 31, 2022. The average yield on a 90-day Treasury bill at the end of the quarter ended June 30, 2022 was 1.63%, an increase of 115 basis points (1.15%) from the .48% at the end of the previous quarter.

As summarized in Table 1, staff's overall results were above the performance measure for the quarter. Staff's performance was above the performance measure in April by approximately 57 basis points (+.57%); over the performance measure in May by approximately 61 basis points (+.61%); and, was over the performance measure in June by approximately 64 basis points (+.64%). The performance measure for the return on investments is compared to the rate of return of the State LAIF.

Table 1

For Quarter Ending June 30, 2022			
Period	City	State LAIF	Difference
Apr-22	1.09%	.52%	0.57%
May-22	1.29%	.68%	0.61%
Jun-22	1.50%	.86%	0.64%
Apr 1-June 30	1.29%	.69%	0.60%

3. Investment Results-Retiree Health Insurance Funds:

Average interest rates earned on the retiree health insurance trust funds for the quarter ended June 30, 2022 compared to the quarter ended March 31 2022, were as follows:

Table 2

EARNED INTEREST RATES		
For Quarter Ended 6/30/2022 Compared To 3/31/2022		
Trust Fund	4th Qtr 6/30/22	3rd Qtr 3/31/22
Retiree Medical Trust Fund (Misc Employees)	4.85%	4.83%
Fire Retiree Medical Trust Fund	3.98%	3.96%
Police Retiree Medical Trust Fund	3.33%	3.61%

The rates earned on these plans are expected to be higher in the future, as staff plans to use the investment authority granted by Council to purchase Bond and Stock Mutual Funds/Index Funds or purchase long-term bond as rates move higher.

Details related to retiree health trust fund investments are in Attachment 3, Exhibits 3-A, 3-B, and 3-C of this report.

B. Discussion of Interest Rate Environment and Outlook

In its June 15, 2022 statement, the Federal Open Market Committee indicated that overall economic activity appears to have picked up after edging down in the first quarter. Job

gains have been robust in recent months, and the unemployment rate has remained low. Inflation remains elevated, reflecting supply and demand imbalances related to the pandemic, higher energy prices, and broader price pressures.

The invasion of Ukraine by Russia is causing tremendous human and economic hardship. The invasion and related events are creating additional upward pressure on inflation and are weighing on global economic activity. In addition, COVID-related lockdowns in China are likely to exacerbate supply chain disruptions. The Committee is highly attentive to inflation risks.

Yield Trend

The Committee seeks to achieve maximum employment and inflation at the rate of 2 percent over the longer run. In support of these goals, the Committee decided to raise the target range for the federal funds rate from 1-1/2 to 1-3/4 percent and anticipates that ongoing increases in the target range will be appropriate. In addition, the Committee will continue reducing its holdings of Treasury securities and agency debt and mortgage-backed securities, as described in the Plans for Reducing the Size of the Federal Reserve's Balance Sheet that were issued in May. The Committee is strongly committed to returning inflation to its 2 percent objective. In assessing the appropriate stance of monetary policy, the Committee will continue to monitor the implications of incoming information for the economic outlook. The Committee would be prepared to adjust the stance of monetary policy as appropriate if risks emerge that could impede the attainment of the Committee's goals. The Committee's assessments will take into account a wide range of information, including readings on public health, labor market conditions, inflation pressures and inflation expectations, and financial and international developments.

Since the Federal Reserve change its zero-interest rate policy in March 2017 to combat high inflation, the federal reserve has raised the Federal Funds rate five times as follows:

Table 3

DATE	RATE CHANGE	FEDERAL FUNDS RATE
03/17/22	.25%	.25%-0.50%
05/05/22	.50%	.75%-1.00%
06/16/22	.75%	1.50%-1.75%
07/27/22	.75%	2.25%-2.50%
09/21/22	.75%	3.00%-3.25%

The Federal Reserve has two more meetings scheduled in 2022 (November 1-2, and December 13-14), and staff expects they will raise interest rates an additional .75% at both meetings, bringing the Federal Funds Rate to 4.50%-4.75% by the end of the year.

Change in Strategy

Prior to the Fed's change in monetary policy starting March 16, 2022, staff's basic strategy consisted of not purchasing any Agency or Medium-Term corporate note securities with a maturity beyond three years, unless the securities were step-up securities (i.e., securities whose interest rates increased periodically, if they were not called). After the Fed's change in monetary policy in March 2022, the City's investment strategy changed to extending the investment maturities of securities purchased beyond three years and locking in rates. This should result in a significant increase in interest income during the remainder of FY 2022, and into FY 2023.

As a result of the Fed's sharp increase in interest rates and the move to sell Agency and Mortgage-Backed securities from its Balance Sheet, there is an increasing probability of a recession in the US in 2023, which could force the Federal Reserve to start reducing interest rates later in 2023 or early 2024, if inflation starts declining.

The City's earned rate is expected to be above the City's benchmark (State LAIF) and the City's return is expected to be comparable to rates earned by most other cities in California. A sample of rates earned by Northern and Southern California cities is reflected in table 3 below (previously only Northern California cities were included):

Table 4

Other California Cities Earned Interest Rates	
For the Quarter Ending June 30, 2022	
City	Rates Earned
Burbank	1.76%
Palo Alto	1.62%
Los Angeles	1.41%
Berkeley	1.29%
San Jose	1.11%
Torrance	1.06%
Sacramento	1.05%
Hayward	1.03%
Oakland	.93%
San Francisco	.80%
San Diego	.56%

BACKGROUND

- Pooled Investments

Short-term cash is invested primarily in government sponsored enterprises (referred to as Federal Agency) notes and medium-term corporate notes for periods of one to five years. Additional cash is invested in a money market fund or overnight securities to meet the liquidity needs of the City.

In some cases, the City may have investments with a current market value that is greater or less than the recorded cost. These changes in market value are due to fluctuations in the market and have no effect on yield, as the City does not intend to sell securities prior to maturity.

- Retiree Health Trust Fund Investments

The City agreed to provide retiree Health insurance coverage for fire, police and miscellaneous employees under certain terms and conditions. An actuarial study commissioned by the City many years ago determined that, in addition to City Contributions, an average rate of return of 7% on miscellaneous employees trust fund assets invested must be achieved to fund the retiree health benefit at the desired 70% level. Primarily as a result of the Federal Reserve Board's decision to keep short-term rates near zero for the last 14 years, the average rate currently earned is significantly below that 7% level. City's Finance Department staff manages these investment portfolios.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

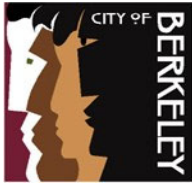
ATTACHMENTS

1. Portfolio Evaluation FY 2022 Fourth Quarter
2. Investment Report Analysis FY 2022 Fourth Quarter
 - a. Exhibit 2-A: Pooled Cash and Investments
 - b. Exhibit 2-B.1 through 2-B.3: Interest Earnings April 1, 2022 – June 30, 2022
 - c. Exhibit 2-C: Book Value By Investment Type
 - d. Exhibit 2-D: Current Holdings vs. Policy Limits
 - e. Exhibit 2-E: Investment Portfolio Trend
3. Summary of Pooled and Cash Investments FY 2022 Fourth Quarter –Trust Funds
 - a. Exhibit 3-A: Retiree Medical Trust Funds –Misc.
 - b. Exhibit 3-B: Retiree Medical Trust Funds –Fire
 - c. Exhibit 3-C: Retiree Medical Trust Funds –Police



Portfolio Evaluation
Quarter Ended June 30, 2022

	Quarter Ending							
	June 2022	March 2022	December 2021	September 2021				
Total Portfolio								
Pooled Cash and Investments (COB)	\$ 698,786,628	\$ 581,600,292	\$ 599,176,851	\$ 526,986,435				
Pooled Cash and Investments (Trust)	49,954,298	50,745,325	52,859,894	52,247,171				
Total Cash and Investments	<u>\$ 748,740,926</u>	<u>\$ 632,345,617</u>	<u>\$ 652,036,745</u>	<u>\$ 579,233,606</u>				
Average Life of Investment Portfolio								
Pooled Investments (CoB)	1,386	1,352	1,300	1,304				
Trust Investments	2.069 years	2.008 years	2.378 years	1.961 years				
Weighted Yield								
Pooled Investments (CoB)	1.293%	0.969%	1.096%	0.992%				
Trust Investments	4.398%	4.137%	4.055%	3.369%				
Prime Rate	4.750%	3.500%	3.250%	3.250%				
91-day Treasury Bill Rate	1.626%	0.482%	0.030%	0.033%				
2-year Treasury Note Rate	2.953%	2.335%	0.732%	0.276%				
Cash and Investments Maturity								
Within one year	\$ 327,419,689	43.73%	\$ 253,735,661	40.13%	\$ 250,773,736	38.46%	\$ 164,472,378	28.39%
Between 1 to 3 years	65,308,653	8.72%	52,619,468	8.32%	48,320,863	7.41%	43,663,650	7.54%
Between 3 to 5 years	329,817,379	44.05%	305,166,300	48.26%	321,618,796	49.33%	333,855,324	57.64%
Between 5 to 10 years	11,272,605	1.51%	20,824,188	3.29%	31,323,351	4.80%	37,242,254	6.43%
Over 10 years	14,922,600	1.99%	-	0.00%	-	0.00%	-	0.00%
Total	<u>\$ 748,740,926</u>	<u>100.00%</u>	<u>\$ 632,345,617</u>	<u>100.00%</u>	<u>\$ 652,036,745</u>	<u>100.00%</u>	<u>\$ 579,233,606</u>	<u>100.00%</u>



