



Office of the Mayor

ACTION CALENDAR

July 9, 2019

To: Honorable Members of the City Council
 From: Mayor Jesse Arreguín and Councilmembers Sophie Hahn, Kate Harrison and Rigel Robinson
 Subject: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing

RECOMMENDATION

Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed **Housing for a Diverse, Equitable and Creative Berkeley** framework (the "Framework") and return comments for consideration at a Special Meeting of the City Council in September, to inform a final version the City Council will adopt to govern Berkeley's affordable housing policies, programs and projects through 2030.

SUMMARY STATEMENT

With the public's generous support of 2018 Measures O and P and 2016 Measure U1, Berkeley has significant new local funds to support our affordable and homeless housing goals. Numerous advisory and decision-making entities, including the Measure O Bond Oversight Committee ("Measure O Committee"), Housing Advisory Commission (HAC), Planning Commission, Homeless Services Panel of Experts, City Staff - and the City Council as the final decision-making body - have a role in recommending, adopting or implementing policies, programs and projects using these and the City's other affordable and supportive housing resources. Several other entities may also play a role in recommendations or decisions affecting affordable and supportive housing including the Zoning Adjustments Board (ZAB) and the Mental Health and Homeless Commissions. *To support optimal coordination among these many bodies and cohesive action to realize Berkeley's affordable housing goals, it is imperative that the City Council provide a high-level roadmap for all to follow.*

There is a great deal of public process before us as we move forward to build an equitable housing future for Berkeley. We offer this Framework as a starting point for many future decisions, lighting a path for Berkeley to honor and maximize the powerful

opportunity presented by Measures O, P and U1, and the community's outstanding commitment to affordable and homeless housing.

This framework addresses *only Berkeley's affordable and supportive housing* strategies. Many strategies are already in place to support the creation of new market rate housing, and others are under consideration. Because the creation and preservation of affordable housing involves significant investments of City of Berkeley resources, a high-level, comprehensive framework, adopted by the City Council, is necessary to guide decision making by multiple entities over time.

BACKGROUND

In the past, the City of Berkeley had limited financial resources to fund the development and management of affordable and supportive housing. Berkeley created a Housing Trust Fund in 1990¹ which may collect money from a number of sources including fees from market-rate rental or ownership developments (pursuant to BMC Chapter 23C.12 - Inclusionary Housing Requirements), demolitions, and the sale of City-owned properties.² Funds are often insufficient to support multiple projects simultaneously, or to fund single, large projects in their entirety. As of 2015, the HTF received approximately \$7.6 million from fee programs, which was the only source of funding at that time.³ In December of 2018 (prior to the adoption of Measure O), the Housing Trust Fund had a balance of only \$3.5 million. In addition, that balance and other funds had been reserved for The Berkeley Way Project, which required at least \$13 million in City funds to move forward.⁴

Recently, Berkeley voters overwhelmingly endorsed three measures that together create an unprecedented opportunity for the City to fulfill the community's highest priorities: addressing the dual crises of housing affordability and homelessness.

Measure U1 (2016), which passed with 75% percent of the vote, increased the gross receipts tax on owners of five or more residential rental units, generating approximately \$5 million per year to increase affordable housing and protect Berkeley residents from

¹ City of Berkeley Housing and Community Services Department, Housing Trust Fund, <https://www.cityofberkeley.info/ContentDisplay.aspx?id=6532>

² City of Berkeley Housing Trust Fund Guidelines, https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/Revised%202016%20HTF%20GUIDELINES.pdf

³ Memo on Below Market Rate Housing and Housing Trust Fund Program Status, December 2015, https://www.cityofberkeley.info/Clerk/City_Council/2015/12_Dec/Documents/2015-12-01_WS_Item_03_Below_Market_Rate_Housing.aspx

⁴ Reserving Up to an Additional \$12.5M in Housing Trust Funds for the Berkeley Way Development, December 4, 2018, https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-4_Item_03_Reserving_Up_to_an_Additional_12_5M_in_Housing_Trust_Funds.aspx

homelessness.⁵ In November of 2018, Measures O and P were overwhelmingly passed by Berkeley voters.^{6,7} Measure O, supported by 77%, is a \$135 million affordable housing bond to create and preserve affordable housing. Measure P, which received 72% support, increases the real estate transfer tax on the top one-third of real estate transactions by 1% to fund rehousing, mental health and other services for the homeless, likely yielding \$6 to \$8 million per year.

Over ten years, these three measures are projected to generate more than \$200 million to create and preserve affordable housing, to keep vulnerable residents housed, and to rehouse individuals and families experiencing homelessness. Not surprisingly, given the high levels of support for these measures, the provision of affordable housing and homeless services was ranked as extremely or very important by 84% of respondents to a 2018 community survey⁸.

The message from Berkeley voters and residents is clear; it is now our responsibility to deliver maximum value for those who need help finding or sustaining housing, and for the entire community.

Berkeley is poised to undertake a major expansion of our affordable housing programs, using the new monies provided by Measures U1, O and P. Combined with already-existing affordable housing resources (Housing Trust Funds, inclusionary requirements and public land, among others) and supplemented with possible changes to the zoning code that could improve the mix and yield of affordable units, the City is well-positioned to meaningfully address Berkeley's highest priorities.

Diversity is one of Berkeley's key strengths. With the rapid influx of new workers to the Bay Area and additional students to UC Berkeley, our community is challenged to meet a variety of housing needs; in particular the needs of low and moderate income households and the homeless. Berkeley is committed to housing for its teachers, artists and artisans, seniors and students, young people entering the work-force, and the many other working individuals and families who cannot afford market-rate housing. Berkeley is also deeply committed to housing individuals and families experiencing

⁵ Full text of Measure U1, <https://www.cityofberkeley.info/uploadedFiles/Clerk/Elections/Measure%20U1.pdf>

⁶ Full Text of Measure O, <https://drive.google.com/file/d/1qdA7jW6J5IHgFSllcwHcb20x-fcfW3Xv/view?usp=sharing>

⁷ Full Text of Measure P, <https://drive.google.com/file/d/1JbipUDMW62KqkI4szDoMEgAmN0lvZCLk/view?usp=sharing>

⁸ Discussion and Direction Regarding Potential Ballot Measures for the November 6, 2018 General Municipal Election, https://www.cityofberkeley.info/Clerk/City_Council/2018/03_Mar/Documents/2018-03-27_Item_23_Discussion_and_Direction_Regarding_-_Supp.aspx

homelessness, and ensuring that people with disabilities have accessible, supportive and affordable options.

Berkeley's new affordable housing monies enable us to expand successful housing strategies the City is already pursuing and to significantly expand important strategies that were more difficult to achieve in the absence of meaningful local funds. The plan proposes expanding Berkeley's major existing affordable housing programs and putting substantial resources into directions that reflect core Berkeley values such as cooperative ownership, democratic control and the empowerment of underserved communities. It also proposes a suite of policies that should be broadly applied to all existing, expanded and new affordable housing initiatives.

This Framework is meant to serve as the "mission and goals" that will guide the next decade of action on affordable housing in Berkeley. Specific strategies, programs and projects will be developed in much more detail by the Measure O Committee (and, with respect to U1 funds, the HAC and to Measure P funds, the Homeless Services Panel of Experts); with input from other committees and commissions and from trusted community partners and the public; with the expertise and support of City Staff; and with refinement and approval by the Berkeley City Council.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES & LAWS

The City of Berkeley has numerous programs, policies and laws in place that directly or indirectly support the creation and preservation of affordable and supportive housing. Many of these are discussed in the proposed Framework, including rent control and eviction protections⁹, affordable housing fees and inclusionary requirements for for-profit developments¹⁰, a Small Sites Program, and the Tenant Opportunity to Purchase Act¹¹.

Housing affordability is the first objective of the Housing Element of the City of Berkeley General Plan. *Policy H-1 - Extremely Low, Very Low, Low and Moderate Income Housing* sets the goal of increasing housing affordable to residents with lower income, and outlines a number of actions to achieve this goal, including encouraging incentives for affordable housing development, utilizing the Housing Trust Fund to provide housing, and maintaining zoning requirements for the inclusion of affordable units in

⁹ Rent Stabilization and Eviction for Good Cause Ordinance, https://www.cityofberkeley.info/Rent_Stabilization_Board/Home/Ordinance_Rent_Stabilization_and_Eviction_for_Good_Cause.aspx

¹⁰ BMC Chapter 23C.12, Inclusionary Housing Requirements, <https://www.codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley23C/Berkeley23C12/Berkeley23C12.html>

¹¹ Small Sites Acquisition Program and Tenant Opportunity to Purchase, Feb 14, 2017, https://www.cityofberkeley.info/Clerk/City_Council/2017/02_Feb/Documents/2017-02-14_Item_18b_Small_Sites_Acquisition.aspx

new housing developments¹². Housing affordability is also the subject of Land Use Policies LU-18 (Downtown Affordable Housing Incentives) and LU-25 (Affordable Housing Development) of the Land Use Element of the General Plan¹³ and of the City's affordable housing requirements in market rate buildings.¹⁴ Many of Berkeley's area-specific plans, such as the Downtown Area Plan, Adeline Corridor Specific Plan, and West Berkeley Plan, also highlight the importance of affordable housing to specific areas and neighborhoods.^{15, 16, 17}

2018's Measure O is the most recent affirmation of the community's desire to create and preserve housing affordable to serve populations not able to afford market rates. It sets a goal of achieving 10% reserved affordable housing by 2030.¹⁸ The Framework seeks to coordinate existing and new efforts toward achieving this goal.

