INFORMATION CALENDAR
December 11, 2018

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Marian Wolfe, Acting Chairperson, Housing Advisory Commission

Subject: Measure U1 Reporting

INTRODUCTION
Measure U1 passed in November 2016 and included an increase in the Business License Tax charged on properties that consist of five or more residential units. In addition and separately, Measure U1 provided that the Housing Advisory Commission (HAC) will make recommendations on housing policy to the City Council. After the measure passed, it was incorporated into Berkeley’s Municipal Code and specified that the recommendations to the Council could be made annually or biennially. This information item is an attempt to meet that obligation of the HAC under Measure U1.

CURRENT SITUATION AND ITS EFFECTS
A total of $4 million was received from Measure U1 during the FY 2017/2018 and FY 2018/2019.

On October 4, 2018, the HAC voted as follows:

- **Action:** M/S/C (Johnson/Owens) to send Commissioner Wolfe’s draft Measure U1 report to City Council with amendments dictated by Commissioner Johnson and including Commissioner Tregub’s Record of Recommendations as an attachment.
- **Vote:** Ayes: Johnson, Lewis, Owens, Wolfe, and Wright. Noes: Kesarwani and Lord. Abstain: None. Absent: Amezcua (excused) and Tregub (excused).

BACKGROUND
In November 2016, the City of Berkeley voters approved Measure U1. Since the passage of this measure, new language has been added to BMC 19.44.020(B)(10), assigning the HAC with the following responsibility: “The Housing Advisory Commission shall review and advise the City Council on housing policy, housing programs, and related issues. In particular, the Commission shall make recommendations on how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness. These recommendations may be made annually or biannually, as the Commission deems appropriate in light of the City’s budget cycle and other relevant funding cycles.”
For the purpose of brevity, the HAC will refer to these as “B-10 reports” for short. B-10 reports are the first opportunity for the Commission to report on HAC activities, review existing policies and programs in depth, recommend allocation of U-1 funds, and to develop innovative recommendations of its own. This is a significant new responsibility and opportunity.

At the July 2018 meeting, the Housing Advisory Commission took its first step to implement the B-10 reporting requirement by adopting an April/October biannual reporting schedule. These months were chosen in consideration of the City’s budget cycles.

At this time, the HAC does not have a summary report, but it has adopted the attached record of 2017-2018 Recommendations. In the future, B-10 reports will be briefer, but since it is now October 2018, the HAC concluded that it makes sense to submit this longer record of HAC actions and recommendations.

**Vote on U1 Reporting Calendar (July 11, 2018):**

**Action:** M/S/C (Lord/Owens) to establish an April/October publication schedule for the Commission’s B-10 recommendations.

**Vote:** Ayes: Amezcua, Holman, Johnson, Lewis, Lord, Owens, and Winters. Noes: None. Abstain: None. Absent: Kesarwani (unexcused), Tregub (excused), Wolfe (excused), and Write (excused)

**ENVIRONMENTAL SUSTAINABILITY**

There are no direct environmental effects associated with the content of this report.

**POSSIBLE FUTURE ACTION**

Provide a second report in April 2019.

**FISCAL IMPACTS OF POSSIBLE FUTURE ACTION**

There are no direct fiscal impacts to this recommendation.

**CONTACT PERSON**

Amy Davidson, Commission Secretary, HHCS, (510) 981-5406

Attachments:
1: Record of 2017-2018 Recommendations
HAC item: Record of 2017-2018 Recommendations

Introduction and Recommendation

**Recommendation:** That the Housing Advisory Commission submit the following status report of 2017-2018 recommendations to the Berkeley City Council.

Background

Consistent with BMC 19.44.20(B)(10)] and the custom of commissions providing annual reports to the Berkeley City Council, we summarize below the work that the Housing Advisory Commission (HAC) has conducted thus far.