**Investment Report Analysis
As of June 30, 2022**

Investments	Pooled Investments	Pension and OPEB	
		Trust Investments	Total
Portfolio	\$ 718,816,520	\$ 25,189,520	\$ 744,006,040
Unrecognized gain/(loss)	(20,962,612)	(2,243,556)	(23,206,168)
Total Investments	697,853,908	22,945,964	720,799,872
Cash	Pooled Cash	Pension and OPEB	
		Trust Cash	Total
Cash with Fiscal Agents	14	-	14
Cash Deposits in Banks	27,941,041	-	27,941,041
Pooled Cash Adjustment	(27,008,334)	27,008,334	-
Total Cash	932,720	27,008,334	27,941,054
Adjusted Grand Total (All Cash and Investments)	\$ 698,786,628	\$ 49,954,298	\$ 748,740,926

Pooled Cash Portfolio Breakdown As of June 30, 2022

	Book Value	Market Value
Investments	\$ 467,399,144	\$ 446,436,532
Fidelity Money Market (TRANS)	44,722,419	44,722,419
Fidelity Money Market	206,694,957	206,694,957
	\$ 718,816,520	\$ 697,853,908

Note: Pooled cash for General Fund includes Rent Board cash of \$6,431,961



City of Berkeley
Pooled Cash and Investments
As of June 30, 2022

CUSIP	Investment #	Issuer	Book Value	Par Value	Market Value	Current Rate	YTM/C 365	Maturity Date	Days To Maturity	Moody's Rating
Certificates of Deposits										
254673RD0	14539	Discover Bank	250,000.00	250,000.00	251,062.50	3.30	3.300	07/05/23	369	N/A
795450T47	14540	Sallie Mae Bank	250,000.00	250,000.00	251,065.00	3.30	3.300	07/03/23	367	N/A
Subtotal and Average			500,000.00	500,000.00	502,127.50		3.300		368	
Medium Term Notes										
008252AM0	14582	Affiliated Managers Group	1,029,930.31	1,000,000.00	1,006,230.00	4.250	2.300	02/15/2024	594	A3
037833AK6	14536	Apple Inc	4,968,199.48	5,000,000.00	4,971,100.00	2.400	3.225	05/03/2023	306	AAA
04685A2L4	14590	Athene Global Funding	5,975,502.07	5,950,000.00	5,656,903.00	2.500	2.320	01/14/2025	928	N/A
04685A2L4	14602	Athene Global Funding	4,912,461.35	5,000,000.00	4,753,700.00	2.500	3.250	01/14/2025	928	N/A
084670BJ6	14542	Berkshire Hathaway	4,995,751.82	5,000,000.00	4,991,250.00	3.000	3.150	02/11/2023	225	AA2
15654VAK4	14641 T-1	Century Housing Corp	4,000,000.00	4,000,000.00	3,997,000.00	0.300	0.300	07/15/2022	14	N/A
20030NBN0	14563	Comcast Corp	5,038,681.18	5,000,000.00	4,929,200.00	3.375	3.100	08/15/2025	1,141	A3
233851CU6	14571	Daimler Finance	5,051,716.70	5,000,000.00	4,826,350.00	3.450	3.190	01/06/2027	1,650	A3
233851CU6	14574	Daimler Finance	3,792,260.92	3,725,000.00	3,595,630.75	3.450	3.000	01/06/2027	1,650	A3
24422EUM9	14554	John Deere Cap	5,020,533.14	5,000,000.00	5,023,550.00	3.650	3.300	10/12/2023	468	A2
375558BF9	14570	Gilead Sciences	5,087,297.63	5,000,000.00	4,910,250.00	3.650	3.118	03/01/2026	1,339	A3
53944VAS8	14580	Lloyds Bank Plc	5,000,285.88	5,000,000.00	4,998,300.00	2.250	2.200	08/14/2022	44	A1
540424AQ1	14555	Loews Corporation	4,970,768.97	5,000,000.00	4,980,500.00	2.625	3.350	05/15/2023	318	A3
589331AT4	14545	Merck & Co Inc	4,993,949.64	5,000,000.00	5,001,450.00	2.400	3.030	09/15/2022	76	A1
68389XAS4	14548	Oracle Corp	5,010,716.42	5,000,000.00	4,984,650.00	3.625	3.388	07/15/2023	379	BAA2
747525AT0	14564	Qualcomm Inc	4,986,958.53	5,000,000.00	4,977,550.00	2.900	3.050	05/20/2024	689	A2
747525AU7	14587	Qualcomm Inc	6,178,986.57	5,963,000.00	5,831,038.81	3.250	2.435	05/20/2027	1,784	A2
828807CS4	14606	Simon Property Group	4,997,358.62	5,000,000.00	4,931,050.00	3.375	3.353	10/01/2024	823	A3
07330MAA5	14588	Truist Bank	5,285,366.72	5,000,000.00	4,885,750.00	3.800	2.365	10/30/2026	1,582	A2
Subtotal and Average			91,296,725.95	90,638,000.00	89,251,452.56		2.847		809	
Federal Agency Coupon Securities										
3133ENV56	14650	Federal Farm Credit Bank	5,000,000.00	5,000,000.00	4,967,100.00	2.030	2.030	05/02/23	305	AAA
Subtotal and Average			5,000,000.00	5,000,000.00	4,967,100.00		2.030		305	
Medium-Term Notes - Callable										
05531FBF9	14561	BB&T Corporation	5,048,837.27	5,000,000.00	5,029,800.00	3.750	3.012	12/06/2023	523	A3
22553PWD7	14652	Credit Suisse AG	5,000,000.00	5,000,000.00	5,007,400.00	4.050	4.050	05/25/2025	1,059	A1
22553PXJ3	14655	Credit Suisse AG	5,000,000.00	5,000,000.00	5,002,500.00	5.000	5.284	05/31/2032	3,622	A1
693475AV7	14557	PNC Financial Services	5,009,147.29	5,000,000.00	5,000,700.00	3.500	3.425	01/23/2024	571	A3
751212AC5	14566	Ralph Lauren	5,091,645.62	5,000,000.00	4,979,100.00	3.750	3.106	09/15/2025	1,172	A3
91159HHU7	14562	US Bancorp	5,142,859.65	5,000,000.00	5,024,450.00	3.950	2.848	11/17/2025	1,235	A3
Subtotal and Average			30,292,489.83	30,000,000.00	30,043,950.00		3.614		1,360	



City of Berkeley
Pooled Cash and Investments
As of June 30, 2022

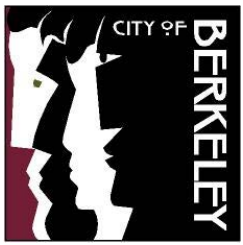
<u>CUSIP</u>	<u>Investment #</u>	<u>Issuer</u>	<u>Book Value</u>	<u>Par Value</u>	<u>Market Value</u>	<u>Current Rate</u>	<u>YTM/C 365</u>	<u>Maturity Date</u>	<u>Days To Maturity</u>	<u>Moody's Rating</u>
Federal Agency Callable										
3130ARXL0	14649	Federal Home Loan Banks	5,000,000.00	5,000,000.00	4,986,200.00	3.000	3.000	05/25/2023	328	AAA
			5,000,000.00	5,000,000.00	4,986,200.00		3.000		328	
Federal Agency Continuously Callable										
31422XJW3	14638	Farmer Mac	10,000,000.00	10,000,000.00	9,455,100.00	0.300	0.300	07/20/2026	1,480	N/A
3133ENUV0	14644	Federal Farm Credit Bank	5,000,000.00	5,000,000.00	4,947,000.00	4.000	4.000	04/19/2032	3,580	AAA
3133ENVV9	14647	Federal Farm Credit Bank	5,000,000.00	5,000,000.00	4,964,950.00	3.630	3.630	05/03/2027	1,767	AAA
3133ENWW6	14653	Federal Farm Credit Bank	4,994,558.15	5,000,000.00	4,967,150.00	4.370	4.786	05/17/2032	3,608	AAA
3130AMAV4	14611	Federal Home Loan Banks	5,600,000.00	5,600,000.00	5,175,632.00	1.250	1.125	04/29/2027	1,763	AAA
3130ALZA5	14612	Federal Home Loan Banks	9,000,000.00	9,000,000.00	8,474,490.00	0.750	0.500	04/29/2026	1,398	AAA
3130AMEX6	14613	Federal Home Loan Banks	15,000,000.00	15,000,000.00	14,111,550.00	0.750	0.550	05/27/2026	1,426	AAA
3130AMF72	14615	Federal Home Loan Banks	15,000,000.00	15,000,000.00	14,018,850.00	0.650	0.650	05/27/2026	1,426	AAA
3130AMFQ0	14616	Federal Home Loan Banks	15,000,000.00	15,000,000.00	14,029,200.00	1.150	1.020	05/26/2026	1,425	AAA
3130AMFT4	14617	Federal Home Loan Banks	10,000,000.00	10,000,000.00	9,330,300.00	0.625	0.625	05/27/2026	1,426	AAA
3130AMG22	14618	Federal Home Loan Banks	20,000,000.00	20,000,000.00	18,685,600.00	0.700	0.500	05/27/2026	1,426	AAA
3130AMGG1	14619	Federal Home Loan Banks	10,000,000.00	10,000,000.00	9,364,700.00	0.600	0.600	05/26/2026	1,425	AAA
3130AMFN7	14620	Federal Home Loan Banks	10,000,000.00	10,000,000.00	9,382,000.00	0.500	0.500	05/26/2026	1,425	AAA
3130AMG55	14622	Federal Home Loan Banks	10,000,000.00	10,000,000.00	9,262,600.00	0.750	0.750	05/27/2027	1,791	AAA
3130AMG22	14624	Federal Home Loan Banks	10,000,000.00	10,000,000.00	9,342,800.00	0.700	0.500	05/27/2026	1,426	AAA
3130AMLS9	14627	Federal Home Loan Banks	10,000,000.00	10,000,000.00	9,377,200.00	0.750	0.713	06/17/2026	1,447	AAA
3130AMN24	14628	Federal Home Loan Banks	10,000,000.00	10,000,000.00	9,350,900.00	1.150	1.034	06/03/2026	1,433	AAA
3130AMN57	14629	Federal Home Loan Banks	20,000,000.00	20,000,000.00	18,649,200.00	1.100	1.013	06/03/2026	1,433	AAA
3130AMP71	14630	Federal Home Loan Banks	20,000,000.00	20,000,000.00	18,725,600.00	1.200	1.077	06/18/2026	1,448	AAA
3130AMPL0	14631	Federal Home Loan Banks	15,000,000.00	15,000,000.00	14,022,900.00	1.150	0.375	06/08/2026	1,438	AAA
3130AMMW9	14632	Federal Home Loan Banks	10,000,000.00	10,000,000.00	9,411,000.00	0.875	0.500	06/10/2026	1,440	AAA
3130AMWM0	14634	Federal Home Loan Banks	4,250,000.00	4,250,000.00	3,952,075.00	1.050	0.500	06/30/2026	1,460	AAA
3130AN5U0	14642	Federal Home Loan Banks	10,000,000.00	10,000,000.00	9,387,200.00	0.625	0.500	07/29/2026	1,489	AAA
3130ANJY7	14643	Federal Home Loan Banks	40,000,000.00	40,000,000.00	37,084,400.00	0.400	0.400	08/26/2026	1,517	AAA
3130ARTE1	14645	Federal Home Loan Banks	6,425,000.00	6,425,000.00	6,325,605.25	4.100	4.100	04/26/2032	3,587	AAA
3130ARX71	14648	Federal Home Loan Banks	5,000,000.00	5,000,000.00	4,962,750.00	3.000	3.000	05/23/2025	1,057	AAA
3130ARYA3	14651	Federal Home Loan Banks	5,000,000.00	5,000,000.00	4,979,600.00	4.000	4.000	05/26/2027	1,790	AAA
3130AS7K9	14654	Federal Home Loan Banks	5,000,000.00	5,000,000.00	4,952,950.00	4.440	4.440	05/26/2032	3,617	AAA
3130ASGF0	14656	Federal Home Loan Banks	5,000,000.00	5,000,000.00	5,011,800.00	4.000	4.000	06/30/2025	1,095	AAA
3134GXRS5	14646	Federal Home Loan Mortgage Co	5,000,000.00	5,000,000.00	4,970,150.00	3.100	3.100	04/29/2025	1,033	AAA
3134GXC36	14658	Federal Home Loan Mortgage Co	5,000,000.00	5,000,000.00	5,013,750.00	4.000	4.000	12/30/2024	913	AAA
			330,269,558.15	330,275,000.00	311,689,002.25		1.154		1,587	