ACTIONS/ALTERNATIVES CONSIDERED

While the City has made numerous commitments to affordable housing in the past and taken a variety of actions to encourage its development and preservation, many of these were made before Measure U1, O, and P's resources were contemplated or available. The need to allocate resources in a coordinated, efficient and rational manner is more urgent than ever as we set out to spend the significant new funds voters have generously provided.

Creating a clear roadmap for the many entities that will consider and decide on the use of both new and existing resources is the best way to ensure optimal allocations and maximum achievement of the community's goals. Looking at individual projects or programs absent a guiding plan and principals will not produce the optimization or

¹² Housing Element, Policy H-1 Extremely Low, Very Low, Low and Moderate Income Housing
https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Housing_Element.aspx

¹³ Land Use Element, City of Berkeley General Plan,
https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Land_Use_Element_Introduction.aspx

¹⁴ BMC 23C.12 Inclusionary Housing Requirements,
<https://www.codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley23C/Berkeley23C12/Berkeley23C12.html>

¹⁵ Berkeley Downtown Area Plan,
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_DAP/FINAL_x-DAP%20document_120329.pdf

¹⁶ Adeline Specific Area Plan
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Adeline%20SP%20Public_4.%20Housing_5.15.19.pdf

¹⁷ West Berkeley Plan, Housing and Social Services,
https://www.cityofberkeley.info/Planning_and_Development/Home/West_Berkeley_-_Housing_Social_Services.aspx

¹⁸ Full Text of Measure O, <https://drive.google.com/file/d/1qdA7jW6J5IHgFSllcwHcb20x-fcfW3Xv/view?usp=sharing>

coordination that is required to fulfill our mandates. Similarly, adopting a Framework without collecting input from the community and appropriate Commissions and Committees would not be appropriate. We see no alternatives that would ensure the work of many entities involved in forwarding affordable housing in Berkeley is harnessed towards commonly established, clearly stated and rationalized goals.

CONSULTATION/OUTREACH OVERVIEW & RESULTS

The intent of this referral is to launch a broad process of consultation to gather input from the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts and from community partners and the public. Because the Framework must be in place before other entities embark to fulfill their respective charges, consultation must be completed and the Framework adopted quickly.

This referral specifically requests feedback on *broad concepts, directions and goals*, not on *implementation strategies, programs or projects*. While Commissions, Committees, community partners and the public will no doubt be tempted to address these additional important elements at this time, specific strategies, programs and projects will not be addressed in the Framework itself. These will be developed and vetted over time by the Measure O Committee, the HAC and other appropriate entities, and will involve additional consultation with community partners and the public.

The attached draft Framework reflects consultation with the City Manager's Office and the Health, Housing, and Community Services Department, and with the item's four co-sponsors. The Framework was conceived and written with the support of Stephen Barton, PhD., former Executive Director of the City of Berkeley's Rent Board and former City of Berkeley Housing Director. The Framework, offered as a draft, now awaits input from the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts, community partners and, most importantly, the public.

RATIONALE FOR RECOMMENDATION

Traditionally, affordable housing has been the purview of the City Council, the Housing Advisory Commission and City Staff. Measure U1 further deputizes the HAC to make recommendations on the use of U1 funds and recommendations on expanding affordable housing in the City, and both Measures O and P established boards to provide recommendations on the use of their respective funds. Finally, the Planning Commission, the Land Use, Housing, and Economic Development Committee, the Zoning Adjustments Board and other City entities play important roles in supporting and producing affordable housing. It is important that all of these entities share a single

vision and, even when acting independently, are moving towards clearly articulated, Council-approved goals. A single cohesive Framework will help ensure that different funds, regulatory strategies and other resources available to be harnessed to the cause of affordable and supportive housing are each deployed for their optimal purpose within the broader ecosystem.

IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT

The Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts are the most appropriate drivers of the public process. Each shall hold at least one publicly noticed meeting to take comments and review and discuss the proposed Framework. The Chair of each body shall prepare a set of comments, approved by the Commission and Committees, to present at the Special Meeting of the City Council in September. Given the urgency of this referral, lengthy reports are neither required nor feasible. Each body can choose its own preferred format for comments, and the Chair (or other chosen representative) will be provided 10 minutes at the September Special Meeting to present comments.

FISCAL IMPACTS

Costs for review of the proposed Framework by Commissions, Committees, and by the City Council at a Special Meeting are minimal and consist of staff time to notice and staff meetings, many of which are already regularly scheduled.

Ultimately, adoption of the Framework will provide the cohesion necessary to rationalize the use of the City's many affordable housing resources and allow the City to responsibly and efficiently allocate resources to best achieve community goals.

ENVIRONMENTAL SUSTAINABILITY

Carrying out the community process as proposed has no environmental impacts.

Creating and preserving affordable and homeless housing in Berkeley, a transit rich community, will allow lower income individuals and families to live closer to transit and to their workplaces, reducing greenhouse gas emissions by shortening commutes and decreasing reliance on personal vehicles. Building to high green standards, as required by the Framework, will ensure new and refurbished housing incorporates energy efficiency, electrification, water conservation and use of non-toxic materials, as well as other green building measures.

Preserving and refurbishing existing housing stock is an important environmental strategy, as reuse/repair/refurbishment of materials already in use maximizes the value of a building's embodied energy, and avoids expending additional embodied energy on

a new building, that can take decades or even a century to recapture.

Finally, increasing affordable housing in Berkeley will make the City more economically and racially equitable, which is a key factor of the City's sustainability and resilience goals, as outlined in Berkeley's Resilience Strategy.

OUTCOMES & EVALUATION

If robust input is received from diverse stakeholders and the Framework is adopted, the goals of this item will have been fully realized. The Framework will support achievement of Measure O's stated goal that 10% of Berkeley housing units be reserved affordable by the year 2030.

CONTACT

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

Attachments:

1. Housing for a Diverse and Creative Berkeley: A Framework for Affordable Housing

Housing for a Diverse, Equitable and Creative Berkeley

A Framework for Affordable Housing

Councilmember Sophie Hahn and Mayor Jesse Arreguín

Written in collaboration with Stephen Barton, Ph.D.

EXECUTIVE SUMMARY

Berkeley is poised to undertake a major expansion of our housing affordability programs, using new monies provided by Measures U1, O and P. Combined with already-existing affordable housing resources and supplemented with possible changes to the zoning code that could improve the mix and yield of affordable units, the City is well-positioned to meaningfully address Berkeley citizens' highest priorities: to increase affordable housing and rehouse the homeless.

Diversity is one of Berkeley's key strengths. With the rapid influx of new workers to the Bay Area and additional students to UC Berkeley, our community is challenged to meet a variety of housing needs; in particular the needs of low and moderate income households and the homeless. Berkeley is committed to housing for its teachers, artists and artisans; seniors and students; young people entering the work-force; and the many other working families and individuals who cannot afford market-rates. Berkeley is also deeply committed to housing the homeless, and ensuring that people with disabilities have accessible, supportive and affordable homes.

Berkeley's new housing monies enable us to expand successful affordable housing strategies we are already pursuing and to expand important strategies that were more difficult to achieve in the absence of significant local funds. We propose expanding Berkeley's major existing affordable housing programs and putting substantial resources into directions that reflect core Berkeley values such as cooperative ownership, democratic control and the empowerment of underserved communities. We also propose a suite of policies that should be broadly applied to all existing, expanded and new affordable housing initiatives.

Major Existing Programs - Recommend to Expand:

Currently, the City of Berkeley works to maintain housing affordability through four primary strategies, each of which is backed by effective organizations within the City of Berkeley and by local non-profit affordable housing organizations. ***These four strategies should be strengthened and expanded:***

1. Constructing New Non-Profit Affordable Units
2. Rent and Eviction Protections
3. Affordable Housing Fees and Inclusionary Requirements for For-Profit Developments
4. Direct Subsidies to Renters

Additional Important Programs - Recommend to Significantly Expand:

There are several additional strategies that the City should expand substantially as they offer excellent opportunities to create and preserve affordable rental *and ownership* housing aligned with Berkeley values. Some of these strategies require capacity-building within City Departments and in non-profit partners. *These programs should be significantly strengthened and expanded:*

1. House and Support the Homeless
2. Transition some of Berkeley's existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act.
3. Provide innovative homeownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model.
4. Significantly increase the supply of affordable live-work housing for artists and artisans.
5. Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units that complement neighborhood character.
6. Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff.