HAC recommendations from 2017

- **January 5, 2017**

  Selecting from a list of options developed by a previous HAC membership, the HAC advised City Council to prioritize these City Council Referrals:

  - Permit Service Center improvements
  - limited use of eminent domain on vacant and blighted properties
  - Create an ordinance to prohibit housing discrimination based on the source of a tenant’s income (including Section 8 benefits).
  - workforce housing for BUSD / implement Senate Bill 1413

  The HAC also recommended that the City Manager be directed to meet with the Rent Stabilization Board to revisit whether the issuance of a new Certificate of Occupancy is required upon conversion of units from unpermitted nonresidential to permitted residential uses.

- **February 2, 2017**

  The HAC agreed with staff to recommend a $691,394 unplanned but urgent reservation of County Measure A1 funds for the Grayson Street Apartments projects in response to a post-election collapse in the amount of money that could be raised through the sale of Low Income Housing Tax Credits.
• March 2, 2017

The HAC recommended (additional) reservations of CDBG funding for the Bread Project, Inter-City Services, and Rising Sun Energy Center.

The HAC also recommended that registration fees be charged for below-market rate units to pay for the regulation of BMR compliance and gave advice regarding the structure and amount of those fees.

• May 5, 2017

The HAC recommended against appropriating U1 revenues for the purchase of the properties at 1001, 1007, and 1011 University Avenue and 1925 Ninth St (the "Premier Cru" properties). The HAC also recommended a temporary suspension of efforts to appropriate U1 funds.

Finally, the HAC recommended that the Affordable Housing Mitigation fee be updated every two years based on the Construction Cost Index.

• June 6, 2017


The HAC recommended an exceptional circumstances reservation of $569,692 from the HTF and a refinancing of outstanding HTF loans and a waiver approving the Northern California Land Trust as an eligible receiver of HTF funds for the NCLT scatter sites project.

The HAC recommended providing HOME CHDO\(^1\) operating funds to Resources for Community Development and Satellite Affordable Housing Associates for Fiscal Year (FY) 2018.

The HAC recommended changes to the Affordable Housing Mitigation Fee (BMC 22.20.065) to adopt a fee of $37,000 if paid at certificate of occupancy, or $34,000 if paid at issuance of building permits and to recommend that for developers opting to private units, 20% of the total units be below market rate.

The HAC recommended an exemption from the necessity of Council Approval of the use of CDBG funds for construction projects at or below $200,000, and that the HAC CDBG subcommittee be authorized to make recommendations for such projects.

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1 "HOME": The U.S. Department of Housing and Urban Development (HUD) Home Investment Partnership Program; "CHDO": Community Housing Development Organization.
Lastly, the HAC expressed "conceptual support" for allocating up to $1.07 million, with no source of funding specified, and no specific funding levels for various anti-displacement programs then under consideration by council.

- **July 6, 2017**

  The HAC approved an HTF reservation of $50,000 for a pre-development loan for the Bay Area Community Land Trust’s 1638 Stuart Street project and approved a waiver of a "recent experience" eligible developer requirement.

  The HAC recommended that City Council reserve up to $3,131,651 in Housing Trust Funds for pre-development for BRIDGE Housing’s Berkeley Way Project and that certain permit fees be deferred.

  The HAC recommended several specific general allocations for the following anti-displacement programs: the Housing Retention Program, the Flexible Housing Subsidies Pool, the Eviction Defense Center, and the East Bay Community Law Center.

- **September 7, 2017**

  The HAC recommended that City Council conduct a public hearing for a substantial amendment to the federal Program Year (PY) 2017 Annual Action Plan which included revised allocations of CDBG funding and that, upon conclusion of that hearing, that Council adopt a Resolution approving revised CDBG funding recommendations for City of Berkeley projects; and authorizing the City Manager to submit the Substantial Amendment to the PY 2016 AAP to HUD. The substance of these changes was to shift certain indirect internal costs, associated with administering CDBG projects, to project-specific allocations.

- **December 7, 2017**

  The HAC agreed to communicate certain recommendations to Council regarding general guidelines for appropriating U1 funds.