City of Berkeley
Pooled Cash and Investments
As of June 30, 2022

CUSIP	Investment #	Issuer	Book Value	Par Value	Market Value	Current Rate	YTM/C 365	Maturity Date	Days To Maturity	Moody's Rating
Municipal Bonds										
13063DGB8	14559	General Obligation Unlimited	5,040,370.45	5,000,000.00	4,996,700.00	3.375	3.087	04/01/2025	1,005	N/A
Subtotal and Average			5,040,370.45	5,000,000.00	4,996,700.00		3.087		1,005	
Money Market										
SYS14190	14190	Fidelity Money Market	44,722,419.18	44,722,419.18	44,722,419.18	0.002	0.002		1	N/A
SYS14265	14265	Fidelity Money Market	206,694,956.65	206,694,956.65	206,694,956.65	0.003	0.003		1	N/A
Subtotal and Average			251,417,375.83	251,417,375.83	251,417,375.83		0.003		1	
Total Investments and Average			718,816,520.21	717,830,375.83	697,853,908.14		1.289			

Total Investments (Book Value)	718,816,520.21
Cash	<u>932,720.00</u>
Total Investments (Book Value) and Cash	719,749,240.21
Increase / (Decrease) in Market Value of Securities	<u>(20,962,612.07)</u>
Total Investments (Market Value) and Cash	<u><u>698,786,628.14</u></u>



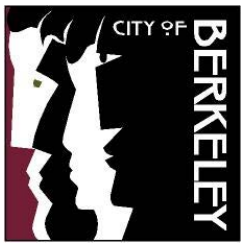
**Pooled Investments Selected Funds
Interest Earnings
Sorted by Fund - Fund
April 1, 2022 - April 30, 2022
Yield on Beginning Book Value**

City of Berkeley
2180 Milvia Street, 3rd Floor
Berkeley, CA 94704
(510)981-7335

CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Ending Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings		
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
Fund: Pooled Investment - Long Term												
3130AMLS9	14627	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	06/17/2026	0.625	0.634	5,208.33	0.00	5,208.33
3130AMG22	14624	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/27/2026	0.600	0.608	5,000.00	0.00	5,000.00
3130AMFN7	14620	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/26/2026	0.500	0.507	4,166.67	0.00	4,166.67
3130AMG55	14622	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/27/2027	0.750	0.760	6,250.00	0.00	6,250.00
3130AMN24	14628	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	06/03/2026	1.150	1.166	9,583.34	0.00	9,583.34
3130AMN57	14629	010	MC5	20,000,000.00	20,000,000.00	20,000,000.00	06/03/2026	1.100	1.115	18,333.33	0.00	18,333.33
3130AN5U0	14642	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	07/29/2026	0.625	0.634	5,208.33	0.00	5,208.33
3130AMWMO	14634	010	MC5	4,250,000.00	4,250,000.00	4,250,000.00	06/30/2026	0.500	0.507	1,770.83	0.00	1,770.83
3130AMPL0	14631	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	06/08/2026	1.150	1.166	14,375.00	0.00	14,375.00
3130AMP71	14630	010	MC5	20,000,000.00	20,000,000.00	20,000,000.00	06/18/2026	1.200	1.217	20,000.00	0.00	20,000.00
3130AMMW9	14632	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	06/10/2026	0.625	0.634	5,208.34	0.00	5,208.34
3130AMGG1	14619	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/26/2026	0.600	0.608	5,000.00	0.00	5,000.00
3130AMG22	14618	010	MC5	20,000,000.00	20,000,000.00	20,000,000.00	05/27/2026	0.600	0.608	10,000.00	0.00	10,000.00
3130AMAV4	14611	010	MC5	5,600,000.00	5,600,000.00	5,600,000.00	04/29/2027	1.250	0.558	2,566.67	0.00	2,566.67
3130ALZA5	14612	010	MC5	9,000,000.00	9,000,000.00	9,000,000.00	04/29/2026	0.750	0.524	3,875.00	0.00	3,875.00
3130AMFQ0	14616	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	05/26/2026	0.500	0.507	6,250.00	0.00	6,250.00
3130AMFT4	14617	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/27/2026	0.625	0.634	5,208.33	0.00	5,208.33
3130AMF72	14615	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	05/27/2026	0.650	0.659	8,125.00	0.00	8,125.00
3130AMEX6	14613	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	05/27/2026	0.500	0.507	6,250.00	0.00	6,250.00
3130ANJY7	14643	010	MC5	40,000,000.00	40,000,000.00	40,000,000.00	08/26/2026	0.400	0.406	13,333.33	0.00	13,333.33
3130ARTE1	14645	010	MC5	6,425,000.00	0.00	6,425,000.00	04/26/2032	4.100	4.157	3,658.68	0.00	3,658.68
3133ENUV0	14644	010	MC5	5,000,000.00	0.00	5,000,000.00	04/19/2032	4.000	4.056	6,666.67	0.00	6,666.67
3134GXRS5	14646	010	MC5	5,000,000.00	0.00	5,000,000.00	04/29/2025	3.100	3.143	861.11	0.00	861.11
53944VAS8	14580	010	MTN	5,000,000.00	5,000,884.22	5,000,684.78	08/14/2022	2.250	2.232	9,375.00	-199.44	9,175.56
037833AK6	14536	010	MTN	5,000,000.00	4,958,722.50	4,961,881.50	05/03/2023	2.400	3.229	10,000.00	3,159.00	13,159.00
254673RD0	14539	010	SCD	250,000.00	250,000.00	250,000.00	07/05/2023	3.300	3.300	678.08	0.00	678.08
795450T47	14540	010	SCD	250,000.00	250,000.00	250,000.00	07/03/2023	3.300	3.300	678.08	0.00	678.08
084670BJ6	14542	010	MTN	5,000,000.00	4,994,013.92	4,994,593.22	02/11/2023	3.000	3.186	12,500.00	579.30	13,079.30
31422XJW3	14638	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	07/20/2026	0.300	0.304	2,500.00	0.00	2,500.00
589331AT4	14545	010	MTN	5,000,000.00	4,986,591.09	4,989,043.94	09/15/2022	2.400	3.038	10,000.00	2,452.85	12,452.85
68389XAS4	14548	010	MTN	5,000,000.00	5,013,295.24	5,012,435.63	07/15/2023	3.625	3.457	15,104.17	-859.61	14,244.56
24422EUM9	14554	010	MTN	5,000,000.00	5,024,541.78	5,023,205.57	10/12/2023	3.650	3.359	15,208.33	-1,336.21	13,872.12