Policies to Ensure Equity and Sustainability:

While pursuing these strategies, there are several principles of equity and sustainability the City should apply to all of its affordable housing programs:

1. Ensure equitable access to scarce affordable housing, including accessible units with universal design features.
2. Codify Deep Green Building standards for healthy and sustainable buildings, and other measures to increase environmental sustainability.
3. Prioritize the use of public land for the creation of affordable housing.
4. Ensure those who build and rehabilitate our housing are paid fair wages and have access to health insurance, and support local apprenticeship programs.
5. Make changes to the City of Berkeley Zoning Code and project approvals processes to incentivize, facilitate and reward the production of affordable housing.

Following these programs and principles, Berkeley will be able to preserve and expand its diverse and creative character, support equity and opportunity, and offer meaningful, stable housing solutions to families and individuals not able to afford market rates.

This Framework addresses only Berkeley's *affordable* housing goals. Many strategies are already in place to support the creation of new market rate housing, and others are under consideration. Because the creation and preservation of affordable housing involves significant investments of City and other resources, a comprehensive roadmap, adopted by the City Council, is necessary to guide decision making by multiple entities over time.

I. INTRODUCTION

Many things make Berkeley a special and attractive place; nationally and internationally renowned for activism, intellect, innovation and the arts. We are lucky to be situated on the desirable West Coast of the United States and the Pacific Rim, bordering San Francisco Bay and adjacent to the largest Regional Parks network in America. But the core of what makes us a unique, important and engaging City is *the people of Berkeley, and our shared values of equity, opportunity and justice*. Our robust mix of backgrounds includes people of diverse ethnicities, religions, ages, gender identities, occupations and abilities. Without this mix, we lose the fundamental elements of our greatness and risk all that makes Berkeley one of the most uniquely desirable and impactful small cities in America.

Preserving and enhancing our diversity - and our humanity - in the face of unprecedented pressure on housing affordability is one of the greatest challenges we face. Rent control has long been a key strategy for Berkeley to provide stability and affordability to residents; our ability to keep it strong has been severely eroded by the State. Twenty years ago, working families could still afford to buy homes in Berkeley; with median home prices now topping \$1.3 million, that is no longer the case.¹ And with a dramatic rise in rents and evictions throughout the region and the State, the humanitarian disaster of homelessness accelerates.^{2, 3, 4}

¹ Oakland, Berkeley, Piedmont Real Estate, June 2019, <https://www.bayareamarketreports.com/trend/oakland-berkeley-real-estate-market-conditions-prices>

² New report underscores link between 'shocking' number of evictions, homelessness, Curbed LA, June 10, 2019, <https://la.curbed.com/2019/6/10/18659841/evictions-homelessness-rent-burden-los-angeles>

³ Implementation of Resolution 68,312 (Council Funding for Additional Services Amending Contracts with Eviction Defense Center ("EDC") and East Bay Community Law Center ("EBCLC")) For the Period Ending June 30, 2018, April 2, 2019, https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-02_Item_13_Implementation_of_Resolution.aspx

⁴ "Rising rents, home prices in Berkeley and the Bay Area displacing thousands", June 28, 2018, <https://www.berkeleyside.com/2018/06/28/rising-rents-home-prices-in-berkeley-and-the-bay-area-displacing-thousands>

Rising market rates for both rental and ownership housing in Berkeley is driven primarily by the huge increase in high paid workers flooding the Bay Area, and by UC Berkeley's addition of 35% more students over the last 20 years, bringing enrollment to over 41,000.⁵⁶ New Tech and other "white collar" workers pay well over \$1 million for the bungalows, duplexes and tract homes that used to house the Bay Area's middle income and poor residents, and are able to afford rents of \$3500 or more for a two bedroom apartment.⁷ Students in Berkeley are packed 2, 3 and 4 to a bedroom, some paying \$1,500 per month - per person - for a bunk. Everyone else is left behind.

Who is "everyone else?" *Everyone else* includes the teachers who teach our children; the nurses and home-care workers who support us when we are sick; the activists and not-for-profit workers who forgo high salaries to promote and serve the public interest; the artists and artisans who delight, entertain, feed and provoke us; the firefighters who come to our rescue and police who work to keep us safe; seniors who have contributed for decades and are now on fixed incomes and students who struggle to pay tuition and rent; young people entering the workforce and starting families, who are building our future; the waiters, baristas and retail workers who serve us; public sector workers who make sure our cities and counties can deliver, and who make our public institutions work; and many more. *Everyone else* also includes the disabled, whose ability to generate income may be limited; those suffering from mental illness or substance abuse, which afflict people from all walks of life; and our lowest income community members, especially those who have been subject for generations to discrimination and physical, psychic and economic violence. *These are the people Berkeley's affordable and supportive housing programs are designed to help.* We want them in our community.

The voters of Berkeley recently established three important new sources of funding to support the creation and preservation of affordable housing, to keep vulnerable people housed, and to rehouse the homeless: Measure U1 (2016), Measure O (2018) and Measure P (2018). Thanks to the generosity and care of Berkeley citizens, Berkeley for the first time has substantial local funds to support these important community goals. In addition, the City collects funds and obtains affordable units from for-profit developments as mitigation for affordable housing impacts. Finally, the City of Berkeley is completing an inventory of land it owns that might be allocated to affordable housing development.

⁵ Student Enrollments, UC Berkeley Office of the Vice Chancellor of Finance, <https://pages.github.berkeley.edu/OPA/our-berkeley/student-enrollments.html>

⁶ Common Data Set 1999-00, UC Berkeley Office of Planning and Analysis, <https://opa.berkeley.edu/sites/default/files/1999-2000.pdf>

⁷ Berkeley Average Rent Trend Data, April 2019, <https://www.rentjungle.com/average-rent-in-berkeley-rent-trends/>

These Berkeley affordable housing resources can bring in matching Federal, State and/or County funds of as much as \$5 for every Berkeley dollar, significantly leveraging our investments. All of these resources together, allocated strategically, could yield well over 1,000 additional units of affordable housing. As stated in Measure O, the Berkeley City Council - and the voters - have adopted a goal of making 10% of Berkeley's housing reserved affordable by 2030. This means that ten years from now we intend to have 5,000 units available at below-market rates and set aside for people with diverse incomes, from extremely low- to middle-income, groups that are struggling to afford the cost of housing in our city.

We believe that Berkeley should aspire to make at least 30% of its housing, around 15,000 units, permanently affordable, and eventually strive to achieve 50% protected or reserved affordable housing, to match the "social housing" mix of progressive European cities such as [Amsterdam](#) and [Vienna](#).

Berkeley's [Measure O](#) provides for sale of \$135 million in bonds to fund capital expenditures for a variety of types of affordable housing. [Measure P](#) increased the real estate transfer tax on the most expensive one-third of real estate sales to rehouse the homeless and fund the services they need to remain housed. It is expected to bring in \$6 - \$8 million annually, depending on property sales. [Measure U1](#) increased the gross receipts tax on most residential rental properties to fund affordable housing and protect Berkeley residents from homelessness. In 2018 it realized \$5.1 million and will continue to increase as rents increase. Taken together, over the next ten years the City of Berkeley will likely have almost \$250 million in new revenue available for affordable housing and homelessness reduction. (For more detail on Berkeley's Affordable Housing resources see Appendix A - Funding Sources)

To allocate these and other affordable housing monies (such as developer impact fees) and allocate resources such as public land and inclusionary units, the City Council is advised by no fewer than three different advisory boards, as required under each measure, and receives input from the Planning Commission and numerous additional entities. This report is intended to help provide these advisory bodies, and the City Council, which has the ultimate responsibility to allocate all of these funds and resources, with a coherent framework. The goal is for our housing programs and expenditures to have a unifying sense of direction: to deploy the optimal mix of City resources for each purpose, to maximize the leveraging of local funds, and to meet the expressed needs and desires of the community.

Measure O funds are limited to traditional types of capital expenditures: buildings, grounds and other “hardscape” elements of projects. Measure P funds are available for programmatic as well as capital needs, including mental health and other supportive social services, and rent subsidies or operating cost subsidies necessary to rehouse the homeless and to support people who are at immediate risk of homelessness. U1 funding can be used for anything that is necessary for the creation of permanently affordable housing, and as such is the most flexible source of regular affordable housing funds. Because of this flexibility, at least some (and possibly all) U1 funds should likely be reserved for use where other more restricted funds are not available.

Affordable Housing fees paid by developers of market rate projects are deposited into Berkeley’s [Affordable Housing Trust Fund](#) (HTF), and can only be used for those fund purposes. In general, these include pre-development expenses and long-term loans to cover the capital costs of building or rehabilitating permanently affordable housing. Developers are allowed the alternative of providing “inclusionary housing” (where a market rate project includes affordable units within the development itself) and policy makers must consider what the best role for those units might be, as one component of a much larger set of affordable housing resources. With significant local, County, State and Federal funds now available to support Berkeley’s deeply subsidized units for very low and extremely low income people, inclusionary housing requirements for market rate developments could be redirected towards production of housing for low and moderate income families - at higher inclusionary percentages than are currently in place for more deeply affordable units.