  The HAC also communicated to the Council a statement of principles that places housing as a priority over parking, including support with respect to the Berkeley Way Project.

- **January 18, 2018**

  The HAC referred certain inquiries into the enforcement practices and history of the Smoke-Free Housing Ordinance and requested that the Berkeley Considers facility be used to solicit public comment regarding that ordinance. This action is a first step towards revising the ordinance in response to citizen reports of its ineffectiveness in some situations.
February 1, 2018

The HAC asked the Council to make a number of referrals to commence developing a comprehensive plan for disaster preparedness and post-disaster rebuilding with respect to multi-family housing.

March 1, 2018

The HAC recommended a second substantial change to the PY 2017 Annual Action Plan. The proposed change will reserve approximately $1.26 of CDBG community facility improvement funds to the rehabilitation of the City's Mental Health Clinic building at 2640 Martin Luther King Jr. Previously, these funds were planned for small community facility improvement projects to be determined as needs arose. The large, single allocation to the Mental Health Clinic was proposed because initial cost projections for the project were significantly too low.

The HAC recommended to the Berkeley City Council consideration of funding a Home Share Pilot Program. The program as envisioned would offer background checks as a City Service provided to qualifying homeowners who wish to offer space in their home to a tenant. Similar programs are operating in some other Bay Area Cities. The UC Berkeley Retirement Center has also started a program.

The HAC also recommended to City Council that as the Small Sites Program is implemented, it be structured so as to allow (though not require) the City itself to purchase eligible small sites. The program would leave open the possibility of implementing non-traditional ownership models for permanently affordable housing.

April 4, 2018

The HAC responded with comments to an earlier referral from City Council regarding an accessory dwelling unit pilot program to house low-income households.

May 3, 2018

The HAC voted to draft a letter to the City Council with recommendations dictated by the Commission for the FY 2020-2021 Community Agency Request for Proposals. Specifically, the HAC noted support for the following elements of the proposal: publishing agency outcomes, increasing the contract threshold to be considered for Request for Proposals (RFP) bids to $20,000 (while recommending consultation with outside agency partners prior to making this change), enhanced outreach to prospective applicants, and providing a hardship exemption for applicants who miss the deadline to apply. The HAC noted strong opposition to a proposal to extend the current 2-year contract cycle to a 4-year contract cycle and identified a 3-year cycle as a possible alternative.
The HAC also adopted Measure U1 funding recommendations for the FY2017/2018 and FY2018/2019 cycles. The recommendations for the remaining $3.45 million in revenues (after $550,000 per cycle was already allocated, following the HAC’s earlier recommendation, to fund anti-displacement assistance efforts to tenants) were as follows:

- Anti-Displacement (already reserved) $550,000
- Small Sites Program $1,000,000
- Housing Trust Fund $2,000,000
- Reserve for housing programs in the pipeline (ADU Pilot program, home share, etc.) $400,000
- Administrative Costs $50,000
- Total $4,000,000

On June 26, 2018, the City Council voted to take these recommendations under consideration.

The HAC also voted to direct Commissioners to submit ideas for the annual work plan (FY19) and submit for inclusion in the June 2018 agenda. Finally, the HAC discussed, but took no action, on recommendations to revise the Housing Retention Program.

- June 7, 2018

The HAC discussed and recommended to the City Council uses for the City of Berkeley’s 2018 allocation of federal HOME funds and proposed request for proposals process. Specifically, it recommend that the City Council direct staff to create a rehabilitation RFP for CHDOs with the City’s 2018 HOME funds and to start looking into a HOME Tenant-Based Rental Assistance program for future consideration.

The HAC heard a staff presentation on ongoing efforts to develop a Tenant Opportunity to Purchase Ordinance and provided feedback. It also took action on a recommendation to the City Council in response to a referral to the HAC and city staff regarding an Accessory Dwelling Unit Pilot Program. Finally, the HAC continued its discussion of the FY19 Commission work plan.