Interest Earnings
April 1, 2022 - April 30, 2022

CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Ending Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings		
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
Fund: Pooled Investment - Long Term												
540424AQ1	14555	010	MTN	5,000,000.00	4,962,390.65	4,965,183.43	05/15/2023	2.625	3.366	10,937.50	2,792.78	13,730.28
693475AV7	14557	010	MC3	5,000,000.00	5,010,612.16	5,010,123.87	01/23/2024	3.500	3.423	14,583.33	-488.29	14,095.04
13063DGB8	14559	010	MUN	5,000,000.00	5,044,040.49	5,042,817.14	04/01/2025	3.375	3.097	14,062.50	-1,223.35	12,839.15
05531FBF9	14561	010	MC3	5,000,000.00	5,057,371.94	5,054,527.05	12/06/2023	3.750	3.075	15,625.00	-2,844.89	12,780.11
05531FBG7	14585	010	MC3	5,000,000.00	5,010,821.87	5,006,712.30	06/20/2022	3.050	2.088	12,708.34	-4,109.57	8,598.77
91159HHU7	14562	010	MC3	5,000,000.00	5,153,433.15	5,149,908.65	11/17/2025	3.950	3.054	16,458.33	-3,524.50	12,933.83
20030NBN0	14563	010	MTN	5,000,000.00	5,041,778.43	5,040,746.01	08/15/2025	3.375	3.144	14,062.50	-1,032.42	13,030.08
747525ATO	14564	010	MTN	5,000,000.00	4,985,229.92	4,985,806.12	05/20/2024	2.900	3.090	12,083.33	576.20	12,659.53
747525AU7	14587	010	MTN	5,963,000.00	6,190,037.62	6,186,353.93	05/20/2027	3.250	2.450	16,149.79	-3,683.69	12,466.10
751212AC5	14566	010	MC3	5,000,000.00	5,098,793.03	5,096,410.56	09/15/2025	3.750	3.160	15,625.00	-2,382.47	13,242.53
375558BF9	14570	010	MTN	5,000,000.00	5,093,249.74	5,091,265.70	03/01/2026	3.650	3.159	15,208.34	-1,984.04	13,224.30
233851CU6	14574	010	MTN	3,725,000.00	3,795,986.14	3,794,744.40	01/06/2027	3.450	3.035	10,709.37	-1,241.74	9,467.63
233851CU6	14571	010	MTN	5,000,000.00	5,054,581.01	5,053,626.24	01/06/2027	3.450	3.230	14,375.00	-954.77	13,420.23
008252AM0	14582	010	MTN	1,000,000.00	1,034,542.86	1,033,005.34	02/15/2024	4.250	2.357	3,541.66	-1,537.52	2,004.14
07330MAA5	14588	010	MTN	5,000,000.00	5,301,840.75	5,296,349.40	10/30/2026	3.800	2.373	15,833.34	-5,491.35	10,341.99
04685A2L4	14590	010	MTN	5,950,000.00	5,978,015.96	5,977,178.00	01/14/2025	2.500	2.352	12,395.84	-837.96	11,557.88
04685A2L4	14602	010	MTN	5,000,000.00	4,903,832.13	4,906,708.53	01/14/2025	2.500	3.298	10,416.67	2,876.40	13,293.07
828807CS4	14606	010	MTN	5,000,000.00	4,997,065.13	4,997,162.96	10/01/2024	3.375	3.448	14,062.50	97.83	14,160.33
15654VAK4	14641 T-1	010	MTN	4,000,000.00	4,000,000.00	4,000,000.00	07/15/2022	0.300	0.304	1,000.00	0.00	1,000.00
Subtotal				416,413,000.00	401,041,671.73	417,445,474.27			1.389	482,780.96	-21,197.46	461,583.50
Fund: Fidelity MM - Trans												
SYS14190	14190	030	RRP	22,335,222.66	22,331,867.61	22,335,222.66		0.002	0.183	3,355.05	0.00	3,355.05
Subtotal				22,335,222.66	22,331,867.61	22,335,222.66			0.183	3,355.05	0.00	3,355.05
Fund: Fidelity MM - Regular												
SYS14265	14265	040	RRP	112,835,638.26	112,818,688.83	112,835,638.26		0.003	0.183	16,949.43	0.00	16,949.43
Subtotal				112,835,638.26	112,818,688.83	112,835,638.26			0.183	16,949.43	0.00	16,949.43
Total				551,583,860.92	536,192,228.17	552,616,335.19			1.087	503,085.44	-21,197.46	481,887.98



**Pooled Investments Selected Funds
Interest Earnings
Sorted by Fund - Fund
May 1, 2022 - May 31, 2022
Yield on Beginning Book Value**

City of Berkeley
2180 Milvia Street, 3rd Floor
Berkeley, CA 94704
(510)981-7335

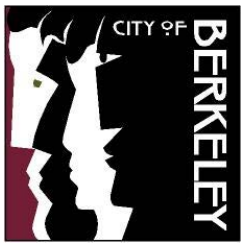
CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Ending Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings		
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
Fund: Pooled Investment - Long Term												
3130AMLS9	14627	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	06/17/2026	0.625	0.613	5,208.33	0.00	5,208.33
3130AMG22	14624	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/27/2026	0.700	0.602	5,111.11	0.00	5,111.11
3130AMFN7	14620	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/26/2026	0.500	0.491	4,166.66	0.00	4,166.66
3130AMG55	14622	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/27/2027	0.750	0.736	6,250.00	0.00	6,250.00
3130AMN24	14628	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	06/03/2026	1.150	1.128	9,583.33	0.00	9,583.33
3130AMN57	14629	010	MC5	20,000,000.00	20,000,000.00	20,000,000.00	06/03/2026	1.100	1.079	18,333.34	0.00	18,333.34
3130AN5U0	14642	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	07/29/2026	0.625	0.613	5,208.34	0.00	5,208.34
3130AMWMO	14634	010	MC5	4,250,000.00	4,250,000.00	4,250,000.00	06/30/2026	0.500	0.491	1,770.83	0.00	1,770.83
3130AMPL0	14631	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	06/08/2026	1.150	1.128	14,375.00	0.00	14,375.00
3130AMP71	14630	010	MC5	20,000,000.00	20,000,000.00	20,000,000.00	06/18/2026	1.200	1.177	20,000.00	0.00	20,000.00
3130AMMW9	14632	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	06/10/2026	0.625	0.613	5,208.33	0.00	5,208.33
3130AMGG1	14619	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/26/2026	0.600	0.589	5,000.00	0.00	5,000.00
3130AMG22	14618	010	MC5	20,000,000.00	20,000,000.00	20,000,000.00	05/27/2026	0.700	0.602	10,222.23	0.00	10,222.23
3130AMAV4	14611	010	MC5	5,600,000.00	5,600,000.00	5,600,000.00	04/29/2027	1.250	1.226	5,833.33	0.00	5,833.33
3130ALZA5	14612	010	MC5	9,000,000.00	9,000,000.00	9,000,000.00	04/29/2026	0.750	0.736	5,625.00	0.00	5,625.00
3130AMFQ0	14616	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	05/26/2026	1.150	0.597	7,604.16	0.00	7,604.16
3130AMFT4	14617	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/27/2026	0.625	0.613	5,208.33	0.00	5,208.33
3130AMF72	14615	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	05/27/2026	0.650	0.638	8,125.00	0.00	8,125.00
3130AMEX6	14613	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	05/27/2026	0.750	0.523	6,666.67	0.00	6,666.67
3130ANJY7	14643	010	MC5	40,000,000.00	40,000,000.00	40,000,000.00	08/26/2026	0.400	0.392	13,333.33	0.00	13,333.33
3130ARYA3	14651	010	MC5	5,000,000.00	0.00	5,000,000.00	05/26/2027	4.000	3.380	2,777.78	0.00	2,777.78
3130AS7K9	14654	010	MC5	5,000,000.00	0.00	5,000,000.00	05/26/2032	4.440	3.751	3,083.33	0.00	3,083.33
3130ARXL0	14649	010	MC4	5,000,000.00	0.00	5,000,000.00	05/25/2023	3.000	2.607	2,500.00	0.00	2,500.00
3130ARTE1	14645	010	MC5	6,425,000.00	6,425,000.00	6,425,000.00	04/26/2032	4.100	4.023	21,952.08	0.00	21,952.08
3130ARX71	14648	010	MC5	5,000,000.00	0.00	5,000,000.00	05/23/2025	3.000	2.704	3,333.33	0.00	3,333.33
3133ENUV0	14644	010	MC5	5,000,000.00	5,000,000.00	5,000,000.00	04/19/2032	4.000	3.925	16,666.66	0.00	16,666.66
3133ENVV9	14647	010	MC5	5,000,000.00	0.00	5,000,000.00	05/03/2027	3.630	3.554	14,116.67	0.00	14,116.67
3133ENWW6	14653	010	MC5	5,000,000.00	0.00	4,994,512.24	05/17/2032	4.370	3.953	4,855.55	12.24	4,867.79
3133ENVS6	14650	010	FAC	5,000,000.00	0.00	5,000,000.00	05/02/2023	2.030	1.990	8,176.39	0.00	8,176.39
3134GXRS5	14646	010	MC5	5,000,000.00	5,000,000.00	5,000,000.00	04/29/2025	3.100	3.042	12,916.67	0.00	12,916.67
53944VAS8	14580	010	MTN	5,000,000.00	5,000,684.78	5,000,485.33	08/14/2022	2.250	2.160	9,375.00	-199.45	9,175.55
037833AK6	14536	010	MTN	5,000,000.00	4,961,881.50	4,965,040.49	05/03/2023	2.400	3.123	10,000.00	3,158.99	13,158.99