This proposed framework is not intended as a comprehensive statement of all the City’s housing goals, which are provided in the [General Plan Housing Element](#). Our focus is on the creation and retention of affordable housing in concert with Berkeley’s goals and values, taking maximum advantage of the opportunities created by the passage of Measures U1, O and P, combined with the City’s pre-existing affordable housing resources: affordable housing mitigation fees, inclusionary housing and public land.

In addition to these Berkeley resources, there are a great number of Federal, State and County programs, some of which require local matching funds and others of which do not. The City also has the potential to revise its land use regulations to create housing opportunities; these require more systematic analysis.

When State and Federal funds are used, Berkeley is limited to supporting housing and services that meet their program criteria. Monies provided by Berkeley’s own generous voters are more flexible than State and Federal funds and can be strategically deployed to accomplish a broader spectrum of City priorities. Our job is to optimize each funding

source and adjust our land use policies to support the community's expressed goals, ensuring that Berkeley moves decisively to implement programs and policies that advance us towards 10% reserved affordable housing by 2030, and embody our values of equity, opportunity, health and environmental sustainability.

This report provides an overview of an approach to affordable housing that we believe reflects Berkeley's values and diversity. It looks at the loss of affordability that Berkeley has undergone over the past 20 years and the sources of that loss. It lists and briefly explains the broad range of housing policies and programs that Berkeley might pursue. It lists the resources Berkeley has available to meet the current crisis and the limitations placed on the use of each resource. It then matches policies and resources, explaining how each can best be used.

II. HOUSING AND BERKELEY VALUES

Berkeley values diversity. Interaction among diverse people fosters important community values, including equity, opportunity, learning, creativity, neighborliness, and democracy. Berkeley was once affordable to everyone, from the high-income residents of large single-family homes to the extremely low-income residents of single-room occupancy residential hotels, and to everyone in between. Berkeley was a national leader in inclusion, redrawing school attendance lines to integrate its schools, eliminating barriers for those with mobility and other physical limitations, preserving the affordability of rental housing by limiting rent while allowing landlords to receive a fair return on their investment, and protecting lower and middle income neighborhoods from the displacement of so-called Urban Renewal.

Now rising rents and home prices threaten to turn Berkeley into an enclave of mostly the well-to-do and university students, with a small number of low-income residents in subsidized units. Rent control enables tenants to remain in place as long as they can afford modest annual rent increases, but State law mandates that landlords can increase rents - even on rent controlled units - to current market rates when units turn over. Even in "inclusionary" apartments, rents have increased faster than the rate of inflation because the rent-setting formula for these units is based on the "area median income," (AMI) which increases as more high-income people move into Alameda County and low-income people are forced out.

We must do what we can to preserve the diversity of our City. A community that excludes most low and moderate income people is no longer a source of opportunity. A community no longer affordable to those who work for the common good rather than for profit-

maximizing companies will no longer be equitable. A community in which only a few of the most successful writers, researchers, artists and artisans are able to live will no longer be a creative, learning community.

Preservation of a diverse, equitable and creative Berkeley requires many different types of housing compatible with different neighborhoods to meet the housing needs of people with a range of incomes, family sizes, abilities and ways of life. It requires that we mobilize and carefully coordinate the use of our affordable housing resources to get the maximum benefit from each source, so that we continue to have housing affordable to our diverse residents.

Berkeley must create and preserve affordable housing at all scales - from accessory dwelling units to small scale multi-family, live-work and large apartment buildings. We also need to create units of various sizes, including units large enough for families to live long term, and for children to grow up in.

We need to make more of our housing work for people with varied mobilities and for the elderly, and to make more of our housing environmentally efficient. We are studying the concept of expanding housing beyond the Downtown and transit corridors by adding more duplex, triplex and quadruplex units within existing low density neighborhoods.

We must ensure that an important share of our City's housing is subject to social ownership that will keep it affordable; held by non-profit housing corporations, community land trusts and limited and non-equity cooperatives, and subject to deed restrictions. And we must establish community priorities for access to this scarce resource so that the affordable housing we create and preserve helps keep low and moderate income residents from being displaced, enables children to remain in school and low-wage workers to live near their jobs, and maintains our historic diversity.

III. THE AFFORDABILITY CRISIS

Across the Bay Area, almost 1 million jobs have been created since 1990.⁸ From 2009 to April 2019, the overall Bay Area job market increased by about 30%, while the tech industry increased by 56%.⁹ In Berkeley, there are more students and staff at the University of California, more private sector jobs within easy commute, and more people who appreciate the walkable, transit-oriented lifestyle provided by Berkeley's compact

⁸ Plan Bay Area 2040: Final Plan, <http://2040.planbayarea.org/the-bay-area-today>

⁹ "Tech employment in Bay Area reaches record highs.", <https://www.mercurynews.com/2019/06/14/tech-employment-bay-area-reaches-record-highs-google-apple-facebook-adobe/>

development and the wide range of cultural and social amenities. The diverse, open and forward thinking people of Berkeley and the Bay Area have made Berkeley a place where more people want to live, many of them with higher incomes than those already here.

This reality tracked by looking at average rents in Berkeley over time. At the end of 1998, just before State-mandated vacancy decontrol took effect, the average rent in the 20,000 apartments built before 1980 was \$720 a month. Twenty years later, at the end of 2018, it was \$1,956. If rents had increased only by the rate of inflation, they would instead average \$1,150 a month.¹⁰ As older units are vacated, average market rents rise ever higher, reaching \$2,200 for a one-bedroom and \$3,000 a month for older two-bedroom apartments in 2018, with increases of around 50 percent in just the last five years. Owners of older housing stock in Berkeley are able to increase their profits as they ride the exploding demand from high-paid professionals and the increases in UC Berkeley's student population - squeezing lower-income tenants who must pay most of their incomes to find housing near jobs or family, or end up homeless. Similarly, In 2000 the median home price was \$380,000. By 2013 it was \$704,000 and by 2019 it had reached \$1,300,000.

Housing is expensive to build, requires land to build on and lasts a long time if properly maintained. This has important implications for affordability. With few vacant sites available in Berkeley, the supply of housing can only increase by increasing the density of development, as is currently underway Downtown and along major transit corridors, and is being contemplated in other areas. However, only a minority of tenants can afford to pay enough rent to repay the cost of new construction, typically \$3,000 - \$4,000 monthly for a one bedroom apartment.¹¹ Theoretically, this new market-rate housing is helpful in diverting some of the increased demand from high-income tenants into new construction and away from older, more affordable buildings, thus reducing displacement; but it does not help meet the significantly increased demand from middle and lower-income tenants.

Most Berkeley tenants live in older housing, where the cost of construction was paid off long ago and the building can be operated and maintained for a lower rent. But the supply of older housing is fixed and, with rising demand, this is the housing sector that is undergoing huge rent increases and rapid gentrification.

Proponents of market solutions claim affordability is simply a matter of supply and demand, and the problem can be solved by building new housing. But while increased rents at the high end of the market encourage production of new housing that high-wage

¹⁰ Inflation as measured by the San Francisco-Oakland area Consumer Price Index for All Items except Shelter, "shelter" meaning rent and owners equivalent rent.

¹¹ New Apartments for Rent in Berkeley, CA. Apartments.com, <https://www.apartments.com/berkeley-ca/new/>

workers can afford, rent increases in older housing simply generate windfall profits for their owners and fuel displacement of middle and lower income tenants. State-mandated “vacancy decontrol” allows landlords to raise rents to market levels each time a unit turns over, even in cities like Berkeley with traditionally strong rent controls. Ultimately, owners of older housing with significantly lower costs are under no obligation to keep their rents low as well, and in the immediate, higher demand for older housing can never produce more of it.

It typically takes ten to fifteen years before rents in newly constructed buildings have the potential to level off as buildings age and the initial costs of construction are paid off. This is what is often called the process of “filtering down.” But this process is self-limiting. Once enough new housing is built to meet demand from higher-income tenants and high-end rent rates peak, or slightly decline, market-rate construction slows or stops, despite continued high demand among middle and lower income tenants who can’t afford even somewhat reduced market rents for new housing.¹² In plain terms, a family that can only afford \$1,200 or \$1,500 per month for a two-bedroom apartment will never benefit from a reduction in new-build market rents from \$4,000 to \$3,500, or even to \$2,000 - a very unlikely scenario. If rents at older units have also risen, middle and lower income tenants have no place to go.

The supply of new market-built housing will also always be limited by the need to cover construction and other development costs. For-profit developers simply will not build housing that doesn’t generate the returns they require - for banks and investors to provide the capital to build, and for their own need to generate profits. This is true even when significant demand for housing persists. If those who need housing can’t pay rents that will cover the cost of construction, capital and profits, *no amount of demand will generate new for-profit development.*

In the Bay Area’s exploding job market, with people coming to the region to take jobs at both higher and lower wages, new market-rate construction will at best absorb some of the demand from high wage workers and may reduce pressure to gentrify older neighborhoods. But it will not result in a flood of new market rate units and deeply reduced prices to meet the increased demand from the growing numbers of lower-wage workers who also need to be housed, or from those who have been displaced through gentrification.

¹² The State of the Nation’s Housing. Joint Center for Housing Studies of Harvard University (2018), p. 19-21, http://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf

High-wage jobs make up a majority of Bay Area jobs, but low-wage jobs are growing at a much faster rate. Approximately 90,000 low-wage jobs were added from 2016 to 2017 in the Bay Area, while the number of high-wage jobs decreased over the same time period.¹³ This means that new market-rate construction will not result in lower rents for most tenants, and indeed market rents are likely to continue to increase in older housing as well. Only reserved affordable or subsidized housing can meet the needs of families and individuals with incomes at moderate and low levels.

The question before us is whether we will let market forces decide who can reside in Berkeley, ultimately reserving it for those with high incomes and wealth, or whether we want to reshape the market so Berkeley can remain accessible to people of all backgrounds and incomes, who are essential to the life and vibrancy of our city.

IV. AFFORDABLE HOUSING IN BERKELEY - AN OVERVIEW

Berkeley today has about 49,000 housing units. About 2,500 of these are required to be permanently affordable to low- and moderate-income people.

This is done either through

- Government subsidies to create affordable apartments reserved for low-income residents at below-market rates and
- Land use regulations that require developers to set aside a certain percentage of apartments at rents affordable to low- and moderate-income families or individuals.

A fortunate minority of about 2,100 tenant households live in newer or recently renovated rental housing, mostly owned by non-profit housing organizations or limited or non-equity cooperatives, where the government has paid all or part of the cost of construction and rents greatly reduced. The non-profit organizations that own this housing have affordability as their mission, and in many cases rents only need to cover the ongoing costs of operation and maintenance and a set-aside for future repairs, typically \$600 to \$800 a month. Many of Berkeley's lowest-income residents can't afford even the greatly reduced "operating cost" rents offered by non-profit housing where government has paid the costs of construction. They require additional subsidy, either to the individual family or as an operating cost subsidy to the building owner. The Federal Section 8 program enables a family to pay 30% of its income for rent, with the government paying an additional amount to reach a "fair market rent". Several hundred of the Berkeley Housing Authority's Section 8 vouchers are currently allocated to non-profit housing to make units affordable to very low-income people.

¹³ MTC, Jobs by Wage Level, <https://www.vitalsigns.mtc.ca.gov/jobs-wage-level>

There are another approximately 400 “inclusionary” units within newer for-profit buildings that are set aside for low- and moderate-income tenants pursuant to City zoning regulations.¹⁴ Nearly half of these units are set aside for very low-income tenants receiving assistance through the Section 8 program. Most of these apartments are required to be kept affordable for the life of the building, but the rent-setting formula they are subject to is based on the “Area Median Income” (AMI), which does not fully guarantee affordability. The formula, determined by the U.S. Department of Housing and Urban Development, results in rents that increase faster than the incomes of many low-income people.¹⁵ This is because AMI, based on an average of all regional wages, increases rapidly when more high-income people move into the area and displace lower-income people, rather than, for example, tracking increases in wages for low income workers, which rise much more slowly over time than the average of all wages - if at all.¹⁶

In addition to buildings with below-market rents, about 1,500 tenant households in Berkeley receive monthly rental assistance through the Federal Government’s Section 8 program, which is administered by the Berkeley Housing Authority (BHA). Over 200 authorized Section 8 vouchers go unused because the Federal government does not fund the BHA at an amount adequate to enable tenants to pay market rents and cover the cost of all of its vouchers. Instead, the BHA has to choose between paying a competitive rent but restricting the number of households it can support, or subsidizing more households but falling behind the market and risking having landlords leave the program. About one quarter of the units occupied by tenants assisted through the BHA are in non-profit or inclusionary housing as described above, but three quarters are in for-profit housing. When Federal subsidies fall behind the market, owners of these units often leave the program and rent to much higher income residents at market rate.

Many extremely low-income people need ongoing social and health services in order to live independently. The term used to describe housing with services formally tied to or operated from the building, unit or tenant is “supportive housing.”¹⁷ The Federal “Shelter Plus Care” supportive housing program administered by the City of Berkeley assists about 260 formerly homeless households with a combination of rent subsidy and ongoing social services. About half of the tenants assisted through the Shelter Plus Care program are

¹⁴ Apartment Buildings with City of Berkeley BMR Program Units, [https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3 - General/2017-07%20BMR%20list%20of%20properties.pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/2017-07%20BMR%20list%20of%20properties.pdf)

¹⁵ U.S. Department of Housing and Urban Development, Income Limits, <https://www.huduser.gov/portal/datasets/il.html>

¹⁶ Low-Wage Work in California Data Explorer, UC Berkeley Labor Center, <http://laborcenter.berkeley.edu/low-wage-work-in-california/>

¹⁷ United States Interagency Council on Homelessness, Supportive Housing, <https://www.usich.gov/solutions/housing/supportive-housing/>

placed outside of Berkeley due to the difficulty of finding places in Berkeley, but still receive services from Berkeley.

Berkeley thus has approximately 4,000 tenants who live in housing which is reserved for low- and moderate-income people at affordable rents or are provided with on-going subsidies that enable them to pay market rents. With the additional funding provided by measures O, P and U1, the City should be able to increase this number to over 5,000 and reach its goal of having 10% of its housing reserved affordable for low- and moderate-income people.

This goal does not include the tenants covered by rent stabilization (“rent control”). Due to the extraordinary rent increases of the last several years, there are several thousand tenants with rents that are now significantly below current market rates, but these units are only kept affordable for the tenant who lives there now.¹⁸ Once the tenant moves out, the rent is reset to current market rates, so that apartments in Berkeley are increasingly rented to higher-income tenants who can better afford our rapidly increasing rents.

Under the vacancy decontrol provisions imposed on Berkeley by the State legislature, as tenants in deeply affordable rent controlled units move out, rents can be, and usually are, increased to current market levels. These apartments thus experience huge rent increases - reset to market rates - resulting in a significant loss of affordable housing for Berkeley. Pressure for landlords to evict or otherwise incentivize these long term rent stabilized tenants to move is strong; these are the kinds of vulnerable tenants whose stories we hear when Berkeley’s housing retention service providers testify before the City Council.

As a result of these and other pressures, Berkeley will have to work hard to maintain its current level of economic diversity.

Maintaining diversity requires Berkeley to both increase the supply of housing overall and to remove a substantial part of our housing, new and existing, from the speculative market. This protected affordable housing should be allocated on the basis of need, using techniques ranging from non-profit and community ownership to regulation of rents (through traditional rent control and dedicated affordable units), and creation of new forms of home ownership that ensure homes will remain affordable now, and for future generations.

¹⁸ Bursell, Lief and Fabish, Jen. Market Medians: January 1999 through December 2018. Rent Stabilization Board. 21 March 2019, https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/INFO_Market%20Medians%20Report%20for%20Q3%20and%20Q4%20of%202018.pdf

V. EXISTING AFFORDABLE HOUSING PROGRAMS AND NEW OR EXPANDED OPPORTUNITIES

Introduction:

The City of Berkeley has the opportunity to build on its current programs and to expand in new directions to better deal with its housing affordability crisis. This chapter begins with a brief listing of current programs and new opportunities and then examines each in more detail. These goals are intended to allow Berkeley to make the changes it needs in order to preserve its character as a diverse and creative community, and meet its 10% affordability goal. As we move forward it will be important to maintain a balance between all of them.

Major Existing Programs - Recommend to Expand:

1. Constructing New Non-Profit Affordable Units

Through the Housing Trust Fund the City provides capital to non-profit housing developers to construct multi-family buildings, usually on or near major transit corridors and downtown. These projects qualify for additional State and Federal subsidies and offer maximum leverage for Berkeley dollars while increasing the supply of modern, accessible, energy efficient and green housing affordable to lower-income residents.

New non-profit developments are currently the main housing affordability strategy in the City of Berkeley, and primarily serve very low-income people with incomes ranging from 30% to 60% of Area Median Income. For one person in Alameda County, 30% of AMI is \$26,050 and 60% is \$52,080, while for a family of four, 30% of AMI is \$37,150 and 60% is \$74,340.¹⁹ These are predominantly lower-wage working people or people with low retirement or disability incomes, but there are many people with incomes even lower. Serving people with incomes below 30% of AMI requires additional subsidy. Some non-profit housing developments include supportive services on site for the formerly homeless, people with disabilities and seniors.