Interest Earnings

May 1, 2022 - May 31, 2022

Adjusted Interest Earnings

CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Ending Book Value	Maturity Date	Current Rate	Annualized Yield	Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
Fund: Pooled Investment - Long Term												
254673RD0	14539	010	SCD	250,000.00	250,000.00	250,000.00	07/05/2023	3.300	3.300	700.69	0.00	700.69
795450T47	14540	010	SCD	250,000.00	250,000.00	250,000.00	07/03/2023	3.300	3.300	700.68	0.00	700.68
084670BJ6	14542	010	MTN	5,000,000.00	4,994,593.22	4,995,172.52	02/11/2023	3.000	3.083	12,500.00	579.30	13,079.30
31422XJW3	14638	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	07/20/2026	0.300	0.294	2,500.00	0.00	2,500.00
589331AT4	14545	010	MTN	5,000,000.00	4,989,043.94	4,991,496.79	09/15/2022	2.400	2.939	10,000.00	2,452.85	12,452.85
68389XAS4	14548	010	MTN	5,000,000.00	5,012,435.63	5,011,576.02	07/15/2023	3.625	3.346	15,104.16	-859.61	14,244.55
24422EUM9	14554	010	MTN	5,000,000.00	5,023,205.57	5,021,869.36	10/12/2023	3.650	3.252	15,208.34	-1,336.21	13,872.13
540424AQ1	14555	010	MTN	5,000,000.00	4,965,183.43	4,967,976.20	05/15/2023	2.625	3.256	10,937.50	2,792.77	13,730.27
693475AV7	14557	010	MC3	5,000,000.00	5,010,123.87	5,009,635.58	01/23/2024	3.500	3.312	14,583.33	-488.29	14,095.04
13063DGB8	14559	010	MUN	5,000,000.00	5,042,817.14	5,041,593.79	04/01/2025	3.375	2.998	14,062.50	-1,223.35	12,839.15
05531FBF9	14561	010	MC3	5,000,000.00	5,054,527.05	5,051,682.16	12/06/2023	3.750	2.977	15,625.00	-2,844.89	12,780.11
05531FBG7	14585	010	MC3	0.00	5,006,712.30	0.00	06/20/2022	3.050	2.090	8,048.61	-2,602.73	5,445.88
91159HHU7	14562	010	MC3	5,000,000.00	5,149,908.65	5,146,384.15	11/17/2025	3.950	2.957	16,458.34	-3,524.50	12,933.84
20030NBN0	14563	010	MTN	5,000,000.00	5,040,746.01	5,039,713.60	08/15/2025	3.375	3.044	14,062.50	-1,032.41	13,030.09
747525AT0	14564	010	MTN	5,000,000.00	4,985,806.12	4,986,382.33	05/20/2024	2.900	2.990	12,083.34	576.21	12,659.55
747525AU7	14587	010	MTN	5,963,000.00	6,186,353.93	6,182,670.25	05/20/2027	3.250	2.373	16,149.79	-3,683.68	12,466.11
751212AC5	14566	010	MC3	5,000,000.00	5,096,410.56	5,094,028.09	09/15/2025	3.750	3.059	15,625.00	-2,382.47	13,242.53
375558BF9	14570	010	MTN	5,000,000.00	5,091,265.70	5,089,281.66	03/01/2026	3.650	3.058	15,208.33	-1,984.04	13,224.29
233851CU6	14574	010	MTN	3,725,000.00	3,794,744.40	3,793,502.66	01/06/2027	3.450	2.938	10,709.38	-1,241.74	9,467.64
233851CU6	14571	010	MTN	5,000,000.00	5,053,626.24	5,052,671.47	01/06/2027	3.450	3.127	14,375.00	-954.77	13,420.23
008252AM0	14582	010	MTN	1,000,000.00	1,033,005.34	1,031,467.83	02/15/2024	4.250	2.284	3,541.67	-1,537.51	2,004.16
07330MAA5	14588	010	MTN	5,000,000.00	5,296,349.40	5,290,858.06	10/30/2026	3.800	2.299	15,833.33	-5,491.34	10,341.99
04685A2L4	14590	010	MTN	5,950,000.00	5,977,178.00	5,976,340.03	01/14/2025	2.500	2.277	12,395.83	-837.97	11,557.86
04685A2L4	14602	010	MTN	5,000,000.00	4,906,708.53	4,909,584.94	01/14/2025	2.500	3.190	10,416.66	2,876.41	13,293.07
828807CS4	14606	010	MTN	5,000,000.00	4,997,162.96	4,997,260.79	10/01/2024	3.375	3.336	14,062.50	97.83	14,160.33
15654VAK4	14641 T-1	010	MTN	4,000,000.00	4,000,000.00	4,000,000.00	07/15/2022	0.300	0.294	1,000.00	0.00	1,000.00
22553PXJ3	14655	010	MC3	5,000,000.00	0.00	5,000,000.00	05/31/2032	5.000	5.069	694.44	0.00	694.44
22553PWD7	14652	010	MC3	5,000,000.00	0.00	5,000,000.00	05/25/2025	4.050	3.520	3,375.00	0.00	3,375.00
Subtotal				456,413,000.00	417,445,474.27	457,416,186.34			1.495	568,548.70	-19,678.36	548,870.34
Fund: Fidelity MM - Trans												
SYS14190	14190	030	RRP	44,686,581.14	22,335,222.66	44,686,581.14		0.002	1.126	21,358.48	0.00	21,358.48
Subtotal				44,686,581.14	22,335,222.66	44,686,581.14			1.126	21,358.48	0.00	21,358.48
Fund: Fidelity MM - Regular												
SYS14265	14265	040	RRP	170,556,248.04	112,835,638.26	170,556,248.04		0.003	0.528	50,609.78	0.00	50,609.78
Subtotal				170,556,248.04	112,835,638.26	170,556,248.04			0.528	50,609.78	0.00	50,609.78
Total				671,655,829.18	552,616,335.19	672,659,015.52			1.288	640,516.96	-19,678.36	620,838.60



**Pooled Investments Selected Funds
Interest Earnings
Sorted by Fund - Fund
June 1, 2022 - June 30, 2022
Yield on Beginning Book Value**

City of Berkeley
2180 Milvia Street, 3rd Floor
Berkeley, CA 94704
(510)981-7335

CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Ending Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings		
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
Fund: Pooled Investment - Long Term												
3130AMLS9	14627	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	06/17/2026	0.750	0.693	5,694.45	0.00	5,694.45
3130AMG22	14624	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/27/2026	0.700	0.710	5,833.33	0.00	5,833.33
3130AMFN7	14620	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/26/2026	0.500	0.507	4,166.67	0.00	4,166.67
3130AMG55	14622	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/27/2027	0.750	0.760	6,250.00	0.00	6,250.00
3130AMN24	14628	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	06/03/2026	1.150	1.166	9,583.33	0.00	9,583.33
3130AMN57	14629	010	MC5	20,000,000.00	20,000,000.00	20,000,000.00	06/03/2026	1.100	1.115	18,333.33	0.00	18,333.33
3130AN5U0	14642	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	07/29/2026	0.625	0.634	5,208.33	0.00	5,208.33
3130AMWM0	14634	010	MC5	4,250,000.00	4,250,000.00	4,250,000.00	06/30/2026	1.050	0.526	1,835.77	0.00	1,835.77
3130AMPL0	14631	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	06/08/2026	1.150	1.166	14,375.00	0.00	14,375.00
3130AMP71	14630	010	MC5	20,000,000.00	20,000,000.00	20,000,000.00	06/18/2026	1.200	1.217	20,000.00	0.00	20,000.00
3130AMMW9	14632	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	06/10/2026	0.875	0.811	6,666.67	0.00	6,666.67
3130AMGG1	14619	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/26/2026	0.600	0.608	5,000.00	0.00	5,000.00
3130AMG22	14618	010	MC5	20,000,000.00	20,000,000.00	20,000,000.00	05/27/2026	0.700	0.710	11,666.66	0.00	11,666.66
3130AMAV4	14611	010	MC5	5,600,000.00	5,600,000.00	5,600,000.00	04/29/2027	1.250	1.267	5,833.34	0.00	5,833.34
3130ALZA5	14612	010	MC5	9,000,000.00	9,000,000.00	9,000,000.00	04/29/2026	0.750	0.760	5,625.00	0.00	5,625.00
3130AMFQ0	14616	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	05/26/2026	1.150	1.166	14,375.00	0.00	14,375.00
3130AMFT4	14617	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	05/27/2026	0.625	0.634	5,208.34	0.00	5,208.34
3130AMF72	14615	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	05/27/2026	0.650	0.659	8,125.00	0.00	8,125.00
3130AMEX6	14613	010	MC5	15,000,000.00	15,000,000.00	15,000,000.00	05/27/2026	0.750	0.760	9,375.00	0.00	9,375.00
3130ANJY7	14643	010	MC5	40,000,000.00	40,000,000.00	40,000,000.00	08/26/2026	0.400	0.406	13,333.34	0.00	13,333.34
3130ARYA3	14651	010	MC5	5,000,000.00	5,000,000.00	5,000,000.00	05/26/2027	4.000	4.056	16,666.66	0.00	16,666.66
3130ASGF0	14656	010	MC5	5,000,000.00	0.00	5,000,000.00	06/30/2025	4.000	4.056	555.56	0.00	555.56
3130AS7K9	14654	010	MC5	5,000,000.00	5,000,000.00	5,000,000.00	05/26/2032	4.440	4.502	18,500.00	0.00	18,500.00
3130ARXL0	14649	010	MC4	5,000,000.00	5,000,000.00	5,000,000.00	05/25/2023	3.000	3.042	12,500.00	0.00	12,500.00
3130ARTE1	14645	010	MC5	6,425,000.00	6,425,000.00	6,425,000.00	04/26/2032	4.100	4.157	21,952.09	0.00	21,952.09
3130ARX71	14648	010	MC5	5,000,000.00	5,000,000.00	5,000,000.00	05/23/2025	3.000	3.042	12,500.00	0.00	12,500.00
3133ENUV0	14644	010	MC5	5,000,000.00	5,000,000.00	5,000,000.00	04/19/2032	4.000	4.056	16,666.67	0.00	16,666.67
3133ENVV9	14647	010	MC5	5,000,000.00	5,000,000.00	5,000,000.00	05/03/2027	3.630	3.680	15,125.00	0.00	15,125.00
3133ENWW6	14653	010	MC5	5,000,000.00	4,994,512.24	4,994,558.15	05/17/2032	4.370	4.447	18,208.34	45.91	18,254.25
3133ENVS6	14650	010	FAC	5,000,000.00	5,000,000.00	5,000,000.00	05/02/2023	2.030	2.058	8,458.33	0.00	8,458.33
3134GXC36	14658	010	MC5	5,000,000.00	0.00	5,000,000.00	12/30/2024	4.000	4.056	555.56	0.00	555.56
3134GXRS5	14646	010	MC5	5,000,000.00	5,000,000.00	5,000,000.00	04/29/2025	3.100	3.143	12,916.66	0.00	12,916.66