¹⁹ HUD Income Guidelines, Effective April 24, 2019, https://www.cityofberkeley.info/BHA/Home/Payment_Standards,_Income_Limits,_and_Utility_Allowance.aspx

Opportunities for Expansion:

This method of achieving housing affordability is the easiest to expand with new resources from Measure O. The City already has the knowledge and experience to successfully execute these projects and there are several large, trusted local non-profit housing developers to work with. While new construction is extremely expensive, local funding can draw matching dollars from the Federal government (mostly [Low-Income Housing Tax Credits](#)), the State (from cap and trade revenue, state housing bonds, and many [other sources](#)), and from the Alameda County Housing Bond ([Measure A1](#)). Together, outside sources of funding can leverage Berkeley dollars up to 5:1, allowing Berkeley's investment of local dollars to generate significantly more units than would otherwise be possible.

In general, County, State and Federal funding sources require that the residents of subsidized housing have incomes at or below 60% of AMI, meaning these developments serve mostly low and extremely low income residents. In today's Bay Area economy, teachers (average annual salary \$71,738), personal care providers (average annual salary \$33,332), and administrative assistants, (average salary of \$51,991) would be eligible for this type of housing, as well as individuals living on Social Security for the elderly or disabled.

2. Rent and Eviction Protections

Berkeley has extensive regulatory protections for tenants of rental housing through the Rent Stabilization and Eviction for Good Cause Ordinance ("Rent Control") and the Rent Stabilization Board, which provides legal assistance to tenants facing eviction. The City also protects rent controlled units through restrictions on demolition, conversion of rental properties to condominiums and short-term rentals, and other protections.

Opportunities for Expansion:

Without changes to State laws, Berkeley is limited in its ability to achieve stability for renters and to increase protections for rent controlled housing and tenants. The Ellis Act allows landlords to go out of the rental business by evicting all the tenants in a building rather than selling it to another owner who will maintain the property as a rental. It serves no legitimate purpose and should be repealed. The State of California's Costa-Hawkins Act, which instituted "vacancy decontrol," allows rents to be reset to market rates upon conclusion of each tenancy, denying Berkeley and other cities the power to limit increases to a fixed percentage when units turn over. It also prevents regulation of rents in buildings constructed after 1979 and

regulation of rents in single-unit properties, even when owned by large corporate landlords. These prohibitions should be revised or repealed.

3. Affordable Housing Fees and Inclusionary Requirements for For-Profit Developments

The Downtown and major transit corridors have been rezoned to encourage private construction that adds to the supply of market-rate housing while also requiring new rental developments to either include a certain percentage of apartments at below-market rents (formerly 10% and now 20% of units)²⁰ or pay into the Housing Trust Fund (HTF) to support non-profit housing development (\$37,962 per market-rate unit built as of July 2018).²¹ There are similar inclusionary requirements and fees for condominiums²². Currently, for market rate rental developments, the 20% inclusionary units required must be affordable to people with very low incomes, no greater than 50% of AMI, and half of them (10% of all units in the building) must first be offered to tenants receiving Section 8 housing assistance or in Berkeley's Shelter Plus Care Program.

Opportunities for Expansion:

At present, the City offers developers a choice between paying an affordable housing mitigation fee or providing below-market rate units as part of the project. When fees were one of Berkeley's most important sources of revenue for the Housing Trust Fund it made sense to have both alternatives, and opinions have differed (with worthy arguments made on both sides) as to whether it was better for the City to obtain money for the Affordable Housing Trust Fund or for affordable units to be built on site.

The traditional argument in favor of obtaining the affordable housing fee from a market rate development rather than on-site inclusionary units is that local affordable housing dollars can be significantly leveraged with other public dollars to net many more affordable units within an all-affordable project built at another location. The argument in favor of obtaining the on-site inclusionary units has been that it ensures low-income residents are integrated within mixed-income neighborhoods and buildings, that affordable units are built right away, not at some future unknown time and location. In neighborhoods with few opportunity sites for affordable housing such as the Downtown, including affordable units within market rate developments is often the only way to achieve affordability.

²⁰ Berkeley Municipal Code Chapter 23C.12 Inclusionary Housing Requirements

²¹ Berkeley Municipal Code Section 22.20.065 Affordable housing mitigation fee

²² Berkeley Municipal Code Chapter 21.28 Condominiums and Other Common Interest Subdivisions

With \$135 million in Measure O funds available to be leveraged with other public monies to support the creation and preservation of deeply affordable units (serving individuals with incomes up to 60% of AMI), the relatively small sums that mitigation fees generate are less important to the overall success of Berkeley's affordable housing strategies. By requiring market rate developments to include affordable units on site rather than pay a mitigation fee, Berkeley can achieve the goals of integration and dispersal without significant impacts to our ability to fund all-affordable projects.

In addition, with inclusionary units now just one part of a multifaceted affordable housing strategy, the possibility of requiring a different mix and number of on-site affordable units should be considered. One alternative or supplemental formula for inclusionary unit requirements in market rate developments would be to offer developers the opportunity to produce low- and moderate-income units (affordable to people with incomes between 80% and 120% of AMI) rather than the currently required deeply affordable units (below 80% AMI), but at higher percentages of the project than the current 20%. It is likely that market rate developments could include 30%, 40% and possibly higher percentages of units at low and moderate rates and still return a reasonable profit. Because there are fewer County, State and Federal funds for low- and moderate-income units than very- and extremely-low, *asking market rate developers to subsidize low and moderate income units may be a good strategy to achieve a greater mix of affordability levels Citywide and gain more permanently affordable units overall.*

4. Direct Subsidies to Renters

Berkeley provides individual rent subsidies through the [Berkeley Housing Authority](#), which assists 1,600 Berkeley households with Federally funded [Section 8 housing vouchers](#), and the City operates a Federally funded [Shelter Plus Care](#) program that provides monthly rental assistance and social service support to around 200 formerly homeless Berkeley residents, about half of them having chosen housing outside of Berkeley due to the difficulty of finding places in Berkeley.

Opportunities for Expansion:

Measure P funds could be used for this purpose if recommended by the Homeless Services Panel of Experts, and other City funds might be applied to expand direct renter subsidies and "rapid rehousing," as is proposed in the City's [1,000 Person Plan to Address Homelessness](#).

Additional Important Programs - Recommend to Significantly Expand:

There are several additional strategies that the City should expand substantially as they offer excellent opportunities to create and preserve affordable rental *and ownership* housing aligned with Berkeley values. Some of these strategies require capacity-building within City Departments and in non-profit partners. ***These programs should be significantly strengthened and expanded:***

1. House and Support the Homeless

In response to the Pathways Project, staff prepared a 1000 Person Plan to Address Homelessness, which considered resources and interventions required to house the currently unhoused population of Berkeley and to prevent inflow of future homelessness. According to the Plan, ending homelessness will require targeted investments in various interventions to ensure that each individual experiencing homelessness receives an appropriate, timely response according to their needs, including targeted homelessness prevention, light-touch housing problem-solving, rapid rehousing, or permanent subsidies. In addition, the Homeless Services Panel of Experts will provide an essential source of guidance in developing effective strategies to prevent and end homelessness in Berkeley.

In general, people with extremely low incomes (at or below 30% of AMI), are unable to afford even the below-market rent that a non-profit housing provider needs in order to cover operating and maintenance expenses. People living on Social Security for the elderly or disabled have incomes of 14% to 20% of AMI (\$932 a month for an individual, \$1,564 a month for a couple). This means that under Federal standards they can “afford” only \$280 to \$470 a month for housing, and even that is a hardship considering how little income they start with.

The Housing Trust Fund Guidelines call for 20% of housing funded through the HTF to be affordable to people with incomes at or below 30% of AMI, but non-profit housing organizations have had difficulty obtaining ongoing subsidies to create housing at this level of affordability.²³ The City has been forced to rely on limited Federal funding - especially project-based Section 8 through the Berkeley Housing Authority.

²³ City of Berkeley Housing Trust Fund Guidelines, April 5, 2016, https://www.cityofberkeley.info/uploadedFiles/Housing/Level_3_-_General/Revised%202016%20HTF%20GUIDELINES.pdf

Opportunities for Expansion:

Measure P funding has the potential to fill this gap and to encourage non-profit housing providers to increase their service to the homeless, as discussed in the 1,000 Person Plan to address homelessness.

Measure P funding will vary somewhat from year to year because it is based on the value of the top 1/3 of real estate transactions in a given year. For this reason, the City should allocate only a portion of initial Measure P receipts to ongoing subsidies and supportive services, so that it can be sure it can sustain those commitments from year to year. The amount that is likely to vary from year to year, perhaps one-quarter to one-third (Finance Department staff may be able to provide an accurate estimate, based on historical data regarding fluctuations), should then go to one-time expenditures such as capital subsidies to expand the supply of permanently affordable housing available to the homeless. For example, in the Berkeley Way project, the City has agreed to provide a capital fund that will cover 10 years of operating subsidies.

The 1000 Person Plan covers in detail strategies necessary to rehouse Berkeley's homeless. Creation of deeply affordable housing is one element of this Plan. The Homeless Services Panel of Experts will make recommendations regarding the use of Measure P funds, which may be used to fund the "support" in Supportive Housing, and for many other purposes.