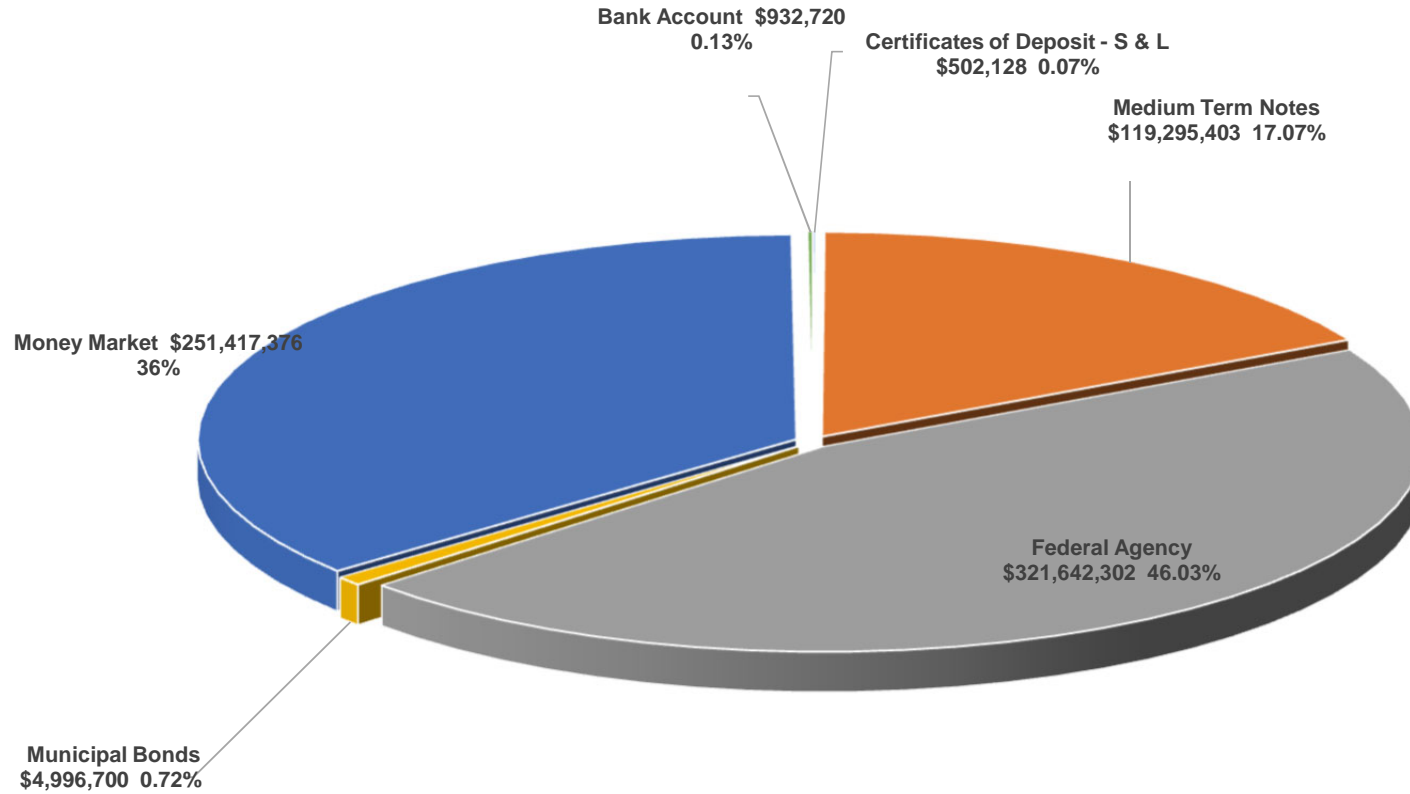
Interest Earnings
June 1, 2022 - June 30, 2022

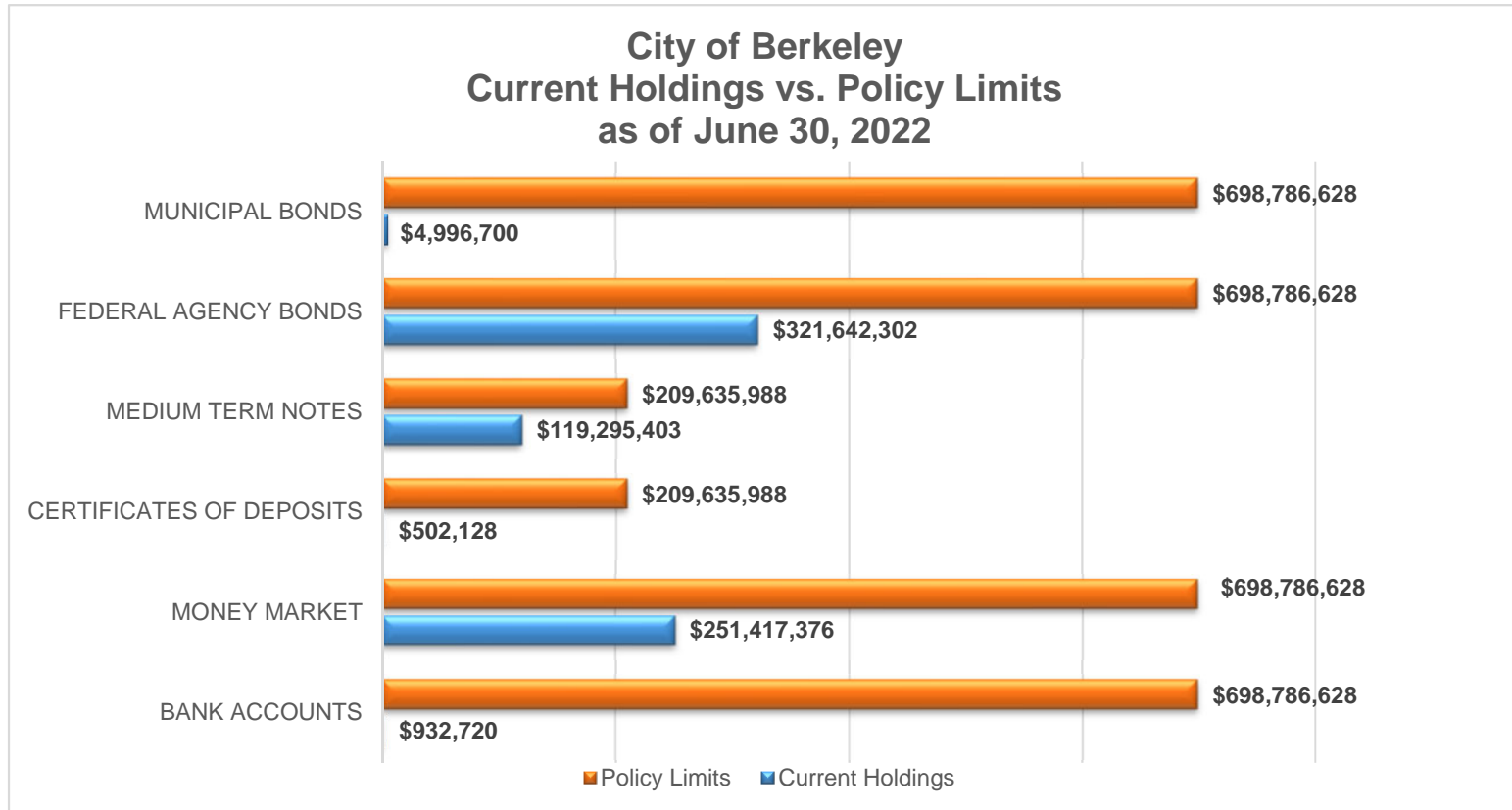
CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Ending Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings		
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
Fund: Pooled Investment - Long Term												
53944VAS8	14580	010	MTN	5,000,000.00	5,000,485.33	5,000,285.88	08/14/2022	2.250	2.233	9,375.00	-199.45	9,175.55
037833AK6	14536	010	MTN	5,000,000.00	4,965,040.49	4,968,199.48	05/03/2023	2.400	3.225	10,000.00	3,158.99	13,158.99
254673RD0	14539	010	SCD	250,000.00	250,000.00	250,000.00	07/05/2023	3.300	3.300	678.08	0.00	678.08
795450T47	14540	010	SCD	250,000.00	250,000.00	250,000.00	07/03/2023	3.300	3.300	678.09	0.00	678.09
084670BJ6	14542	010	MTN	5,000,000.00	4,995,172.52	4,995,751.82	02/11/2023	3.000	3.186	12,500.00	579.30	13,079.30
31422XJW3	14638	010	MC5	10,000,000.00	10,000,000.00	10,000,000.00	07/20/2026	0.300	0.304	2,500.00	0.00	2,500.00
589331AT4	14545	010	MTN	5,000,000.00	4,991,496.79	4,993,949.64	09/15/2022	2.400	3.035	10,000.00	2,452.85	12,452.85
68389XAS4	14548	010	MTN	5,000,000.00	5,011,576.02	5,010,716.42	07/15/2023	3.625	3.458	15,104.17	-859.60	14,244.57
24422EUM9	14554	010	MTN	5,000,000.00	5,021,869.36	5,020,533.14	10/12/2023	3.650	3.361	15,208.33	-1,336.22	13,872.11
540424AQ1	14555	010	MTN	5,000,000.00	4,967,976.20	4,970,768.97	05/15/2023	2.625	3.363	10,937.50	2,792.77	13,730.27
693475AV7	14557	010	MC3	5,000,000.00	5,009,635.58	5,009,147.29	01/23/2024	3.500	3.423	14,583.34	-488.29	14,095.05
13063DGB8	14559	010	MUN	5,000,000.00	5,041,593.79	5,040,370.45	04/01/2025	3.375	3.098	14,062.50	-1,223.34	12,839.16
05531FBF9	14561	010	MC3	5,000,000.00	5,051,682.16	5,048,837.27	12/06/2023	3.750	3.078	15,625.00	-2,844.89	12,780.11
91159HHU7	14562	010	MC3	5,000,000.00	5,146,384.15	5,142,859.65	11/17/2025	3.950	3.058	16,458.33	-3,524.50	12,933.83
20030NBN0	14563	010	MTN	5,000,000.00	5,039,713.60	5,038,681.18	08/15/2025	3.375	3.146	14,062.50	-1,032.42	13,030.08
747525AT0	14564	010	MTN	5,000,000.00	4,986,382.33	4,986,958.53	05/20/2024	2.900	3.089	12,083.33	576.20	12,659.53
747525AU7	14587	010	MTN	5,963,000.00	6,182,670.25	6,178,986.57	05/20/2027	3.250	2.453	16,149.79	-3,683.68	12,466.11
751212AC5	14566	010	MC3	5,000,000.00	5,094,028.09	5,091,645.62	09/15/2025	3.750	3.163	15,625.00	-2,382.47	13,242.53
375558BF9	14570	010	MTN	5,000,000.00	5,089,281.66	5,087,297.63	03/01/2026	3.650	3.161	15,208.33	-1,984.03	13,224.30
233851CU6	14574	010	MTN	3,725,000.00	3,793,502.66	3,792,260.92	01/06/2027	3.450	3.036	10,709.37	-1,241.74	9,467.63
233851CU6	14571	010	MTN	5,000,000.00	5,052,671.47	5,051,716.70	01/06/2027	3.450	3.232	14,375.00	-954.77	13,420.23
008252AM0	14582	010	MTN	1,000,000.00	1,031,467.83	1,029,930.31	02/15/2024	4.250	2.364	3,541.67	-1,537.52	2,004.15
07330MAA5	14588	010	MTN	5,000,000.00	5,290,858.06	5,285,366.72	10/30/2026	3.800	2.378	15,833.33	-5,491.34	10,341.99
04685A2L4	14590	010	MTN	5,950,000.00	5,976,340.03	5,975,502.07	01/14/2025	2.500	2.353	12,395.83	-837.96	11,557.87
04685A2L4	14602	010	MTN	5,000,000.00	4,909,584.94	4,912,461.35	01/14/2025	2.500	3.294	10,416.67	2,876.41	13,293.08
828807CS4	14606	010	MTN	5,000,000.00	4,997,260.79	4,997,358.62	10/01/2024	3.375	3.448	14,062.50	97.83	14,160.33
15654VAK4	14641 T-1	010	MTN	4,000,000.00	4,000,000.00	4,000,000.00	07/15/2022	0.300	0.304	1,000.00	0.00	1,000.00
22553PXJ3	14655	010	MC3	5,000,000.00	5,000,000.00	5,000,000.00	05/31/2032	5.000	5.069	20,833.34	0.00	20,833.34
22553PWD7	14652	010	MC3	5,000,000.00	5,000,000.00	5,000,000.00	05/25/2025	4.050	4.106	16,875.00	0.00	16,875.00
			Subtotal	466,413,000.00	457,416,186.34	467,399,144.38			1.741	671,975.43	-17,041.96	654,933.47
Fund: Fidelity MM - Trans												
SYS14190	14190	030	RRP	44,722,419.18	44,686,581.14	44,722,419.18		0.002	0.976	35,838.04	0.00	35,838.04
			Subtotal	44,722,419.18	44,686,581.14	44,722,419.18			0.976	35,838.04	0.00	35,838.04
Fund: Fidelity MM - Regular												
SYS14265	14265	040	RRP	206,694,956.65	170,556,248.04	206,694,956.65		0.003	0.989	138,708.61	0.00	138,708.61
			Subtotal	206,694,956.65	170,556,248.04	206,694,956.65			0.989	138,708.61	0.00	138,708.61