2. Transition some of Berkeley's existing rental housing to permanently affordable social ownership by expanding the Small Sites Program, accompanied by a Tenant or Community Opportunity to Purchase Act.

Most of Berkeley's neighborhoods used to house people with diverse incomes, but the affordability crisis is reducing that diversity²⁴. Preservation of neighborhood socioeconomic character will require transitioning some existing housing from the for-profit market to various forms of socially responsible ownership intended to maintain affordability. Last year the City Council allocated an initial one million dollars to start a Small Sites Program and begin the process of supporting acquisition and rehabilitation of properties with up to 25 units. The Small Sites Program will provide funds to non-profit developers to allow for the acquisition of small multi-unit properties vulnerable to real estate speculation, and reserve them

²⁴ Romem, Issa and Elizabeth Kneebone, 2018. "Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?" <https://terncenter.berkeley.edu/disparity-in-departure>

for low-income individuals and families. This process is also an opportunity to expand limited equity cooperative ownership.²⁵

The Small Sites program requires a different approach from the City's current focus on partnership with large non-profit housing developers. Two-thirds of the rental housing covered by rent stabilization has less than 20 units. The large non-profit housing organizations avoid properties with less than 20 units because these buildings have higher management costs and are generally more costly to finance than larger developments. In addition, non-profit developers tend to prefer new construction to the uncertainties of acquisition and rehabilitation of existing buildings. Cost-effective management of smaller properties *can be provided* when residents take on significant responsibility for the property and receive appropriate education and support.

Another current barrier to the Small Sites Program is that residents of small buildings often have a mix of incomes, which reduces the available subsidies under Federal and State programs that limit assistance to units occupied by people with incomes no greater than 60% AMI. *Local funding can make an important contribution to the Small Sites Program.*

Opportunities for Expansion:

Measure O and Measure U1 both offer funds that can be used for small sites with mixed-income residents. The City should substantially increase its efforts to transition existing small apartment buildings to permanent affordability. The Small Sites Program should be tied to a Tenant or Community Opportunity to Purchase Act (TOPA or COPA) to enable groups of existing tenants or non-profit partners to buy and maintain this naturally occurring affordable housing and prevent displacement. Through a TOPA, landlords must provide legal notice to tenants of their opportunity to purchase a property when it is placed on the market. If a tenant or tenants decide to purchase, they must form a tenant organization to manage the building, and take on other management responsibilities. This model has seen success in other communities, including Washington D.C.²⁶

²⁵ City of Berkeley, Referral to City Manager, Establishment of Affordable Housing Small Sites Fund, https://www.cityofberkeley.info/Clerk/City_Council/2015/12_Dec/Documents/2015-12-15_Item_54_Referral_to_City_Manager_Establishment_-_Rev.aspx

²⁶ Small Sites Acquisition Program and Tenant Opportunity to Purchase, February 14, 2017, https://www.cityofberkeley.info/Clerk/City_Council/2017/02_Feb/Documents/2017-02-14_Item_18b_Small_Sites_Acquisition.aspx

3. Provide innovative homeownership opportunities for moderate and low income residents, including cooperative ownership using the Community Land Trust model

By taking on full or partial responsibility for management of a property, residents strengthen their community. In years past, Berkeley had programs to support both individual and cooperative homeownership. At a time when working families can no longer afford to buy homes in Berkeley, the City should give renewed attention to resident ownership and participation.

Berkeley currently has about 300 units in limited-equity and non-equity cooperatives, half of these established without City assistance at a time when real estate values were much lower. Encouraging residents to take ownership or responsibility for the operation and management of their housing, while keeping it permanently affordable, was an important part of Berkeley's housing programs in the 1970s through the 1990s. Unfortunately, since then this model has received little attention.²⁷ Current housing programs miss opportunities to build democratic organizations in which people learn organizational skills and collaborative problem solving, and have input into the management and physical condition of their homes, a model sometimes referred to as "social housing."

Berkeley has no currently active programs to create individual or cooperative homeownership opportunities, in part because it is difficult to combine the use of Low-Income Housing Tax Credits with resident ownership. Measure O and Measure U1 both provide funding that can be used to support cooperative homeownership and community land trusts.

Individual homeownership opportunities: Although they are few in number, Berkeley has some small parcels of publicly owned land embedded in neighborhoods that may be suitable for townhouse-style or other low-rise homes. In order to preserve affordability, the City should either retain ownership of the land or convey it to a community land trust, rather than selling it outright. Working with Habitat for Humanity or a similar organization could reduce the cost of construction and increase affordability for these units.

²⁷ S. Barton, "From Community Control to Professionalism: Social Housing in Berkeley, California, 1976 – 2011", *Journal of Planning History*, May 2014, V.13:2, pp. 160 – 182.

Cooperative homeownership opportunities: Limited-equity and non-equity housing cooperatives provide an affordable, democratic version of homeownership in which a property is owned by a nonprofit cooperative corporation, made up of tenants of the property. Initial capital subsidy makes them permanently affordable to very low, low and moderate-income people. When the residents take responsibility for the management of their buildings they can keep costs down, which makes cooperatives suitable for small multi-family properties.

Importance of affiliation with a Community Land Trust or larger cooperative: Experience has shown that housing cooperatives need ongoing training, technical assistance and oversight from a larger organization. This larger organization can be a Community Land Trust, which owns the land under the cooperatively owned buildings or, in the case of the Berkeley Student Cooperative, a larger cooperative that maintains and renovates affiliated properties while supporting residents in operating their individual buildings. Measure U1 monies could be used to provide organizational support to strengthen the capacity of local land trusts, which at present are relatively small organizations. In 2018 the City Council used U1 funds to provide a small capacity-building grant to the Berkeley-based Bay Area Community Land Trust.

It will be necessary to expand the organizational capacity of Berkeley's land trust to support a larger program utilizing this model. Community Land Trusts receiving support from the City of Berkeley should be required to meet the Federal definition of a Community Land Trust (Housing and Community Development Act of 1992, Section 213, Housing Education and Organizational Support for Community Land Trusts), which ensures that residents of affiliated properties serve on the land trust governing board.²⁸

Other models - Challenges: Berkeley has an inclusionary requirement for condominium developments and there are currently a small number of below-market condominiums reserved for low-income owners. *Caution is needed in creating low-income condominiums because rising monthly assessments and occasional special assessments for major renovations can become unaffordable for lower-income owners.*

In addition, residents can misunderstand the condominium form of ownership and underestimate the need to work cooperatively with other owners. Cooperatives are

²⁸ HR 5334- Housing and Community Development Act of 1992, Section 213.
<https://www.congress.gov/bill/102nd-congress/house-bill/5334/text>

less likely to have this problem. In the past, the City provided down-payment assistance on a shared-equity basis (meaning that the owners of the cooperatives had to repay a portion of the property's value at sale), but the cost of single-family homes has far surpassed the City's ability to provide effective down-payment assistance. As described above, several useful models exist to support homeownership without these challenges, and should be included in Berkeley's affordable housing mix.

4. Significantly increase the supply of affordable live-work housing for artists and artisans.

Berkeley has a long tradition of live-work housing, mostly located in West Berkeley, and much of it lacking legal recognition. There are only a few units of permanently affordable live-work housing citywide. In part this is because it is difficult to use State and Federal subsidies for this purpose. In addition, certain subsidy program regulations make it difficult to allocate live-work housing to the artists and artisans that it is intended for.

As an alternative, live-work housing can easily be organized to include resident ownership or resident participation in property management.

Opportunities for Expansion:

Live-work units are allowed in most of Berkeley's Commercial and Manufacturing districts. Measure O and Measure U1 both provide funding that can be used for affordable artists and artisan live-work housing using ownership or other participatory models. The City also has the potential to require affordable live-work units, or provision of land for such units, as part of development approvals throughout Berkeley.

5. Encourage adding incremental units, such as accessory dwelling units (ADUs) or low-rise multiplex units, that complement neighborhood character.

There are many opportunities to add one, two or more units to existing properties at relatively modest cost. When sold as condominiums such units can be affordable to middle-income families who have difficulty entering the current market for single-family homes. Accessory dwelling units (ADUs), even rented at market rate, can also be affordable to middle income individuals. In addition, low-rise multi-family housing such as duplexes, triplexes, courtyard apartments, and multiplexes can also be inserted into existing neighborhoods, and may provide additional opportunities for middle-income families to enter the housing market.

Opportunities for Expansion:

Where possible, the City should encourage addition of family-sized units as well as smaller ADUs. The City Council recently approved a referral to study the possibility of allowing up to four-plexes into areas currently zoned for a single family home and ADU. These housing types are already allowed in most other zones. Modest incentives such as expedited review of applications, low interest loans or small capital subsidies may be sufficient to persuade property owners who add such units to reserve them for lower-income families. These incentives should be explored, and a program developed to support the reservation of additional neighborhood units for affordable housing.