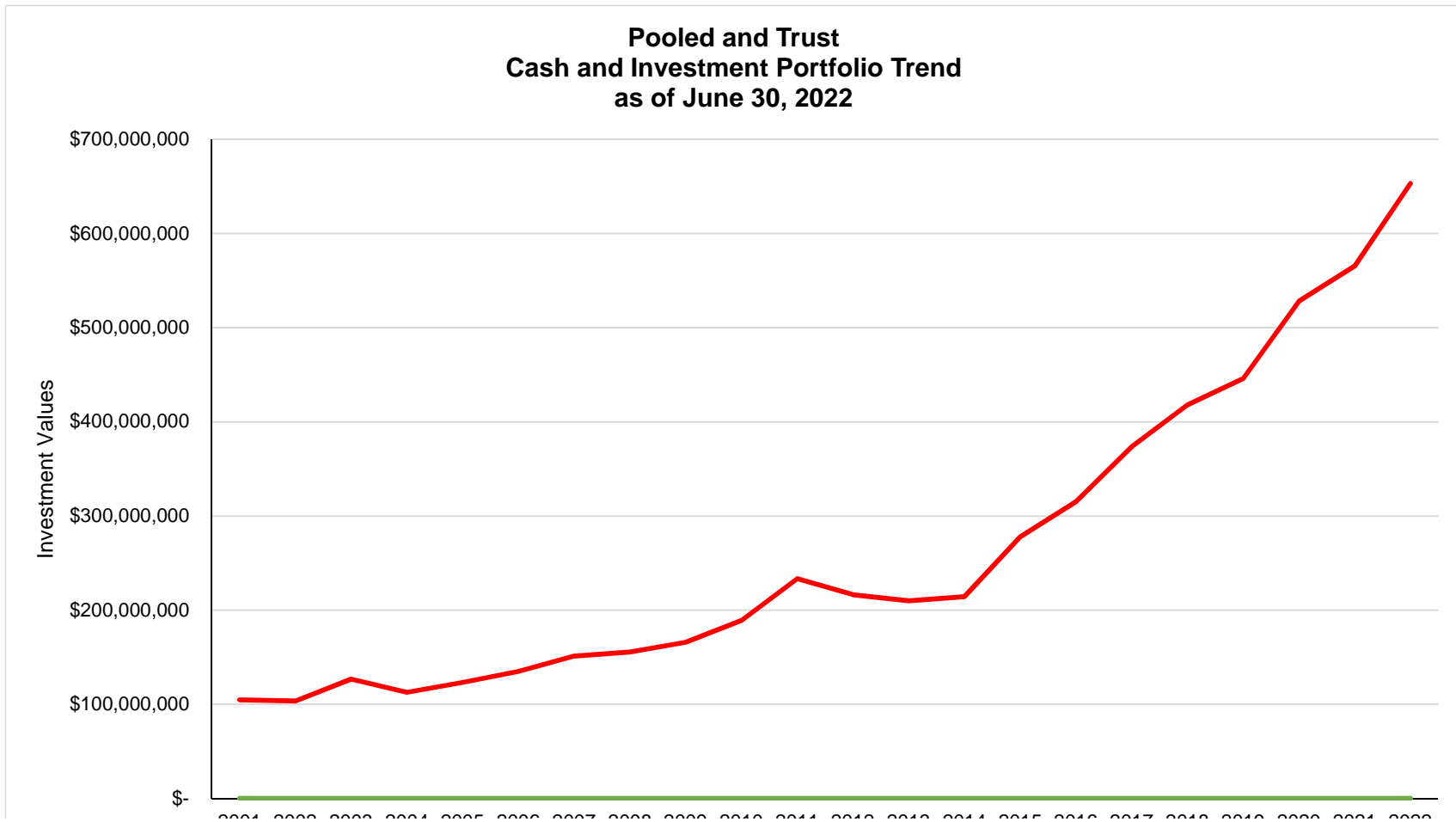
Interest Earnings
 June 1, 2022 - June 30, 2022

CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Ending Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings		
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
			Total	717,830,375.83	672,659,015.52	718,816,520.21			1.500	846,522.08	-17,041.96	829,480.12

**Pooled Cash and Investments
(Market Value)
as of June 30, 2022**









Summary of Pooled Cash and Investments - Trust Funds
(Market Value)
As of June 30, 2022

		<u>Pooled Cash</u>	<u>Investments (Book Value)</u>	<u>Gain/Loss on Investments</u>	<u>Pooled Cash & Investments (Market Value)</u>
Retiree Medical Trust Fund					
Fund No.					
721	BHA	\$ 383,608	\$ 202,515	\$ (30,190)	\$ 555,933
722	M1=IBEW	(27,884)	97,307	(7,249)	62,174
723	M2=Local 1	6,203,125	4,468,805	(433,332)	10,238,598
724	MUI=Z1	981,435	917,142	(45,657)	1,852,920
725	MUI=Z2 to Z6	1,468,309	1,270,437	(89,626)	2,649,120
726	M535= Local 535	5,601,588	4,117,535	(268,133)	9,450,990
727	M3=Local 790	3,664,400	2,772,096	(302,037)	6,134,459
Total Retiree Medical Trust Fund		18,274,581	13,845,837	(1,176,224)	30,944,194
Fire Medical Trust Fund					
736	Fire Medical Trust Fund	5,820,985	6,851,672	(632,303)	12,040,354
Total Fire Medical Trust Fund		5,820,985	6,851,672	(632,303)	12,040,354
Police Medical Trust Fund					
731	Police EE Retiree HLT Assistance Plan	858,758	1,641,191	(176,003)	2,323,946
701	Safety Members Pension Fund	31,116			31,116
706	Police Medical Trust Fund	2,022,894	2,850,820	(259,026)	4,614,688
Total Police Medical Trust Fund		2,912,768	4,492,011	(435,029)	6,969,750
Total Trust Funds		\$ 27,008,334	\$ 25,189,520	\$ (2,243,556)	\$ 49,954,298