6. Partner with UC Berkeley to support creation of housing appropriate and affordable to students, faculty and staff.

Enrollment increases that far exceed UC Berkeley's Long Range Development Plan have resulted in an extreme shortage of student housing and a very high incidence of student housing insecurity and homelessness, while the general housing affordability crisis forces faculty and staff to live far from campus.

The University of California should take greater responsibility for housing its students. This will require the Regents to allocate more funding for student, faculty and staff housing and the State legislature to include this funding in the State budget. In addition, the Regents must stop the practice of increasing enrollment without regard for the carrying capacity of both UC Berkeley and the City of Berkeley.

Opportunities for Expansion:

The Berkeley Student Cooperative serves students in community college and the Cal State system as well as at U.C. Berkeley. It is eligible for funding through the Housing Trust Fund and some Measure O funding could be used to help purchase existing buildings near campus to make them permanently affordable to their student residents, who predominantly come from low-income families. While the City of Berkeley may choose to allocate some Housing Trust Funds to student housing, the University of California should provide the vast majority of funding for this important type of housing, as it is the University's responsibility to ensure their students are housed.

Policies to Ensure Equity and Sustainability:

Finally, while pursuing these strategies, there are several principles of equity and sustainability that the City should apply to all of its affordable housing programs:

1. Ensure equitable access to scarce affordable housing, including accessible units with universal design features.

Berkeley makes very limited use of City-established priorities in the allocation of affordable housing. In part this is due to the rules attached to State and Federal funding and in part to potential City administrative costs. A lack of State or local definitions of universal design also makes it difficult to adequately review projects for accessibility.

Opportunities:

Housing units with universal design elements that ensure access for those with mobility limitations should be included in all City-supported affordable housing. To support this, Berkeley should codify both baseline and enhanced universal design housing elements. In addition, to the extent legally allowable, Berkeley should establish a set of priorities for access to below-market rate housing. These priorities could include (but not be limited to):

- People at risk of displacement or who have been displaced from Berkeley, in particular those who have been subject to redlining or other discriminatory housing and lending practices in the past, including foreclosures;
- People who formerly experienced homelessness in Berkeley;
- Artists and artisans who need live-work spaces;
- Families with children in Berkeley schools; and
- People who work in Berkeley; in particular those who work for the Berkeley Unified School District or in emergency services (firefighters, doctors, police, nurses, etc.).

2. Codify Deep Green Building standards for healthy and sustainable buildings, and emphasize other measures to increase environmental sustainability.

Berkeley Deep Green Building is an ambitious program designed by building and clean energy professionals and environmentally-minded citizens as part of the Berkeley Zero Net Energy++ Working Group. It sets forward a detailed plan to incentivize these and other green and healthy building practices. The five goals of Berkeley Deep Green Building are to:

1. Support zero-net energy at the individual building and community scale;
2. Reduce embodied energy in building materials and practices;

3. Reduce toxicity in building materials;
4. Source sustainability produced materials from fair trade, fair wage and culturally and environmentally friendly suppliers; and
5. Conserve water.

Some of these goals are already addressed in City codes and policies; some require expansion or codification.

The City of Berkeley has a variety of programs and Building and Zoning Code provisions that seek to address green building. These include energy efficiency audits under the Building Energy Saving Ordinance (BESO), LEED gold standards for larger downtown buildings, Bay-friendly landscaping for projects over a certain size, and stormwater and waste management during construction.²⁹ In addition, a number of solar, energy efficiency and other green building proposals have been referred to the City Manager over time, but have not yet been implemented. Pending codification or implementation, affordable projects should strive to meet all Deep Green Building and other state of the art green building practices.

Building affordable units near transit is also an environmental strategy. This is especially true when parking is reduced or eliminated. Because lower-income people use transit at significantly higher rates than people with higher incomes, siting affordable housing near transit can yield increased ridership - and reduce the displacement of lower-income households. A UCLA study of the effects of Transit Oriented Development on transit use in Los Angeles found that allowing market-rate housing with parking near transit contributed to a significant reduction in transit use. , Lower income people who previously rode transit were displaced to the outer reaches of the region, and were forced to commute long distances, often by car. They were replaced in their previous transit-rich neighborhoods with more affluent people who can afford cars and use transit much less frequently, resulting in large reductions in transit use citywide, despite massive public transit investments and the creation of significant new transit-oriented housing. ³⁰

3. Prioritize the use of public land for the creation of affordable housing.

Land is expensive in Berkeley and securing appropriate sites for affordable housing is costly and difficult. The City owns several sites which may be appropriate for affordable housing development. Other parcels may also be eligible for housing but

²⁹ Building Energy Saving Ordinance, <https://www.cityofberkeley.info/BESO/>.

³⁰ "Transit-oriented development? More like transit rider displacement," L.A. Times, Feb. 20, 2018, <https://www.latimes.com/opinion/op-ed/la-oe-rosenthal-transit-gentrification-metro-ridership-20180220-story.html>

would require remediation. In 2017, the City purchased a property at 1001 - 1011 University Avenue, with the express intention of converting the property for use as affordable housing.³¹ The City should take steps to offer whatever public land is available, appropriate and safe to qualified affordable housing projects.

4. Ensure those who build and rehabilitate our housing are paid fair wages and have access to health insurance, and support local apprenticeship programs.

As in the entire Bay Area, there is a severe shortage of skilled construction workers in Berkeley, partly because their wages are often insufficient to allow them to live in the very buildings they help construct. Berkeley contributes to solving this problem by requiring builders of City-assisted housing to pay their workers prevailing wage (the hourly wage paid to the most workers in an area working on similar jobs) and through project labor agreements in areas of the City with community benefit requirements. Labor organizations are, for their part, supporting construction of modular, factory-built housing that can modestly reduce construction costs. Additional approaches should include stronger protections against wage theft, expanded apprenticeship programs that help local residents start careers in construction and policies ensuring that workers on large projects receive adequate benefits. Healthcare is particularly important for construction workers; by its nature construction work is physically demanding. Injuries and physical stress are frequent, even on well-managed sites.

5. Make changes to the City of Berkeley Zoning Code and project approvals processes to incentivize, facilitate and reward the production of affordable housing.

The City has taken a number of steps to incentivize and facilitate the production of affordable housing. Affordable projects receiving Housing Trust Fund monies are automatically expedited and prioritized for permits, inspections, and other City of Berkeley administrative processes.³² Additional referrals have been made to reduce development fees for affordable projects, create additional density bonuses for affordable projects, and otherwise ease restrictions on affordable projects. The State Density Bonus program provides significant benefits to projects that build

³¹ Acquisition of Real Property at 1001 University Avenue, 1007 University Avenue, 1011 University Avenue, and 1925 Ninth Street, March 27, 2017
https://www.cityofberkeley.info/Clerk/City_Council/2017/03_Mar/Documents/2017-03-28_Item_32_Acquisition_of_Real_Property.aspx

³² Berkeley Municipal Code Chapter 19.62 Priority Permit Processing for Housing for Low and Moderate Income Persons

inclusionary units, and affordable projects meeting specific criteria are approved “by right” under SB 35.

In addition to these supports and incentives for affordable projects, the Berkeley City Council recently increased the affordable housing mitigation fee to \$37,962 per market-rate unit. The fee had been set at \$28,000 in 2012, “discounted” by the City Council to \$20,000 in 2013, raised to \$34,000 in 2016, and then to the current rate in 2017.³³³⁴³⁵ The City also doubled its inclusionary requirement from 10 to 20% of units in all developments with five or more units.³⁶ The City should continue to develop and implement policies, programs and regulatory mechanisms to expedite, maximize, incentivize and reward the creation and preservation of affordable housing.

VI. CONCLUSION

The **Framework for a Diverse, Equitable and Creative Berkeley** is a high-level roadmap to guide the many City entities involved in moving our affordable housing goals forward. As each navigates its own path, all must be headed to the same destination.

Berkeley has an unprecedented opportunity to significantly increase the City’s stock of affordable housing and to preserve the limited affordability that already exists. Housing is a human right, and the severity of the Bay Area’s housing crisis calls us to action. We must ensure that our homeless can be rehoused, our vulnerable seniors, youth and disabled neighbors remain housed, our dedicated public and not-for-profit workers can make homes in our community, and our artistic, activist and academic residents can thrive. We have a duty to ensure that people of all backgrounds, ethnicities, ages, religions, gender identities, occupations, and abilities can be, and are, housed in Berkeley.

We are embarking on a path to achieve 10% reserved affordable housing in Berkeley, and to lay the institutional and policy foundations for a future with 30% and eventually up to 50% affordable or “social” housing. It’s an exciting and demanding venture, but essential to preserve and expand all that makes Berkeley an exceptional place to live, work, learn, play and thrive.

³³ Resolution No. 66,809, October 7, 2014

³⁴ Resolution No. 67,614-N.S., July 12, 2016

³⁵ Berkeley Municipal Code Section 22.20.065 Affordable Housing Mitigation Fee

³⁶ Berkeley Municipal Code Chapter 23C.12 inclusionary housing Requirements