**Retiree Medical Trust Fund
Fund 721 - 727
Interest Earnings
April 1 to June 30, 2022**

CUSIP	Investment #	Issuer	Investments As of June 30, 2022						Interest Earnings April 1 to June 30, 2022					
			Par Value	Beginning Book Value	Ending Book Value	Market Value	Maturity Date	Moody's Rating	Current Rate	Annualized Yield	Adjusted Interest Earnings			
											Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings	
Federal Agency Coupon Securities														
3133EFQT7	14361	Fed Farm Credit Bank	2,600,000.00	2,606,639.63	2,606,184.86	2,568,696.00	11/25/2025	AAA	2.700	2.631	17,550.00	(454.77)	17,095.23	
Municipal Bonds														
786091AG3	14316	SACGEN	5,000,000.00	5,180,118.11	5,166,609.25	5,439,550.00	08/01/2025	A3	7.250	5.979	90,625.00	(13,508.86)	77,116.14	
Savo Island Loan														
SYS10988	10988	EMPMED	193,000.00	193,000.00	193,000.00	193,000.00	09/01/2025	N/A	8.000	7.944	3,822.67	-	3,822.67	
Preferred Securities														
00206R706	14591	AT&T Inc.	1,680,033.60	1,680,033.60	1,680,033.60	1,276,692.20	N/A	N/A	4.596	4.728	19,801.73	-	19,801.73	
00206R706	14596	AT&T Inc.	1,680,008.40	1,680,008.40	1,680,008.40	1,276,673.05	N/A	N/A	4.640	4.744	19,869.10	-	19,869.10	
00206R706	14597	AT&T Inc.	2,520,000.00	2,520,000.00	2,520,000.00	1,915,000.00	N/A	N/A	4.643	4.744	29,803.50	-	29,803.50	
Total			\$ 13,673,042.00	\$ 13,859,799.74	\$ 13,845,836.11	\$ 12,669,611.25					4.850	\$ 181,472.00	\$ (13,963.63)	\$ 167,508.37

Total Investments (Book Value)	\$ 13,845,836.11
Gain/Loss on Investments	<u>(1,176,224.86)</u>
Total Investments (Market Value)	12,669,611.25
Temporarily Invested with Pooled Cash & Investments	<u>18,274,581.00</u>
Total Pooled Cash and Investments	<u>\$ 30,944,192.25</u>



**Fire Retiree Medical
Fund 736
Interest Earnings
April 1 to June 30, 2022**

Investments As of June 30, 2022									Interest Earnings April 1 to June 30, 2022				
CUSIP	Investment #	Issuer	Par Value	Beginning Book Value	Ending Book Value	Market Value	Maturity Date	Moody's Rating	Current Rate	Annualized Yield	Adjusted Interest Earnings		
											Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
Medium Term Notes													
6174467X1	14318	Morgan Stanley DW DTC#0015	2,000,000.00	2,028,155.51	2,026,225.58	2,032,080.00	11/24/2025	BAA1	5.000	4.565	25,000.00	(1,929.93)	23,070.07
Federal Agency Coupon Securities													
3133EFQT7	14362	Fed Farm Credit Bank	2,300,000.00	2,305,873.52	2,305,471.23	2,272,308.00	11/25/2025	AAA	2.700	2.631	15,525.00	(402.29)	15,122.71
Preferred Securities													
00206R706	14592	AT&T Inc.	1,679,983.20	1,679,983.20	1,679,983.20	1,276,653.90	N/A	N/A	4.596	4.744	19,868.80	-	19,868.80
00206R706	14594	AT&T Inc.	839,991.60	839,991.60	839,991.60	638,326.95	N/A	N/A	4.640	4.744	9,934.39	-	9,934.39
Total			\$ 6,819,974.80	\$ 6,854,003.83	\$ 6,851,671.61	\$ 6,219,368.85				3.980	\$ 70,328.19	\$ (2,332.22)	\$ 67,995.97

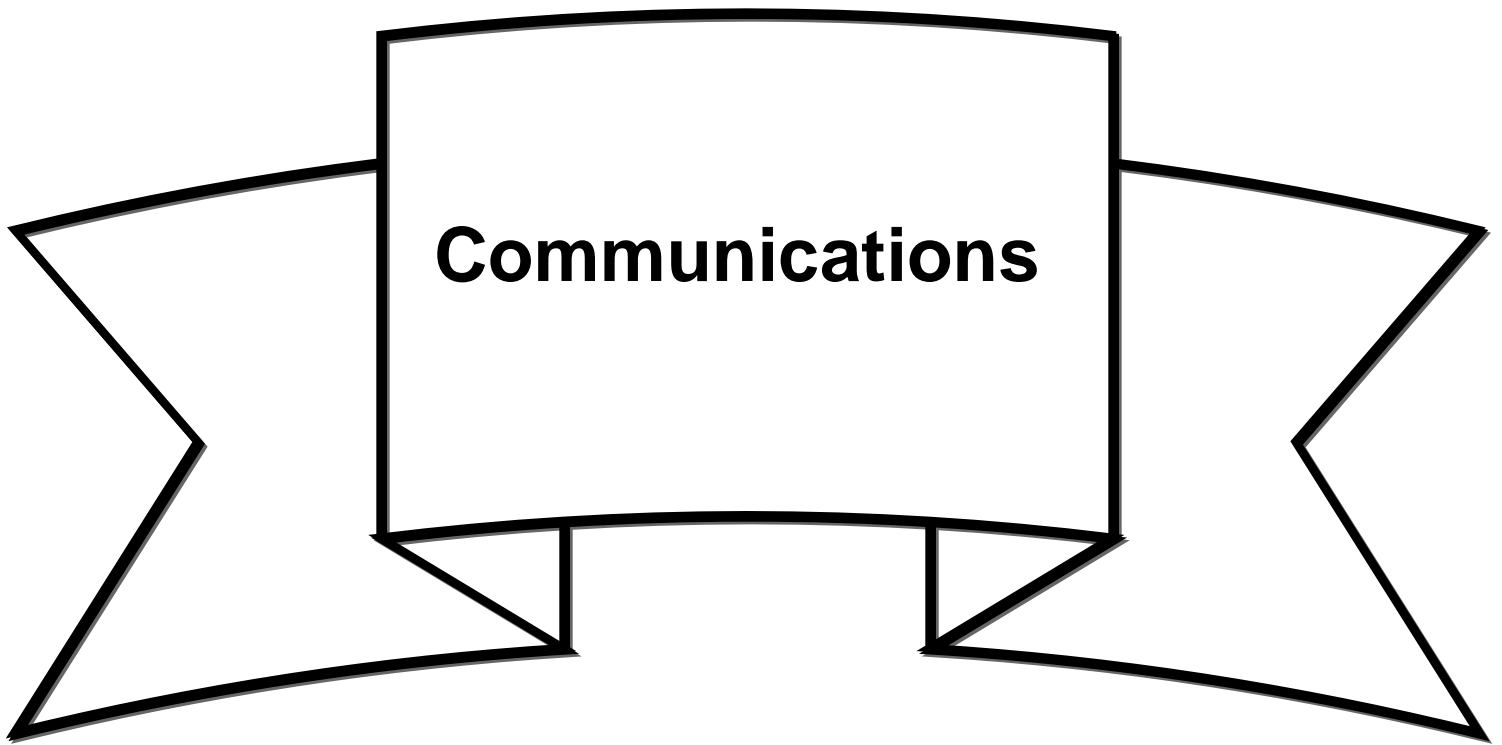
Total Investments (Book Value)	\$ 6,851,671.61
Gain/Loss on Investments	(632,302.76)
Total Investments (Market Value)	6,219,368.85
Temporarily Invested with Pooled Cash & Investments	5,820,985.00
Total Pooled Cash and Investments	\$ 12,040,353.85



**Police Retiree Medical
Fund 731 and 706
Interest Earnings
April 1 to June 30, 2022**

Investments As of June 30, 2022									Interest Earnings April 1 to June 30, 2022				
CUSIP	Investment #	Issuer	Par Value	Beginning Book Value	Ending Book Value	Market Value	Maturity Date	Moody's Rating	Current Rate	Annualized Yield	Adjusted Interest Earnings		
											Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
Medium Term Notes													
6174467X1	14319	Morgan Stanley DW DTC#0015	500,000.00	507,038.88	506,556.39	508,020.00	11/24/25	BAA1	5.000	4.565	6,250.00	(482.49)	5,767.51
Federal Agency Coupon Securities													
3133EFQT7	14363	Fed. Farm Credit Banks	2,300,000.00	2,305,873.52	2,305,471.23	2,272,308.00	11/25/25	AAA	2.700	2.631	15,525.00	(402.29)	15,122.71
Preferred Securities													
00206R706	14593	AT&T Inc.	1,679,983.20	1,679,983.20	1,679,983.20	1,276,653.90	N/A	N/A	4.596	4.744	19,868.80	-	19,868.80
Total			<u>\$ 4,479,983.20</u>	<u>\$ 4,492,895.60</u>	<u>\$ 4,492,010.82</u>	<u>\$ 4,056,981.90</u>				<u>3.327</u>	<u>\$ 41,643.80</u>	<u>\$ (884.78)</u>	<u>\$ 40,759.02</u>

Total Investments (Book Value)	\$ 4,492,010.82
Gain/Loss on Investments	(435,028.92)
Total Investments (Market Value)	4,056,981.90
Temporarily Invested with Pooled Cash & Investments	<u>2,912,768.00</u>
Total Pooled Cash and Investments	<u>\$ 6,969,749.90</u>



All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

Records Online

<https://records.cityofberkeley.info/>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF